

Doflerson County Circuit Court
Case Files - Civil

May 1868, No. 162

Stroupe, Martha Jane

Hunt, ^{vs} Presley T

Assign dower

195 acres in S5T40R3E as
widow of Andrew Stroupe

Box

21

Folder 56

Martha Jane Stroupe, - Plaintiff } In the Circuit
Against } Court of Jef-
Presley T. Hunt, - Defendant } ferson County
Missouri

The Plaintiff states that she is the widow of Andrew Stroupe, deceased, - and that on the 10th day of November 1858, her late husband, the said Andrew Stroupe, was the owner in fee simple of the following described Lands situate in Jefferson County Missouri, To wit, the South West fractional quarter, and the North fractional Half of the South East fractional quarter of Section Five, in Township Forty, of Range Three East, Containing one hundred and ninety five acres, and $\frac{54}{100}$ of an acre, And that on the day and year aforesaid, the said Andrew Stroupe made a deed, conveying the Land above described to the Defendant; but, that the Plaintiff, who was then the lawful wife of said Andrew Stroupe, did not assent to said Conveyance by her said husband, and did not execute or acknowledge said deed, or relinquish her dower interest to the Lands therein described. That soon after said Conveyance the Defendant took possession of said Lands, and is now in possession of the same, claiming the same as the owner thereof. And that her said husband died some time in the year 1867, - and that since then she has demanded her dower in said Lands of Defendant, but that he refuses to set ^{off} and admeasure her dower in and to said Lands, and that

she is deforced thereof by the Defendant, and cannot have dower therein without suit.

Plaintiff therefore states that she is entitled to dower in the lands above described, of one third of the same to have and to hold for and during her natural life, and that the Defendant refused to assign her dower in the same. Plaintiff therefore asks the Court to adjudge and decree that she be seized and possessed of her dower in the lands aforesaid of one third of the same to hold for and during her natural life, - and that she recover ^{from} the Defendant the sum of ~~One hundred~~ dollars for her damages by reason of the withholding from her of dower as aforesaid; and that Commissioners be appointed to assign and administer her dower in the Lands aforesaid according to her rights & interest therein.

Martha Jane Stroupe
By Abner Green her
Attorney

etc
 Copy put- 75
 at 50
 and copy 100
 noted- 10
 fees 10

In Circuit Court
 Jefferson County

Martha Jane Struble

vs.
 George Y. Hunt
petitioner

To assign dower
Let summons
 issue, where
 for pett.

Filed Mar 19th 1868
 Oliver S. McCoy
 Clerk

THE STATE OF MISSOURI, } SS.
COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson—Greeting:

We command you, that you summon *Presley T. Hunt.*

if he be found in your County, that he be and appear before the Hon. Judge of our Circuit Court, on the first day of the next term thereof, to be begun and held at the town of Hillsboro, within and for the County of Jefferson, on the *Sixth* Monday after the fourth Monday of *March 1868*, then and there to answer unto *Martha Jane Stroup.*

upon *her* original petition, a copy whereof is hereunto annexed and accompanies this writ, and have you then there this writ.

Witness, ELIAS F. HONEY, Clerk of our said Circuit Court, with the seal thereof hereunto affixed, at office in Hillsboro, this *Nineteenth* day of *March* A.D. 1868

Elias F. Honey
Clerk Circuit Court.

No. 162.

2705

JEFFERSON CIRCUIT COURT.

May Term, 1868

March J. Shunk

^{vs}
Presley J Hunt

Original

John Williams Sheriff

fee

\$1.00

I Executed this Writ in the County of Jefferson
State of Missouri on the 30th Day of March 1868
by Delivering to Presley J Hunt a true copy
of this Writ and Petition

John Williams Sheriff

Martha J. Stroupe — In the Circuit
P. J. Hunt — Court of Jefferson
County Missouri

Now at this day comes the Defendant and for answer to the Petition of Plaintiff says that he does not know whether Defendant is the widow Andrew Stroupe died or not. ~~But~~ Defendant states that it is not true as stated in Plaintiff's Petition that said Andrew Stroupe was the owner in fee simple of the Lands described in Plaintiff's Petition on the 10th of November 1858 or at any time during the life of said Andrew. But Defendant asserts the Truth to be that said Andrew Stroupe in his lifetime, to wit: about the year 1857 or 1858 entered said Lands at the Land Office ~~under~~ under & in pursuance of the act of Congress then in force providing for the graduation & sale of Public Lands of the United States & paid therefor to the United States the sum of 12½ cents per acre and Defendant says that by the terms of the Law by virtue of which said entry was made said Stroupe was required to and did make oath that he entered the same

for the purpose of actual Settlement
and Cultivation for the purpose of
making a home for himself, and that
he was still further required by said
Law of Congress upon his entry of
said Land to enter into possession
of the same & settle, improve & cultivate
the same as a homestead, for himself,
but Defendant avers that shortly after
such entry of said Land by said
Stroupe, viz. on the 10th of Nov. 1838 he
made a deed of the same to Defendant
without ever having made any impro-
=vement of the same or taken possession
of it or settled or cultivated any portion
of said Land as he was by Law required
to do — Defendant further avers that
no Patent was ever issued from the
United States to said Stroupe for said
Land in his life time or received by
him nor has any Patent yet issued
for said Land or been delivered to
this Defendant or any other person.

So that Defendant avers that said
Andrew Stroupe was not during his
life seized of an Estate of inheritance
in said Land or any part thereof,
and that Plaintiff is not therefore entitled

To Dower therein, Defendant avers
further that when said Stroupe
conveyed said Land to Defendant said
Land was wilde and wholly unimproved
that the same was not worth more than one
hundred Dollars but that Defendant has
since cleared and put in cultivation
a farm thereon, & built houses barns &c.
of the value of some five hundred Dollars
by which the value of said property has
been greatly increased.

Defendant denies that Plaintiff is entitled
to Dower in said Lands of one third during
her life, and denies that he has ever deforced
Plaintiff of Dower or that Plaintiff ever
demanded of Defendant ~~that he should~~
any right or Dower in said Land prior
to the institution of this Suit, and denies
that Plaintiff is entitled to recover one hun-
-dred Dollars from Defendant or any other
sum by way of Damages or otherwise,
and Prays Judgment for costs

Thomas Williams
Atty. for Defendant,

Mr. J. Stoupe
vs
Presley T. Hunt

Answer of Debt.

Filed Sept. 5th 1868,
Cf Honey Al

Thomas & William
for Debt.

Martha J. Stroupe, - Plaintiff }
Against }
Pierley F. Hunt, - Defendant }
} In the Circuit Court
} of Jefferson County

The Plaintiff moves the Court to strike out all of Defendant's Answer filed in the above cause, except, the following, contained in the last Paragraph, To wit, "Defendant denies that Plaintiff is entitled to owner in said lands of one third during her life, and denies that he has ever enforced Plaintiff of owner, or that Plaintiff ever demanded of Defendant any right or owner in said land prior to the institution of this suit, and denies that Plaintiff is entitled to recover one hundred dollars from Defendant or any other sum by way of damages or otherwise; and prays judgment for costs,"

- for the following reasons;

1. - The allegation that Andrew Stroupe (Plaintiff's husband) had not acquired a good title to said land, - had not obtained a patent for the same, is no defence, as Defendant claims title from said Andrew Stroupe
acc^d, -

2 - All the allegations in the balance of said Answer, as to the manner in which Andrew Stroupe dec^d, entered said land, - as to whether he made the requisite oath, - or made a settlement and cultivation on said land, constitute no defence.

3 - The allegations contained in all of said Answer, except the last paragraph (above recited) constitute no defence in law to Plaintiff's Cause of action.

Abner Green
Attorney for Plaintiff

Martha J. Stoupe

vs,

Presley L. Wunt

Motion
to strike out
part of Answer

Filed Nov 23 1868
E. F. Honey Cl

COUNTY OF JEFFERSON,

The State of Missouri,

TO

Shadrach & David Danneberg
Buwell & Frank Smith

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear

before our Circuit Court for the County aforesaid, on the

13th day of May

at Hillsboro, then and there to testify, and the truth to say in a certain

matter of controversy, now pending in our said Court, wherein

Shadrach is *Plaintiff*

Plaintiff, and

Jesse J. Newton is

Defendant, on the part of

Plaintiff

and herein you are in no wise to

fail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this

9th day of *April* A. D. 186*9*

Elias F. Honey

Clerk.

By J. W. Arnold Secy

The within was served on the 19th Day of April A.D. 1869 at Jefferson Co. Mo
by reading the same within the presence and hearing of the within named Frank ~~Frank~~
also in like manner on the 21st Day of April he caused Hungel. The within
named Shro's Food can not be found in any County

Deco 1, 20

Food such as ever or there's
for

Deputy

2705

SUBPOENA.

To Jefferson Circuit Court.

May Term, 1869

Martha J. Sneed
vs
C. J. Hunt

for Plaintiff
Chas. Frost
Frank Frost
Samuel Russell

The State of Missouri,

COUNTY OF JEFFERSON,

To

J. J. J. J. J.

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear

before our Circuit Court for the County aforesaid, on the

14th day of

May 1869 at Hillsboro, then and there to testify, and the truth to say in a certain matter of controversy now pending in our said Court, wherein

Matthias J

Plaintiff, and

Shirley is

J. J. J. J. J.

Defendant, on the part of _____ and herein you are in no wise to fail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this _____ day of _____ A. D. 1869

E. F. Honey
Clerk.

SUBPOENA.

To Jefferson Circuit Court.

May Term, 1869

M. J. Throck

P. H. Hunt

S. S. Perunds
For Deft

The within was served on myself the 12th 69 by reading the same within the presence and hearing of J. J. Perunds at Jeff. County Mo

per 58

per

Deputy

COUNTY OF JEFFERSON.

The State of Missouri,

To

Chelieu McRay

YOU ARE HEREBY COMMANDED, That setting aside all manner of excuse and delay, you appear

before our Circuit Court for the County aforesaid, on the 13th day of May 1869

at Hillsboro, then and there to testify, and the truth to say in a certain

matter of controversy, now pending in our said Court, wherein

Marta Decker

Plaintiff, and

J. J. Decker

is

Defendant, on the part of Plaintiff and herein you are in no wise to

fail.

Witness, ELIAS F. HONEY, Clerk of our said

Court, with the seal thereof hereto affixed, at office

this 20 day of April A. D. 1869

Elias F. Honey Clerk.

By J. H. Decker

SUBPOENA.

To Jefferson Circuit Court.

May

Term, 1869

Martha J. Smith

P. T. Smith

on Behalf

Wm. McKay

By

Served the within on the 13th day of May a D 1869 at the house
of Jefferson by reading the same to the within named
Wm. McKay

per 50 lbs

Geo. D. Smith
per

Wm. McKay
J. D. Smith

May 13

M. J. Stroup Plaintiff
vs
P. T. Hunt. Defendant } In the Jefferson
Circuit Court,
May Term 1869

The Defendant for amended answer to Plaintiff's petition states and admits that Plaintiff is entitled to dower in the one third of the land mentioned in said petition for and during her natural life. Defendant denies that Plaintiff has been damaged

~~Defendant states that at the death of the said one hundred dollars or any other sum by reason of the death of the said Stroup the husband of Plaintiff being deprived of her dower in said land. Defendant says said land was and no portion of it being that he did deprive her of her dower in being in cultivation or improved in any way~~

Defendant states that at the time Andrew Stroup the husband of Plaintiff conveyed said land to Plaintiff, the same was wild, for no portion of it being in cultivation or improved in any way; that since he has acquired title thereto he has cleared & fenced a considerable portion of said land and now has it in cultivation and that he has further improved said land by building houses, barns, stables, &c upon it, in all of the value of five hundred dollars.

Defendant therefore states that Plaintiff

Plaintiff is not entitled to any rents for her dower in said land as the same was conveyed to Defendant by her husband in its wild and uncultivated state and therefore non productive and that she will be required to take her dower in said land in a portion thereof not in cultivation.

Defendant prays the Court to appoint Commissioners to assign to Plaintiff her dower of one third of said land during her natural life and by a proper order to direct said Commissioners to set off and assign to Plaintiff her dower as aforesaid on a portion of said land not improved and to award her one third thereof upon the basis of said land being all wild & unimproved. Defendant states that he should not be compelled ^{to pay} any more than his due proportion of the costs of this proceeding because Plaintiff never demanded of her said dower before bringing this suit and having fully answered prays to be discharged with his reasonable costs.

William Thomas

Atty for Defendant.

2905-

W. J. Adams

2

P. J. Munk

Answer of Sept.

Filed May 14. 1869

Martha J. Shoupe, - Plaintiff } In the Circuit
Against } Court of Jeffer-
Presley T. Hunt, - Defendant } son County
May Term 1869,

The Plaintiff for Replication to the Answer of Defendant filed on the 14th day of May 1869, denies the allegations of said Answer that said Lands were wholly unimproved, & that therefore Plaintiff is not entitled to Judgment for rents." And Plaintiff denies the allegation that Plaintiff should have her dower set-off altogether in the unimproved part of said Lands - and denies that said Lands are susceptible of an equitable division, so as to give Plaintiff her proper portion of the same, - As she states that Defendant has cleared & improved nearly all of the Land that is susceptible of improvement, - and therefore a division of the same cannot be made, unless Plaintiff has her dower portion to include a portion of Defendants improvements, - And Plaintiff states that she is entitled to a portion of the said improvements, - or to have the value of her dower assessed in money, which she asks to have done by the Court, - And Plaintiff denies the allegation, that she did not demand dower before suit brought, and denies the allegation that any costs should be taxed

against her, Plaintiff therefore asks that
her dower may be assessed and assigned
to her in money, by reason of the premises not
being susceptible of division, - and that she
have judgment for the same, and for the
rents & profits, and for damages as prayed
in her petition.

} Abner Green
Attorney for Plaintiff

2705-

M. J. Shreve
28,

Sp. 7. Mount

Publication

July 17th 1869
Eliza, J. Henry etc
By L. H. Ayres & Co.

J S Pounds.	Witness	4.92
Samuel Russell.	"	5.96
Wm McKay	"	2.60
J S Pounds	"	6.60
		<u>20.08</u>

Elias P. Honey CLK

~~using~~ Copy pet + cert. 110 Writ 100. 6 x 150	2.60
Files 15. Dock #30. Index. 50¢ Motion 20. ans 25.	1.30
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John Williams Shiff

Gene Deft. 100 calls 20.	1.20
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	<u>3.70</u>

J. Luchtegruyen Shiff Gene 5 sp w,	2.50
leats	<u>20</u>
	<u>2.70</u>
	<u>3593</u>

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