Brent, Robert
By Guardian John Garnett v. Garesche, Alexander J. P.
Adm. of Pierce C. Grace 1860 St. Louis 8th 462/1

Old Box 614/41

Grace's Admin

30 Mo 257

457/3
256

M60
F58
Ewing
aff

See Other Cases
8209 8183
John

The State of Missouri, ss.

The State of Missouri, to the Honorable the Circuit Court of the Eighth Judicial Circuit **in said State—Greeting:**

WHEREAS, In the record and proceedings in a certain cause lately pending in the Circuit Court held in and for the County of St Louis in said State

wherein Robert Brent by his guardian and next friend was plaintiff, and Alexander J. P. Garesche administrator of Pierce C. Grace was ~~the~~ respondent

in a Civil Action manifest error hath intervened, to the great damage of said plaintiff as by his complaint we are informed.

NOW, being willing that the error, if any there be, should be corrected, and full and speedy justice done to the parties aforesaid, in that behalf, COMMAND YOU, that you send to us, certified under your seal, the record and proceedings in the cause aforesaid, as fully as the same remain of record before you in said Court, so that we may have them before us at our Supreme Court, to be begun and held in the City of St. Louis, in the County of St. Louis, in said State, on the third Monday in October instant ~~next~~, so that our Judges of our Supreme Court, on inspecting the record and proceedings aforesaid, may cause to be further done therein, for correcting the error, what of right, and according to law, ought to be done.

WITNESS, WILLIAM S. GLANVILLE, Clerk of our said Supreme Court, at office in the City of Saint Louis, the Second day of October in the year of our Lord one thousand eight hundred and fifty-eight.

Wm S. Glanville,

CLERK.

$1.50 paid by A. H. Buckner atty

State of Missouri }
County of St Louis } In Obedience

to the within command I herewith transmit you a full and true transcript of the record and proceedings in the above entitled case.

In testimony Whereof I hereto set my hand and the seal of said Court, at St Louis this 2d day of October 1858. Stephen Rice Clk

No. 155

Circuit Court
Octob Term
1856.

State of Missouri
County of St. Louis } ss

Be it remembered that on the second day of October eighteen hundred and fifty six there was filed in the office of the clerk of Circuit Court within and for the County of St. Louis the following petition, to wit:

Robert Brent by his guardian and next friend Plaintiff against Alexander J. P. Garesché administrator of Pierre C. Grace deceased Defendant	In the ~~St. Louis~~ Circuit Court for the County of St. Louis October term 1856.

Petition

Plaintiff by his Guardian and next friend John Garnett states that being an infant and orphan the Probate Court for the county of St. Louis appointed One Pierre C. Grace his guardian and that said Grace executed the bond requested by law, and took upon himself the burden of said guardianship and as said guardian there came to his hands money & property belonging to Plaintiff to the amount of as it is evidenced by the inventory filed in said Probate Court which is hereto annexed and made part of this petition. — Plaintiff further states that said Grace put him ~~only~~ at St. Vincent's college to be educated and being indebted to the said institution for the board and tuition fees for Plaintiff in the sum of $186.00, fraudulently induced and caused the presidents & Faculty of said college to execute a receipt to him expressing in substance that the President and faculty of said college had received payment from him for said board and tuition fees &c amounting to the afore mentioned sum of $186. — Plaintiff would further state that said Grace in a settlement made with said Probate Court as guardian aforesaid at the Sept. term 1851 fraudulently presented said receipt

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to said Court as evidence of so much money paid by him for said board and tuition fees, and by his false and fraudulent representations caused the judge of said Court in said settlement to allow said ~~money~~ sum as paid for plaintiff by said Grace, but Plaintiff states and avers the fact to be that no such sum of money was ever paid by said Grace for Plaintiff's board and tuition fees and that the credit of $186. obtained by said Grace was procured by the false and fraudulent representations and conduct of said Grace. — Plaintiff asks that said settlement which is hereto annexed and made part of this petition may be opened and that he may be allowed to falsify the same and that upon a review and falsification of said settlement judgment may be given against Defendant as administrator of said Grace for said sum of $161 with interest thereon until paid & that all other relief be granted in the premises ~~may~~ as may be equitable & just. Robt. Brent

by John Garnett next friend

A. Buckner attorney

Aylett Buckner attorney for Plaintiff makes oath and states that the above petition and the matters & things as therein stated are true.

Sworn to & subscribed } Aylett Buckner
before me this 2nd day of October 1856

Soc. Newman clerk.

Thereupon the following Summons was issued!

County of St. Louis. Ss.

The State of Missouri, to the Sheriff of St. Louis county

Summons

Greeting!

We command you to summon Alexander J. P. Garesché administrator of Pierre Grace decd to appear before the Judge of our Circuit Court, on the first day of the next term thereof to be held in

3 the city of St. Louis within and for the county of St. Louis on the fourth monday of October inst. then and there to answer the complaint of ~~Robt.~~ Robert Brent by his guardian & next friend John Garnett as set forth in the annexed petition and have you then and there this writ. Witness Soc. Newman Clerk of said Court with the seal thereof hereto affixed (seal) at office in the city of St. Louis this 2nd day of October in the year of our Lord eighteen hundred and fifty six.

Soc. Newman Clerk.

Sheriff's Return Executed this writ in St. Louis County on the 3d day of October 1856 by delivering a copy of the writ and petition as furnished by the Clerk to alexander J.P. Garesche administrator of Pierce C. Grace deceased.

Fee $1.00 James Castello sheriff
By Geo N. Stevens Depty

And afterwards in the 20th day of December 1856 the Defendant filed his answer, which is in the words & figures following to wit:

Answer Robert Brent by Gdn Plaintiff } In St. Louis
vs } Circuit Court
Garesché Adr. of Grace Defendant } St. Louis County

Defendant per se for answer: The several allegations of the petition that intestate fraudulently induced or caused the President ~~of~~ and faculty of St. Vincent's college to execute a receipt, that in a settlement as Guardian, intestate fraudulently presented such a receipt as evidence of so much paid or by false or fraudulent representations caused the Judge of the St. Louis Probate Court to allow said sum to him, or obtained such allowance by false or fraudulent representations or conduct, defendant expressly denies. Whether intestate did or did not pay any thing to the said St. Vincent's college

or how much, Defendant has no knowledge or information sufficient whereon to found a belief. Alex J. P. Garesche.
*Sworn to & subscribed before me Alex J. P. Garesche.
this 20 Decr 1856 S. Rio clerk.

*Alex J. P. Garesche defendant makes oath & says that the above answer & matters & things therein stated he believes to be true.

And afterwards on the 21st day of December 1857 the Plaintiff filed a supplemental petition, which is in the words & figures following to wit:

*Supplemtal Petition

Robert Brent by his guardian and next friend John Garnett Pltiff
against
Alexander J. P. Garesche admr of Pierce C. Grace decd Deft.

In the Circuit Court for the County of St. Louis Oct. Term 1857.

Plaintiff by the leave of the Court granted, files this his supplemental petition & states, that being an infant & orphan, the Probate Court for the county of St. Louis at its March term for the year 1830 appointed One Pierce C. Grace his guardian and that said Grace at said term of said Court executed the bond required by law in such cases made and provided and took upon himself the burden and duties of said guardianship and that as said guardian there came to his hands money & property belonging to Plaintiff to the amount and value of $391.37 2/7 cents as is evidence by the inventory filed in said Court by said guardian, which is hereto annexed and made part of this petition. — Plaintiff would further state that said Grace in a settlement made with said Probate Court at its September term in the year 1831 as his guardian by false and fraudulent means and practices and pretences unjustly and to the injury of the Plaintiff procured the following specified allowances against the Plaintiff and obtained credits therefor in said settlement in words and figures following to wit:

" Pierce C. Grace Guardian in Account with his ward Robert Brent a Minor, Dr.

5. By ½ Expenses of self to Louisiana in Feby & March 1847 attending interest of Ward $ 35.71 3/7

Cash ⅐ Planters hotel bill 2.42 4/7

½ passage on old Hickory 12.85 5/7

John Thompson cupping negroes 64. 3/7

board lodging &c from 29 March 1847 to December 1847 being 31 months $6 p month 186.00

Cash paid for stationary & books ½ 2.75

R Street & Co clothing ½ 1.47½

⅐ passage on Autocrat 2.14 3/7

⅐ Expenses in Plaquemine 1.28 4/7

½ Board to Mr. Brozeaux 3.00

½ ~~Trents~~ trunk to Penzenski 62½

Wm Roach brush & ½ 85

½ half amount pd C Bacon for books greek 62½

P.S. Thompson sundries ½ 1.32½

R.E. McCarthy shoes ½ 1.70

H.H. Cohen clothing ½ 13.00

Melleville for Cap ~~(or caps)~~ 75

J J Ruffied board & tuition ½ 80.00

Same ½ 43.00

Mr. McForland board ½ 7.50

advances at sundry times 11.25

R E. McCarthy fr pad & tits 1.25

Same same 1.00

Plaintiff would further state that said Grace in another settlement with said Probate Court at its December term 1852 as guardian of the Plaintiff, by false and fraudulent means pretences and practices unjustly and to the injury of the Plaintiff procured the following specified allowances against Plaintiff and obtained credits therefor in said settlement in words and figures, to wit:

By Cash paid for board $8 clothing 1 20/100 $ 9.20

Clothing 7.5 same 57½ same 10.50 11.82½

½ clothing 50½ same 85½ board $15 16.35

½ board & tuition $75 clothing $9.95 84.95

Clothing $1.50 board & tuition $37.50 39.00

said settlements are herewith filed and made part of this petition

Plaintiff would further state that said Grace has departed this life and that the Probate Court for St Louis County has granted letters of administration on the estate of decd to Defendant and that he has taken upon himself the duties and burden of said administration.

Plaintiff asks that said settlement may be opened and set aside and be declared of no validity that they may be allowed to falsify the same and that, upon a review & falsification of said judgment, may judgment be given against defendant as the administrator of said Grace and that said allowances & credits be annulled and held for noughts and the ~~Court~~ Court grant all and every relief that may be just and equitable. Robt. Brent

by his atty
A Buckner

Aylett Buckner attorney for the Plaintiff comes and says on his oath that the within petition & the matters & things therein are true as stated

Sworn & subscribed before me Aylett Buckner
this 21 December 1857
S. Rice clerk.

Thereupon on the same day just above written the Defendant filed his amended answer, which is in the words and figures following to wit:

Amended Answer

Robert Brent by Gdn Plaintiff
vs
Grace's administr. Defendant

In St. Louis Circuit Court, St. Louis County

Defendant for answer to amended petition denies that at September term 1857 Pierre C. Grace by false or fraudulent means or practices or pretences unjustly or to the injury of Plaintiff fraudulently procured any allowances in his settlement as guardian of Robert Brent = Defendant denies that, at December Term 1852, said Grace in his settlement as guardian of Robert Brent by false or fraudulent means,

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pretenses or practices unjustly or to the injury of the said Robert Brens procured any allowances. — Denies all & every allegations of fraud or injury in the petition alleged to have been by said Grace as guardian of Robert Brens committed.

Alex. J. P. Garesché

Alex. J. B. Garesché defendant makes oath & says that the above petition and matters, as therein stated, he believes to be true

Alex. J. P. Garesché.

Sworn & subscribed before me this 21 December 1857

Stephen Rice Clerk.

And afterwards the following further proceedings were had on the 25th day of May 1858 in this cause, to wit:

Judgment

Robert Brens by his guardian John Garnett
vs
Alexander J. P. Garesché administrator of P. C. Grace decd.

Now at this day come the said parties by their respective attorneys and neither party requiring a Jury, this cause is submitted to the Court upon the Pleadings & proofs, and the Court having duly heard and considered, the same, doth find the issue joined in favor of the said Defendants, It is, therefore, considered by the Court that said Plaintiff take nothing by his said suit in this behalf, but that the said defendants go hence without day and recover of said Plaintiff his costs and charges herein expended and have thereof execution.

And afterwards the following further proceedings were had on May 27th 1858 in this Cause to wit,

Motion for a New trial filed & overruled

Same
vs
Same

The Plaintiff comes and files a motion for a new trial of this cause, and the Court having duly heard and considered the said motion, it doth order that the same be overruled.

And afterwards on the first day of June 1858 the Plaintiff filed his bill of exceptions, which is in the words and figures following, to wit

8.
Bill of Exceptions

Robert Brent by his guardian
Against
Alexander J. P. Garesche adm.r
of P. C. Grace

In Circuit Court for
the County of St Louis
March term 1858.

Be it remembered that on the trial of this case by the Court sitting as a Jury Plaintiff read in evidence inventory marked on the back thereof A.

Know all men by these presents that, I Pierce C. Grace as principal, and Isaac W. Taylor and George W. Goode as securities, are held and firmly bound unto the State of Missouri in the full and just sum of eight hundred dollars lawful money of the United States to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators to and for the use of Robert Brent a minor hereinafter named. The condition hereof is such, that, whereas the Probate Court for the County of St. Louis at the March Term thereof in the year 1850 appointed Pierce C. Grace guardian of the above named Robert Brent a minor aged nine years six months. Now, if the said Pierce C. Grace above bounden shall well truly and faithfully discharge the duties of his office of guardian aforesaid according to law, then this obligation to be void, otherwise to remain in full force and virtue. Dated and sealed at St. Louis this twenty third day of March 1850.

Pierce C. Grace (Seal)
I W Taylor (Seal)
G. W. Goode. (Seal)

Inventory A

Inventory of property of Robert Brent a minor in the possession of his guardian Pierce Grace.

1 1/7 of the Amount of Cash received from the Estate of Robert Brent dec.d on the 27th april 1850 $1178 $\frac{82}{100}$ 168.40 $\frac{4}{7}$

2 1/7 of the Am.t of Cash received on 31st of March 1851 being proceeds of a note in favor of Estate of R.t Brent dec.d collected at the date $996 $\frac{93}{100}$ 142.41 $\frac{6}{7}$

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9. 3 1/7 of the Amt of the balance due on a note (not yet collected) made by Adolph Breaux in favor of Estate of Robert Brent decd $28 25 — 4.03 4/7

4 1/7 of the Amt of the balance due on a note not yet collected made by Florentin Ballowe in favor of Estate of Robt Brent decd 26 75 — 3.82 1/7

5 An interest of 1/7 in two slaves Daniel & Nimmy children who at the appreasement of Estate of Robt Brent decd 1847 were valued together at $200.00 — 28.57 1/7

6 1/7 of the amount of Cash received by me to this date as trustee of George Sweney for the services of two slaves (Ruth & her son Levy) whom I hold under deed from him for the benefit of the heirs of Rt Brent decd to wit $152. — 21.71 3/7

St Louis Sept 9 1851

Filed 13th September 1851 Peter Ferguson Judge of Probate.

And also two settlements marked on the back thereof B & C. as follows:

10.

Dr. Pierce C. Grace Guardian in Account Current with Ward Robert Brent Cr.

		à	minor				
Dr. Term 1851	To amount of Cash received from Estate of Rt. Brent of Louisiana Ward's share as per Inventory	168	40 4/7	1851 Sept. Term	By 1/7 Expenses of self in Louisiana in February & March 1847 attending interest of Ward	35	71 3/7
	Ward's share in 2 Notes not yet collected	7	85 5/7		" Cash 1/7 Planters hotel bill	2	42 6/7
	Ward's interest in slave Harriett shown per inventory	28	51 1/7		" 1/7 Passage on old Hickory	12	85 5/7
	Cash this day Wards share per inventory	142	41 6/7		J Thompson cupping negroes		64 3/7
	1/7 Services of Ward's negroes per inventory	21	71 3/7		Board, lodging &c from 29 May 1847 to December 1849 being 31 months ($6 per month (35	186	00
"B"	1/7 wages of Harriett to date	4	71 3/7		Cash paid for stationy & books 1/2	2	75
	By balance in favor of Guardian	17	75 1/7		R Street &c clothing 1/2	1	47 1/2
					1/7 passage on Autocrat	2	14 3/7
					1/7 expenses at Plaquemine	1	28 4/7
					1/2 board to Mr. Brazeau	3	00
					1/2 trunk to Penzinsky		62 1/2
					Wm. Roach brush &c 1/2		85
					1/2 amt. pd. C. Bacon tooth brush &c		62 1/2
					P. J Thompson sundries 1/2	1	32 1/2
					R. E. McCarthy shoes 1/2	1	70
					H H. Cohen clothing 1/2	13	00
					Mellville for caps		75
					J J Buffier board & tuition 1/2	50	00
					same 1/2	43	20
					Mr. McFarland board 1/2	7	50
					advanced at sundry times	11	25
					R. E. McCarthy for paid of boots (36)	1	25
					Same same (37)	1	00
		391	37 2/7			391	37 2/7
1852 December term	To 1/7 of 167$ Receivd. for hire of slaves to 1 Decr. 1852	23	85	1851 Sept Term	By balance in favor of Guardian	17	75 1/7
"C"	" Balance in favor of Guardian	155	22	1852 Dec. 7.	by cash paid for board $8 - Clothing $1 - 20	9	20
					" clothing $7 75 same 57 1/2 same 10 50	11	82 1/2
					" 1/2 clothing 50 1/2 same 85 1/2 board 15	16	35
					" 1/2 board & tuition $7 3. clothing 91 85	84	95

11					Clothing $1.50 board & tuition 37.50	39	00
		179	07 ¼			179	07 ¼
June Term 1855	To Wards share of $200 recd of N. Paschal for hire of slave Harriette for 1854	28	57	1852 Dec 5	By balance in favor of Guard.	155	22
				June 7 1855	by cash paid Probate fees 1851	1	48
					by cash paid Probate fees 1852	1	08
	Balance in favor of Guardian	151	31		Commission on 391.37 1st settlement	15	65
					Same on 179 on 2d settlement	6	45
		179	88			179	88
				1855 June 7.	By balance in favor of Guardian	151	31

State of Missouri
County of St. Louis } ss I William F. Ferguson Clerk of the Probate Court of the County of St. Louis certify that the foregoing is a true copy of the inventory of Pierre C. Grace as guardian of Robert Brent as the same now remains on filed in the office of the Judge of Probate of the county of St. Louis and a true copy of the bond of said Pierre C. Grace and of the accounts rendered as the same now remains of Record in the office of the Judge aforesaid. In testimony whereof I hereto set my hand and affix the seal of the Probate Court of the County of St. Louis at office in said County this eighteenth day of September in the year of our Lord one thousand eight hundred and fifty six.

(Seal)

William F Ferguson Clerk.

Plaintiff then introduced Judge Ferguson Judge of the Probate Court for the County of St. Louis who first being duly sworn as a witness stated that Pierre C. Grace had never filed but the one inventory in said Probate Court as guardian of Plaintiff and further stated that said Grace as such guardian had never ~~filed~~ applied to him as Judge of said Court for an order of Court to permit him said Grace to expend any of the estate of the estate or means of said Plaintiff for the purposes of his maintenance or education and that no such order appears on the records of said Court, here Plaintiff rested his case. The Defendant did not

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introduce any testimony this was all the evidence offered or given in the case. The case was submitted to the Court and after due deliberation thereon gave Judgment for the Defendant. In due time Plaintiff filed his motion for a review and new trial;

Robert Brent by his Guardian against A. J. P. Garesche adm.r of P. C. Grace dec.d	In Circuit Court St. Louis County March Term 1858

motion for a new trial

The Plaintiff by her attorney comes and moves the Court to grant her a review and new trial in the above case for the following reasons to wit;

Because the Judgment of the case is contrary to the law and evidence of said Cause.

Margaret Brent by
A Buckner atty.

But the Court on hearing overruled this and refused to ~~grant~~ review its decision or grant a new trial, to which ruling the Plaintiff then and there excepted and prays that this his bill of exceptions be signed and sealed which is accordingly done. J R Lackland, Judge.

And afterwards on the fifth day of June 1858, the Plaintiff filed an affidavit for an appeal which is in the words and figures following to wit;

affidavit for appeal

Robert Brent by his Guardian against Alexander J. P. Garesche adm.r of P. C. Grace.	In Circuit Court for St. Louis Co. March Term 1858.

John Gamett again and guardian of the above named Robert Brent makes oath and says an appeal to the Supreme Court is asked in the above case and that said appeal is not made for vexation or delay, but because

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the affiant believes that the appellant Robert Brent is aggrieved by the Judgment of the Court in the above mentioned case.

John Garnett

Sworn to & subscribed to before me this fifth day of June 1858.

Stephen Rice clerk.

State of Missouri
County of St. Louis } ss I Stephen Rice, clerk of the Circuit Court within & for the county of St. Louis, certify that the foregoing is a true & complete transcript of the records & proceedings in the cause of Robert Brent by his Guardian John Garnett against Alex. J. P. Garesché as full as the same remains in my office. In testimony whereof I hereto set my hand and affix the seal of the said Circuit Court at office in the city of St. Louis this twenty second day of September A.D. 1858.

Stephen Rice clk

SEAL OF THE CIRCUIT COURT OF ST. LOUIS COUNTY

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(transcribed 3,500 words)

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59 ~~135~~ ~~177~~ ~~295~~

March Term 1860

No. 155 Circuit Court

October term 1856

41

Robert Brent by his Guardian
an next friend John Garnett
D.E.

vs

Alexander J.P. Garesché
ad Mr. of Pierre C. Grace
deceased. — D.E.

Error Circuit Court.

Filed 2d October 1858.
Wm S Glanville
Clk.

Ex'd correct

$6.50

59 ~~135~~ ~~295~~ ~~177~~

Robert Brent, plaintiff
vs
Grace's Ad - defendant

In the Supreme Court of the State of Missouri at St Louis

By consent, assignment of errors waived, and this cause being precisely alike to the cause of Jane Brent vs Grace's Ad - No 58 of March T - 60 = the judgment to be rendered by the Supreme Court in that cause may be entered in this cause.

Aylett Buckner
atto for Pltff
Wm R P Carnahan
pr d

59 Mar 3 '60

Robert Brent
vs
Grace's Adr

Agreement

Filed 31 March 1860.
Wm J Glanville
Ch

Robert Brent G his Guardian Jno Garnett
v. Error to the Circuit Court
A J P Garesche Adm of P C Grace
This case is like that of Jane Brent
against Garesche Adm of Grace decided
at this term.
Judgment affirmed

Ewing

Robert Brent
v
Garesche Dmr

Opinion of
Court

Ewing

affirmed.

Filed 27 June 1860.
Wm L Glanville ck

x