

May 1869

Reynolds County ex rel
School Townships of Reynolds County

vs.

Johnston, Martin

Debt

Debt \$1,035 for money received by
defendant as treasurer for use of
school townships; change of venue
from Reynolds County

State of Missouri
County of Reynolds

In the Circuit Court of Reynolds County.

Be it Remembered that on the 16th day of March
A.D. 1868 there was filed in the office of the
Clerk of the Reynolds County Circuit Court
a Petition which is in words and figures
following. to wit:

Reynolds County to the use	{	In the Circuit Court of
of the several School Townships		
Whereof	Off.	Reynolds County Mo.
V.S.		To the April Term
Marion Johnston (Former		1868.
Treasurer) Deft		

Plaintiff says that the defendant did
on or about the ^{1th} day of January 1865
receive of Josiah B. Barnes the sum of
Five hundred and thirty-five dollars (\$535)
money belonging to the several School Townships
of Reynolds County aforesaid which money
the defendant has been often requested &
demanded to pay to plaintiff, and defendant
wholly refused so to do, and still refuses to pay
said money to plaintiff, but has converted the
same to his (Defendants) own use.

Therefore Plaintiff prays judgment
against the Defendant, for the sum of

Copy of Petition.

Five hundred & thirty-five dollars and six per-
cent interest thereon since the aforesaid ^{the} day
of January 1865, the day on which Defendant
received said Five hundred & thirty-five dollars;

Plaintiff for another cause of action,
avows that the said Defendant received of
Joseph O. Mc Nail on or about the
day of August A.D. 1865, The sum of Two
hundred dollars (\$200) which money belonged
to the School Township No. nine (being in
Congregional Township 32 N. of R. 2 East) in
Reynolds County, and the Defendant has been
demanded to pay the same, to the payment
thereof by said Defendant has been wholly
refused, and he still refuses to pay said Two-
hundred dollars or any part thereof, but has
converted the same to his (Def't's) own use
and benefit. Therefore Plaintiff prays judg-
ment against said Def't. for the said Two hun-
dred dollars, and Interest thereon from the day of
August 1865, the day on which Def't. received
the same, together with costs of this action.

Plaintiff further states that the said
Defendant received of James Crowner
Clerk of the Reynolds County Court sums of
different amounts during the Spring and
Summer of A.D. 1865 amounting to about
Three hundred dollars of money belonging
to the several School Townships in Reynolds

Copy of Petition.
Continued

County aforesaid, which money the defendant has been often requested & demanded to pay to Plaintiff and Defendant wholly refused and neglected so to do, and still refuses to pay said money to Plaintiff but has converted the same to his (defendants) own use.

Copy of Petition
Concluded

Therefore Plaintiff prays judgment against the Defendant for the sum of Three hundred dollars, and six per cent interest thereon since the day of 1863 the day on which Defendant received said Three hundred dollars, together with costs of this action and for such other relief as the equity and justice may demand,

Gideon Howell

Atty. for Plff.

James Crownover makes oath and says the foregoing Petition and facts therein as stated he believes to be true

James Crownover

Subscribed & sworn to before me This 18th day of March A.D. 1868.

Allen Butterfield
Justice of the County Court

Filed March 18th A.D. 1868

J. Crownover Clerk

Reynolds County to the use of
^{the} Several School Townships thereof } Attachment in
Plff. } ~~the Civil Court~~
against } a Civil Action.
Union Johnstons Sept. 6 }

This affiant states that the Plff. in the above entitled cause has a just demand against the defendant therein now due and that ^{the} amount which this affiant believes the Plaintiff ought to recover after allowing all just credits and set-offs, is One Thousand & thirty-five Dollars and ~~no~~ cents, and that affiant has good reason to believe and does believe that the Defendant is about to remove out of this State with the intent to change his domicile, and that the Defendant is about fraudulently, to convey or assigns his property or effects so as to hinder or delay his Creditors, and that the Defendant is about fraudulently to conceal, remove or dispose of his property or effects so as to hinder or delay his creditors.

Affidavit to obtain
Attachment.

Philip Carty.

Sworn to and subscribed before me this ^{the} 14 day of March A.D. 1868.

J. O'Connor Clerk

Filed March 18th A.D. 1868

James O'Connor Clerk

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Upon which said Petition & Affidavit an
Attachment
was issued which is in words & figures follow-
ing, to wit.

The State of Missouri }
County of Reynolds } ss.

The State of Missouri to the Sheriff of
Reynolds County Greeting

We command you to attach
Marion Johnston by all and singular his
lands and tenements, goods, chattels, rights,
moneys, credits, evidences of debt and effects,
or so much thereof as shall be sufficient
to satisfy the sum of One thousand and
thirty-five dollars, with interest and
costs of suit in whose possession soever
the same may be found in your County, and
that you summon the said Marion Johnston to be
and appear before our Circuit Court of the County
of Reynolds, on the first day of the next term
thereof, to be holden at the Court-house in
Centerville, in the said county of Reynolds on
the third Monday after the fourth Monday of
March 1868, then and there to answer the
petition of Reynolds County to the use of the
several School Townships thereof wherein
she asks judgment for One thousand and
thirty-five dollars. (\$1035). And that you
also summon ————— and —————

copy of writ of
Attachment.

copy of writ
concluded

and all other persons that you shall find in the possession of goods, money or effects of the defendant not actually seized by you, and all debtors of the defendant, and such other persons as the plaintiff or her attorney shall direct as garnishees, to be and appear before our said Court, at the time and place aforesaid, then and there to answer such allegations and interrogatories, as may be exhibited against them; and have you then and there this writ:

In testimony whereof the undersigned Clerk of the said Reynolds Circuit Court,  has hereunto signed his name, and affixed the seal of said Court at office in Centreville, this 16th day of March 1868.
James C. Curnover Clerk

And afterwards to wit: April 11th 1868 The said Attachment was returned to said Clerk's office with the Sheriff's return thereon endorsed, which is in words and figures following, to wit:

 Executed the within attachment in my said County of Reynolds Mo. by delivering a copy of the same and annexed petition to the within named Def^t. Marion Johnston (Former Treasurer) March 22nd 1868. also by attaching as the property of the said def^t. the following described Real Estate situate in the County of

Sheriff's Return
continued

Reynolds Mo. Viz: E $\frac{1}{2}$ of N $\frac{1}{4}$ Section 17 W $\frac{1}{4}$ of SW $\frac{1}{4}$
Section 18 Township 33 Range 2 East also
the following described personal property Viz:
Two Horses, one Set of Harness, One Two Horse
Wagon, also one grist & Saw Mill, and Carding
Machine, Executed on the 17th & 27 of March
1868. — Also on 22th of March Summomed
John Johnston as garnishee to appear at the
Term within specified.

Josiah B Barnes Sheriff of
Reynolds County Mo.

Also on the 11th day of April 1868 was filed
a Schedule of the property attached, which
is in words and figures as follows, to wit:

Reynolds County to the use of } In the Circuit Court
the several School Townships } of Reynolds County Mo.
thereof } Plff. } To the April Term
U.S. } 1868.

Marion Johnston Former } Schedule of property
Treasurer } Defendant } Attached.

Schedule of prop
erty attached

That is to say E $\frac{1}{2}$ N $\frac{1}{4}$ Sec 17 W $\frac{1}{4}$ of SW $\frac{1}{4}$
Sec 18 T. 33 R. 2 E.

Two Horses

One Set of Harness

One Two Horse Wagon

Also the undivided one half of Grist & Saw

mill, also the undivided one half of Carding
Machine, the above property attached March 17th
1868. =

Schedule Com
died

and on the 27th of March attached the other
half of Grist & Saw Mill and Carding
Machine above listed as the property of
the said Defendant.

Josiah B. Barnes Sheriff
of Reynolds County Mo.
Filed April 17th 1868.

J. Croswover Clerk

And accompanying said Attachment &c was a
Delivery Bond in words & figures following
to wit:

Reynolds County to the use of
of the several School Townships } In the Circuit Court of
thereof }
V.S. } Reynolds County Mo.
To the April Term 1868.
Marion Johnston deft. }

Delivery Bond { We Marion Johnston Defendant &c in the
above entitled cause as principal and John B. Wilson
J. N. Wilson and John Johnston as security
stand indebted to Josiah B. Barnes Sheriff of Reyn-
olds County Missouri his successor or assigns in
the sum of Fourteen Hundred dollars upon the
condition that if the said Marion Johnston shall
have the property found in his possession and attached

Delivery Bond
Concluded

by virtue of a certain writ of attachment now in
the possession of the said Josiah B. Barnes Sheriff
as aforesaid that is to say - The undivided
half of a Grist Mill, and a Carding Machine
located on the East ~~xxx~~ fork of Black-river
and One horse a Dark Bay about Ten years
old and, also, One horse of a brown "Culor" about
seven years old, also One good new set of Harness,
also One good Two horse Wagon nearly new, well
finished - On a certain suit now pending before
the said Circuit Court of Reynolds County Missouri
wherein Reynolds County to the use of the several
School Townships thereof plaintiff, and the said
Marion Johnston is defendant, forthcomeing when
and where the judgment of ~~xx~~ said Court shall
direct, and further abide the judgment of
the said Court. This Bond shall be void
otherwise it shall remain in full force.

Witness our Signatures and Seals This
18th day of March 1868.

Marion Johnston (Seal)

John B. Wilson (Seal)

J. N. Wilson (Seal)

John Johnston (Seal)

(Seal)

Approved March 18th 1868

Josiah B. Barnes Sheriff

Filed April 11th 1868.

"J. Crowmover Clerk"

Reynolds County Circuit Court,
Wednesday Oct. 21st 1869.

Motion to dis-
miss. filed }
Reynolds County Plaintiff }
against: } Civil Action.
Marion Johnston Defendant }

Now at this day comes the defendant
by his attorney and files his Motion to
dismiss plaintiff's suit for reasons therein
stated.

And on the the day and year last above
written came the Plaintiff by her attorney and
files herein the affidavit J. P. McNail &
Allen Sutterfield justices of the County Court
which is in words and figures follow-
ing viz:

State of Missouri }
County of Reynolds } M.

Affidavit of }
J. P. McNail & }
A. Sutterfield }
We Joseph P. McNail & Allen =
Sutterfield justices of the County Court
of Reynolds County aforesaid upon their oath
says "that the suits wherein Reynolds
County to the use of the school funds
against Marion Johnston (former Treasurers)
was commenced at the especial instance
and direction of us acting as the County
Court of Reynolds County Mo.

Affidavit of
J. D. McNeil &
A. Sutterfield
concluded

J. D. McNeil } Justices of
Allen Sutterfield } Co Court

Sworn to and subscribed before me this
Oct. 21. 1868.

James Crowmover Clerk

Filed Oct 21st 1868.

J. Crowmover Clerk

Reynolds County Circuit Court.

Thursday Oct. 22^d A.D. 1869.

Reynolds County to the use of the several
School Townships of said County } Civil Action,
D.S. } by Attachment.
Marion Winston Former }
Treasurer }

Now at this day comes the Defendant
by his attorney and presents his Motion
to dismiss suit for causes therein stated,
Which said motion is in words and figures
following to wit:

Reynolds County to the use of the several
School Townships thereof Plaintiff.

D.S.

Marion Winston Defendant, On the
Circuit Court of Reynolds County Missouri
Oct Term 1868,

Now at this day comes the Defendant and moves the Court to dismiss this suit and gives and assigns the following reasons therefor

1st Because this suit was not commenced, prosecuted by the Circuit Attorney of the 15th Judicial Circuit of which Circuit the County of Reynolds aforesaid is a part & parcel

2nd Because the suit is not begun & commenced prosecuted by the County Attorney of said Reynolds County.

3^d Because the suit is begun or commenced prosecuted in a manner wholly unauthorized by law.

Perryman & Dimming
for Deft.

which said ^{motion} was by the Court examined and "over ruled."

and on the same day viz:

Thursday Oct. 23^d A.D. 1868. were the following proceedings had, viz.

Reynolds County

V.S.

Civil Action by Attachment.

Marion Johnston

Former Treasurer

Now at this day came the parties Plaintiff and Defendant by their respective attorneys and by agreement this cause with the plea in abatement filed herein is continued till the next regular term of this Court.

Which said plea in abatement is in words & figures following, *viz*:

"Reynolds County to the use of the Several School Townships thereof.

V.S.

Marion Johnston Defendant

In the Circuit Court of Reynolds County State of Missouri, October Term 1868

Now at this day comes the Defendant and files this his plea in abatement, and says that the affidavit of Plaintiff on which the attachment in this cause issued is wholly untrue and the defendant denies that at the date of said attachment to wit ^{the} 14 day of March 1868 or prior thereto he this Def. was about to remove out of this State (The State of Missouri) with intent to

change his domicile. Denies that at said date or prior thereto he the Deft. was about fraudulently to convey or assign his property or effects, so as to hinder or delay his Creditors, and denies that on the said day or prior thereto the Deft. was about fraudulently to conceal, remove or dispose of his property or effects so as to hinder or delay his creditors. - Wherefore Defendant prays that Plaintiff's writ of attachment may abate. -

Perryman & Dinning
for Defendant

State of Missouri }
Reynolds County } ss.

Marion Johnston the Defendant in the above entitled cause, of lawful age being duly sworn deposeseth & says that the above & foregoing his plea in abatement and all the matters and things as therein stated are true.

Subscribed and } Marion Johnston
sworn to before me this }
20th day of October 1868 }
James Crowmover clerk

Filed Oct. 20th 1868

J. Crowmover Clerk.

In Circuit Court Reynolds County.

Reynolds County to the use of the
Several School Townships thereof Plaintiff
against
Marion Johnson Defendant.
In Circuit Court Reynolds County

State of Missouri Plaintiff
against
Marion Johnson Defendant.

State of Missouri
County of Iron J. M. Marion Johnson of
lawful age being duly sworn says that he
is the defendant in two actions entitled as
above now pending against him in the Circuit
Court of Reynolds County and that issue is
joined in said actions & have been waiting for
trial at the spring term of said Court
which was not held, at its regular Term.
That he asks your honor to change the venue
from Reynolds County in said causes to
the County of Jefferson for the reason that
the inhabitants of Reynolds County are so
prejudiced against him that he cannot have
a fair trial on the merits of said causes in
said County of Reynolds, and that the knowl-
edge of that fact has come to him

since the last term of said Court in said County
and since the joining of issue in said above
causes, and that there has been no term of
Court in said County of Reynolds where he
could make his application for such change
and the affiant asks that said venue may
be ordered by this Court to be changed from
the County of Reynolds to the County of Jef-
ferson & ^{the} papers sent there for trial at
the May Term of said Court.

Subscribed & sworn to } Marion Johnston
before me this 23rd day of }
April A.D. 1869 }

Jos Huff Clerk }
Prothon Court Mo. }

I hereby admit service of the above application
upon me at Cronton Iron County Mo. this 23rd day of
April A.D. 1869- and consent that the venue
therein may be changed.

J. E. Leonard Circuit Attorney

It is hereby ordered by the undersigned judge of the
fifteenth judicial Circuit that the venue in the
above causes be changed from the County of
Reynolds to the County of Jefferson. - and the
Clerk of said County of Reynolds is hereby order-
ed and directed to make out a full transcript

of the records and proceedings in said Causes,
including the petition, affidavit order of removal
and forthwith transmit the same duly verified
together with all the original papers filed in
the cause, and not forming a part of the record,
to the Clerk of the Court of the County of Jefferson
Given under my hand in vacation
at Clinton Mo. this 23rd day of April A.D. 1869.

James H. Vail Judge
15 Circuit.

State of Missouri }
County of Reynolds }

Affidavit of
J B Barnes

I Josiah B Barnes agent for
Reynolds County did on the morning of the
fourth of January 1865 pay into the
hands Marion Johnston the then acting County
Treasurer within and for the County of Reynolds
Missouri. Five hundred and thirty five
dollars of State School funds which I had
drawn from the State Treasurer for the
County of Reynolds Mo.

Josiah B. Barnes
Subscribed and sworn to before me this 11th
day of March 1868

James Crowmover Clerk
of County Court.

State of Missouri
County of Reynolds

I James Cronmover Clerk of the
Circuit Court within and for the County of
Reynolds in the State of Missouri; Do hereby
Certify that the foregoing Transcript contains a
full, true and complete copies of the records
and proceedings in the case of "Reynolds County
to the use of the several School Township thereof,
against Marion Johnston (Former Treasurer) Deft.
including the Petition, affidavit, order of removal
together with all the original papers, filed in
said cause and not forming a part of the
record,

Witness my hand and the seal of said Court hereto affixed
at office in Centerville
This 13th day of May A.D. 1869
James Cronmover Clerk

2708

Reynolds County to the
use of the Several School
Townships thereof Plff.
against
Marion Johnston
(Former Treasurer) Deft.

Transcript

Filed May 18th 1869
Elias T. Henry et al
By S. H. Alfred D.

Reynolds County to the use
of the several School Townships
thereof

^{vs}
Marion Johnston (Styled former
Treasurer)

In the Circuit
Court of
Jefferson County
Missouri
on change of
venue from
Reynolds Co. Mo,

Now at this day comes the Defendant
and Demurs to the petition of Plaintiff
in this cause for the following reasons, viz

1st Because said petition does not state any
Cause of action in this that it does
not show in what capacity the Defendant
is charged to have received the several
~~sums~~ sums of money mentioned therein

2nd Because he being styled in said
petition former County Treasurer it
is not averred that he was ever duly
elected or appointed to the office of
Treasurer of said County of
Reynolds or that he gave Bond as
such Treasurer & qualified accord-
=ing to Law as such officer

3rd Because it does not appear from
said petition that he was bound by
Law to pay the sums of money

mentioned in the petition to plaintiffs
or any person for plaintiffs use

Jos. J. Williams
Atty. for Defendant,

Reynolds County to
use of General School
Townships &c,

^{ms}
Marion Johnston

Tennurer

Filed May 19th 1869
Elias D. Cox clerk
By S. H. Upd. D.C.

Reynolds County to the
use of the several
School Townships
thereof

vs
Marion Johnston, styled
former Treasurer of
Reynolds Co. Mo.,

In the
County
Circuit Court
of Jefferson
County Mo.
on Change
of venue
from Reynolds
County Mo.

Now at this day comes the
Defendant in the above entitled
Cause and moves the Court to
Dismiss the attachment in
the above cause & to make
an order for the delivery to
Defendant of the attached
property for the following
Reasons viz.

1st Because There is no
Attachment Bond filed
in the Cause by Plaintiff as
required by Law

Joseph J. Williams
Atty. for Defendant

Reynolds County
To use of The several
School Townships
thereof

⁽ⁱⁿ⁾
Marian Johnson

Motion To Dissolve
& dismiss
attachment &c

Filed May 20 1869
E F Henry clk
By L H Allen &c

JOSIAH B. BARNES,
COLLECTOR,
AT
~~BARNES & CO. HOTEL.~~

State and County Collector's Office,
REYNOLDS COUNTY,

Centreville, Mo., Nov 5th 1869.

Mr. E. J. Lenora Atty

Dear Sir

You will please With draw
Suit in Jefferson County. Viz
County of Reynolds To the several
Townships there of Plaintiff VS
Marion Johnston County Treasurer
Deft.

Yours Truly

Wm. Sutterfield.

Philip P. Carty

John Capeland

}
} Justice Co. Court
} Reynolds County

2708
Reynolds County
vs -
Marion Phustan

Tellus of
County Court,

Filed Nov 19th 1884
E. F. Henry clk