

Jefferson County Circuit Court
Case Files - Civil

Box

22 Folder 25

November 1868, No. 195

Ball, John

vs

Fortier, B.
Williams, John

Injunction

Enjoin execution of \$50 judgment
and sale of property

John Ball

vs
D. Fortie and
John Williams Sheriff

To D. Fortie: You will
take notice that I will present a
petition to the County Court of Jefferson
County Missouri in the Court-room
in Hillsboro on the 21st day of
April 1868 for an Injunction to
restrain prohibit & enjoin you and
John Williams Sheriff of Jefferson County
from proceeding to sell property belong-
ing to me under an execution now in
the hands of said Sheriff in your
favor and against me & to enjoin
you and each of you from taking
any steps to enforce said execution and
to perpetually enjoin you from enforcing
the collection of a judgment recovered
by you against me at the last
Term of the Circuit Court of said
County of Jefferson and for other relief

John Ball By
Jos. J. Williams, Atty

I acknowledge notice of the within
notice & waive the necessity of service
of the same on me by an officer

This 21st April 1868

John Williams
Sheriff

Served this notice in Jefferson County
Missouri by delivering to Abner Green the
known Attorney of Record of B. Fortier
in the cause within named & in the management
of the ^{Judgment} execution mentioned in this notice
on the 15th of April 1868

Sworn to and subscribed before me this 21st of April 1868

Wm. Mulla, Secy.

John Ball

vs
B. Fortier

Notice

Original

~~Abner Green the known Attorney of Record of B. Fortier in the cause within named & in the management of the execution mentioned in this notice on the 15th of April 1868~~
~~signed~~
~~Wm. Mulla, Secy.~~
~~before me this~~
~~April 21st 1868~~

Served 15th Apr
delivered to Abner Green
of St. Mary, Mo.
April 15th 1868

John Ball, Plaintiff } In the ~~Circuit~~
County Court of
Jefferson County
Missouri
vs
B. Fortier &
John Williams, Defendants
Plaintiff States that hereto-

fore, to wit, on the 30th day of January 1867
B. Fortier who is a defendant herein sued
this plaintiff before B. S. Keffy a Justice
of the Peace of Valle Township in said County
of Jefferson, for the sum of Fifty-Dollars
for an alleged trespass, that said

Cause was tried before said Justice
by a jury duly empannelled and sworn to
to try said Cause by the consent of
both Parties to said suit on the 16th day of
March 1867 when a verdict & judgment
were rendered for said Defendant who is the
plaintiff herein. That some days after
said trial & judgment for this plaintiff said
Justice did at the request of said Fortier & in the
absence of this ^{and without his knowledge or consent} plaintiff attempt to set aside
the judgment & verdict of the jury in said
Cause, & did set said Cause for trial at a
future day & caused the same to be tried again
^{against the consent of this} plaintiff before him by another jury on the 20th day of
April 1867 that this last jury rendered
a verdict against this plaintiff for \$25.00 -
That this plaintiff appealed from the judgment
rendered by said Justice on said verdict on the

Within Ten Days from the rendition of
Said Judgment, that said Cause was
tried on appeal in the Circuit Court of said
County at the Nov. Term 1867 & a verdict
rendered for said Fortier & against this
Plaintiff for \$50. & costs, for and on
account of the same alleged Cause of action
which was tried before said Justice on the
16th day of March 1867 when the same was
decided for this Plaintiff; Plaintiff says
that said Circuit Court committed manifest
& flagrant error in refusing divers instructions
which this Plaintiff on the trial of said
Cause asked said Court to give to the jury, —
and committed divers other errors in
permitting said Cause to be tried in said
Court ~~Cause~~ after the same had been tried before
said Justice & decided for this Plaintiff
as aforesaid, which judgment was not
appealed from, & in entertaining jurisdiction
of said Cause, that this Plaintiff duly
excepted to the rulings of said Court in
refusing instructions asked for by this
Plaintiff within the proper time after said
verdict in said Cause made his motion for a
new trial which was overruled whereupon this
Plaintiff filed his Bill of Exceptions his
affidavit ^{for an appeal} & appeal Bond ^{approved said Court} & said Court
ordered that an appeal of said Cause
be granted this Plaintiff to the District

Court of the Second District of Missouri
But this Plaintiff says that an execution has
been issued on said pretended judgment
and placed in the hands of John Williams
who is Sheriff of said County of Jefferson
and that said Sheriff has served said execution
on property of this Plaintiff & is now about to sell
the same & if not restrained will sell Plaintiff's
property thereunder, that said Fortier is
insolvent, & that this Plaintiff will if said
Sheriff is permitted to sell his property under said
execution sustain great & irreparable injury
Plaintiff says that there is not now any Circuit
Court in this County & no Judge thereof in said
County. & Prays this Court in consideration
of the premises to issue an Injunction to
restrain prohibit & enjoin said Sheriff from
proceeding to sell any property of this Plaintiff
under said execution or from enforcing
payment thereof & to ~~perpetually~~ prohibit
& enjoin said Fortier from hereafter having
any execution issued on said judgment or from
taking any steps to collect said judgment
pretended judgment, and that on final
hearing said Injunction may be made perpetual
& for other proper relief

John J. Williams
Att'y for Plaintiff

John Ball

Forster Williams

original petition
for Infraction

Filed April 30th 1868.
E. J. Honey &

B. Fortier
John Ball



of John Ball as
Principal and

and

as Securities acknowledge ourselves
to owe and stand indebted unto
B. Fortier and John Williams Sheriff
of Jefferson County Missouri in the
Sum of Two hundred & Fifty Dollars
Signed Sealed and dated this 20th
day of April 1868; The Conditions
of this Bond are such that whereas
John Ball has presented his Petition
to the County Court of Jefferson County
Missouri and obtained an order
on this 20th day of April 1868 for an
Injunction to issue directed to B.
Fortier & John Williams Sheriff of said
County, Returnable to the next Term
of the Circuit Court of said County
of Jefferson to restrain & enjoin
said John Williams as such Sheriff
from proceeding to sell any property of
John Ball or W. G. Harrod & under the
virtue of an execution now in the hands
of said Sheriff in favor of B. Fortier

And against John Ball & W.G.
Harrold Security of John Ball
John Ball, which Execution was
issued on a Judgment rendered
on the 7th day of November 1867
in favor of said B. Fortier and
against John Ball & W.G. Harrold
for the sum of Fifty Dollars &
costs, and to enjoin said Fortier
from hereafter taking any steps
to enforce the collection of said
Judgment & to perpetually enjoin
the collection of said Judgment. —

And if said John Ball
shall abide the decision which
shall be made thereon and
shall pay all sums of money
Damages and Costs that shall
be adjudged against him
if the Injunction shall be
dissolved then this Bond shall
be void otherwise to remain in
force

John Ball
Horace Harrold



Approved this

2

Day of
April 1868

3

Ball
my
Honor &
Sheriff

Inspection Bond

Filed April 30th 1868,
E. D. Honey Co,

Approved

2

State of Missouri } In the County Court
County of Jefferson } April 21st 1868

The following proceeding was had, to wit

John Ball

Benoni Fortier and John Williams

} On Petition for Injunction

Now at this day comes said plaintiff by his attorney and presents his petition stating that on the 30th day of January 1867 B. Fortier sued this plaintiff for the sum of fifty dollars for an alleged trespass and on the 16th day of March 1867 ^{was} obtained judgment for this plaintiff. That after said trial the said judgment was set aside by the justice and the cause set for trial at a future day and the same was tried again against the consent of this plaintiff and on the 20th day of April 1867 on trial of said cause a verdict was rendered against this plaintiff for the sum of twenty five dollars. That this plaintiff appealed from this judgment to the Circuit Court of Jefferson County which Court at its Nov. term 1867 rendered a verdict for said Fortier and against this plaintiff for the sum of fifty dollars and costs, that said Court committed a manifest & flagrant error in refusing instructions which this plaintiff on trial of said cause asked said Court to give the jury and committed divers other errors whereupon this plaintiff filed his bill of exceptions with an affidavit and bond for appeal and the appeal was ordered by the said Court, That an execution has since been issued by the Clerk of said Court and delivered to John Williams who is sheriff of Jefferson County, that said Sheriff has levied said execution on property of this plaintiff and is now about to sell the same, that said Fortier is insolvent and that there is not any Circuit Court

now in session in the County or Judge thereof residing therein and
prays for an injunction to restrain and prohibit and enjoin said
Sheriff from proceeding to sell any of this plaintiff's property under
said execution or from enforcing the payment thereof, and to
prohibit and enjoin and restrain said Porter from hereafter
having any execution issued on said judgment or from
taking any steps to collect the same, whereupon, it appearing
that the defendant has been duly served with notice of this
application it is ordered by the Court that upon the
plaintiff filing bond with good security and conditions
required by law, that the injunction be granted as prayed for,
and said bond being filed and approved by the Court,
it is ordered by the Court, that the Clerk of this Court
certify these proceedings to the Clerk of the Circuit
Court, that an injunction may be issued as asked
for by the Petitioner

Attest copy of the Order

Witness my hand, and the Seal of
Said Court hereunto affixed This
29th day of April A.D. 1868

Wm. M. Mullin Cg

John Bale
vs
Benoni Foster &
John Williams
Order for Exjunction

Benoni's claim, \$330

Filed April 30th 1868,
E. D. Loney Cl.

State of Missouri }
County of Jefferson }

The State of Missouri

To the Coroner of the County of Jefferson, Greeting

Whereas the County Court of Jefferson County, State of Missouri, at a regular Term thereof begun and held on the 20th day of April A.D. 1868, and on the second day thereof being the 21st day of said month, upon the petition of John Ball, a certified copy of which is hereto annexed and upon the filing of a bond by said John Ball with approved security in accordance with the requisitions of the Statutes in such cases, (which bond has been approved by said County Court) have ordered and adjudged that the prayer in said petition be granted and that a writ of injunction returnable to the November Term 1868, of the Circuit Court, be issued enjoining and restraining Benonie Fortier and the Sheriff of Jefferson County aforesaid from enforcing and collecting the judgment hereinafter described so far as the same relates to debt damages & costs, to wit: a judgment obtained by said Benonie Fortier against said John Ball in the Circuit Court of Jefferson County aforesaid at the November Term thereof 1867, for the sum of Fifty Dollars, and also for his proper costs therein expended. These are therefore to command you that you ~~that~~ notify the said Benonie Fortier that he is hereby enjoined, restrained and prohibited from enforcing said judgment or any execution issued thereon, for the collection of said Fifty Dollars & costs, as adjudged

by the Circuit Court aforesaid. And you the said
Sheriff are hereby enjoined, restrained, and
prohibited from enforcing any execution issued
and levied by virtue of said judgment, for the
collection of said debt damages and costs
as aforesaid. And you are further commanded
that you ~~notify~~ the Summon Benonie Porter
and the Sheriff of Jefferson County that they
be and appear before the Hon Judge of
our circuit court, on the first day of
the ^{November} ~~next~~ term thereof to be begun and held at
the Town of Hillsboro within and for the County
of Jefferson on the Seventh Monday after the
fourth Monday of September next then and
there to answer unto. John Ball upon his
original petition a copy whereof is herewith
annexed and accompanies this writ and have
you then this writ.

Witness Elias H. Honey Clerk of our
said Circuit Court with the seal thereof
herewith affixed at office in Hillsboro
this thirtieth day of April A.D. 1868,

Elias H. Honey Clerk Circuit Court

Per C. J. Horine Deft

2668

No 195-

To the Jefferson Circuit Court,
November Term 1868,

John Ball

vs } Injunction

J. Porter

John Williams

(Original)

Served on Sheriff
May 11th 1868

John Ball
me
J. Stollie &
John Williams

In the Circuit Court
of Jefferson County
Missouri

The Clerk of the Circuit
Court of the above said County of
Jefferson will advise the
above named at the cost of the
plaintiff

May 8th 1869

Jos. F. Williams,
Att'y for Plaintiff

John Ball
vs
B. Forher &
John Williams

action in the
nature of Injun-
ction

Filed May 8th 1869
Elias & Henney clk
By L. H. Ayford Atty

The above cause
is dismissed
in vacation of
court by the
plaintiff at
his cost - this
May 8th 1869
Elias, & Henney clk

John Ball, - Plaintiff } In the
 vs, } Circuit Court
 Benoni Fortier and } of Jefferson
 John Williams, } Defendants } County Mo,
 May Term 1869,

The Defendants state that the said Benoni Fortier, at the November Term 1869 of the Circuit Court of said County obtained Judgment against John Ball the above Plaintiff, for the sum of fifty dollars and costs, - That afterwards he took out Execution on said Judgment and put it into the hands of John Williams, the then Sheriff of said County - That Plaintiff obtained an injunction from the County Court of said County, restraining Defendants from collecting said Judgment. - And that Plaintiff has since dismissed his injunction suit,

The Defendants therefore move the Court to assess damages on the amount of said Judgment at the rate of ten per cent from the date of the rendition thereof, against the said John Ball and

his securities on his injunction Bond,
 Abner Green
 Attorney for Defendants

In Circuit Court
Jefferson County

John Ball
vs.

B. Fortier &
John Williams

Motion

To assess damages
on dissolution of
Partnership

Filed May 20 1869
Elias T. Honey
By S. H. Mayo