

Jefferson County Circuit Court
Case Files - Civil

November 1869, NO. 367

Box

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Folder 30

State Xrel

Washington, John L.

vs

Douthett, Matthew A
Herold, W.C.

Attachment bond

Defendant failed to successfully prosecute
suit by attachment before JP B.S.
Repp; \$100 damages

Mathew A. Douthett Plaintiff
against
Frank J. Washington &
John J. Washington
Defendants

Bond an Attachment
Before B. S. Reppert
Justice of The Peace

We Mathew A. Douthett
that as principal and W. G. Harold
as security owe and stand indebted
to the State of Missouri in the sum
of hundred dollars upon this condition
that the plaintiff in the above entitled
cause Mathew A. Douthett, shall
prosecute his action without delay
and with effect refund all sums
of money that may be adjudged
to be refunded to the defendant
Frank J. Washington or John J. Wash-
ington, or found to have been
received by the Plaintiff and not
justly due to him and pay
all damages and costs that
may accrue to any defendant
or garnishee by reason of attach-
ment or any process or proceeding
in the suit or by reason of any
judgment or process thereon

Approved this 6th
day of March
A.D., 1869

M. A. Douthett
W. G. Harold

B. S. Reppert
Justice of The Peace

Bond

M. A. Donthett

2 S
Frank. T. & John T. Washington

Filed this 6th day
of Mar 16 9

B. S. Rippey
J. P.

The State of Missouri To
the use of John T. Washington
Plaintiff

In the Jefferson
Circuit Court,
Mr Term
1869.

Matthew A. Douthett and
Wm G. Menard, Defendant

Plaintiff. Notes that Matthew A. Douthett on or about the 6th day of March 1869 instituted a suit by attachment against Frank T. Washington and John T. Washington before B. S. Reppy, a Justice of the Peace in and for Jefferson County Mo. and in order to obtain a writ of attachment against the property of said Frank T. and John T. Washington the said Douthett entered into a bond before said Justice with Wm G. Menard as his security to the State of Missouri in the penal sum of one hundred dollars, which bond contained the following condition viz: That the Plaintiff in the above entitled cause, Matthew A. Douthett, shall prosecute his action without delay and with effect, refund all sums of money that may be adjudged to be refunded to the Defendant, Frank T. Washington or John T. Washington or found to have been received by the Plaintiff and not justly

due to him and pay all damages and costs that may accrue to any Defendant or garnisher by reason of attachment or any process or proceeding in the suit or by reason of any judgment or process thereon"; which bond was taken and approved by said Justice on the 6th day of March 1869. Whereupon said Justice did issue upon the demand of the said Plaintiff a writ of attachment against the property of said John T. Washington and Frank Washington dated the 6th day of March 1869 and directed to the Constable of Valle Township in said County, by virtue of which writ of attachment the said Constable on or about the last aforesaid attached and seized one bag more, the property of John T. Washington of the value of Five hundred dollars. Said bond being in the office said Justice a copy of the same is herewith filed and prayed to be taken as a part of this petition.

Plaintiff further states by the way of assignment of ^{breaches} ~~breaches~~ of said bond, that the said Matthew A. Douthett did not prosecute his suit against John T. Washington before said Justice without delay and with effect

but on the contrary he over that said
John T. Washington gained the same.
The Plaintiff for further breach of said
bond states that the said Matthew A.
Dougherty has not paid the damages that
have accrued to the said John T. Washing-
ton by reason of said attachment
Plaintiff therefore says ~~that~~ an action has
accrued to ~~him~~ ~~on said bond by reason~~
the said John T. Washington by reason
of the breach of the condition of said
bond and charges that he has sustained
damages by reason of said attachment
~~and avers that the said John T. Washington~~
and in the defence thereof as follows.

Amount Paid Attorneys. \$50.00

Trouble and expense of giving bond
to retain the property attached 5.00

Expenses coming from St Louis
to Detroit twice to defend said
suit 15.00

Time lost in attending said suit
10 days at \$3. per day 30.00

Total. \$100.00

Wherefore Plaintiff demands judgment
that said bond be declared forfeited
and that an execution issue against
defendants in favor of the State of Missouri
to the use of John T. Washington for

The hundred dollars for the stamps
he has sustained on shore and
and for other private relief.

Howell Bros.
Ally for Relief.

State to use of John I.
Washington
on
Douthett & Herald

Action on
attachment bond

Filed Oct 14/89
Elvis M. Hays cler
By L. H. Hays

THE STATE OF MISSOURI,
COUNTY OF JEFFERSON. SS.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson—Greeting:

We command you, that you summon

Mathew A. Douthett
William G. Arnold,

if they be found in your County, that they 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 Seventh Monday after the fourth Monday of Sept 1869
~~next~~ and then and there to answer unto

The State to the use of John
Washington,

upon its original petition, a copy whereof is hereto annexed and accompa-
nies this writ, and have you then there this writ.

Witness ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereto affixed, at office in Hillsboro, this 14
day of Oct, A. D. 1869

Elias F. Honey
By L. H. Alfred Deputy
Clerk Circuit Court

The within was Served this 15 Day of October A. D. 1869 in Jefferson County Missouri, by delivering a copy of the Writ and the within Petition & as furnished to me by the Clerk of the Circuit Court, to the within named M. A. Southett, him being the first one served, and I further served the same, by delivering a Copy of the Writ, in like manner to the Defendant W. E. Harrow on the 18th Day of October 1869

Fred Luedenmeyer Sheriff
By Fred Vollmuth Deputy

Plus 2nd Cor.

No 367
H. 3068
Jefferson County Court

Received Jan 11 1870

State of Missouri

of the Court

Washington

to

Master of Court

M. A. Southett

(original)

The State of Missouri to
the use of John T. Washington
Plaintiff

against
Mathew A. Doultett &
Wm. L. Herald Defendants

In Jefferson Circuit Court
November Term A.D. 1869.

The defendants in answer to the petition of the above named plaintiff ~~ad-~~
~~deny~~ that at the time of mentioned in
the plaintiffs petition the defendant
Doultett, instituted a suit by at-
tachment against Frank T. Wash-
ington & John T. Washington before
B. S. Rippy a justice of the Peace in
& for Jefferson County Mo. The de-
fendants deny that in order to obtain
a writ of attachment against the
property of said Frank & John
T. Washington the defendants en-
tered into a Bond before said Jus-
tice with the defendant Herald as
his security to the State of Missouri
in the penal sum of one hundred
dollars with the following condition
as alleged in said petition to wit: "That
the plaintiff in the above entitled

cause Mathew A. Soultutt, shall prosecute his action without delay & with effect, refund all sum of money that may be adjudged to be refunded to the defendant Frank J. Washington or John J. Washington or found to have been received by the plaintiff and not justly due to him and pay all damages and costs that may accrue to any defendant, or garnisher by reason of attachment or any process or proceeding in the suit or or by reason of any judgment or process thereon. And the defendant further denies that said Bond was taken and approved by the Justice on the 6th day of March A.D. 1869. The defendant denies that the Justice issued upon the demand of said Soultutt a writ of attachment against the property of said John J. Washington & Frank J. Washington dated the 6th day of March 1869, ^{and denies that the same was} and directed to the Constable of Valle Township in said County ^{and denies that by said} by virtue of which writ of attachment the said Constable ~~the~~ attached and seized one bay mare

the property of John T. Washington
of the value of five hundred
dollars ^{or any other sum}. And the defendant further
denies that said Bond is in the
office of the Justice, And the de-
fendant further denies that said
Mathew A. Donthett did not pro-
secute ~~him~~ ^{said Justice without delay} ~~before~~ against John
T. Washington before said Justice
without delay & with effect -
and the defendant denies that said
John T. Washington gained said
suit before said Justice. And the
defendant further denies the allega-
tion of said petition that he has
not paid the damages that ~~were~~
accrued to said John T. Washington
by reason of the ~~condition~~ breaches
of the Condition of said Bond -
And the defendant denies that the
said plaintiff John T. Washington
sustained any damage by reason
of any attachment instituted by the
defendant Donthett against him
And the defendant denies that said
plaintiff paid the sum of fifty
dollars or any other sum for
attorneys in said Attachment

or that defendants are liable on that account in any sum whatever.
And the defendants deny that
the plaintiff sustained damage
to the amount of five dollars
in trouble and expenses of giving
Bond to obtain the property at-
tacked. ^{or any other sum} And the defendants deny
that the plaintiff sustained dam-
age to the amount of fifteen dollars
or any other sum in going to the
State to defend said suit.

And the defendants further deny
that the plaintiff lost any day time
or any other time of the value of
three dollars per day or any other
sum in attending said suit.
And the defendants further de-
ny that they are indebted to
the State of Missouri to the use of
John J Washington upon any
Bond for any sum whatever.
Wherefore the defendants ask
judgment against said plain-
tiff for their costs & disbursements
in this action.

J A Brown
Atty for defts

A J Williams, with

3068

The State of Ohio
own to the use of
John J. Washington
County

Capt
Matthew Coleman
Hon & Honored

— " —

Answer

Filed March 17th
Elias H. Hargrave

The State of Missouri,

COUNTY OF JEFFERSON.

To Cha E Leonard - As to - Subpoena of 23rd Judicial
Court - will they return about 10th with in two days

You are Herby Commanded, That setting aside all manner of excuse and delay, you
appear before our Circuit Court, for the County aforesaid, on the Eighth day
of March 1870 at 9 o'clk Am, 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
the State of Missouri is the one of the Plaintiff, and Wm A Southwell
vs St. G. Bonds an others Defendants
Defendant, on the part of Defendants; 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 8th day of

March A. D. 1870

Elias F Honey Clerk.

By J. H. Coffey Deputy

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

March

Term, 1870

State to use of
John I Washington

vs

M A Doullhet et al

with

Ira E Leonard

vs J. E. St.

March 18 1870

The within named Geo. L. Leonard cannot
be found in my County of Jefferson Bro.

Dec 23rd 18
Fred Buckhorn on Sheriff
By Geo. C. Lincoln

Deputy

The State of Missouri,
COUNTY OF JEFFERSON.

Do *John Leonard*

You are Herby Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *22nd* day of *March* 1870 *next* *at* Hillsboro, then and there to testi'y and the

truth to say in a certain matter of controversy, now pending in our said Court, wherein the said *John Leonard*

is Plaintiff, and

Wm Donnell vs *and*

Defendant, on the part of *defendants*; 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 *19th* day of *March* A. D. 1870

Clerk.

3068

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

Maule

Term, 1870

State to be
of Washington

4

M. A. Doubthett
vs G. Herold

Wrt J. S. Linn
or to

The within named J. E. Leonard can not be found
in my book of Jefferson Ave

Dec 25th 88

Street Truck Menager Adams
By Street No 11m all,
Depot

The State of Missouri,
COUNTY OF JEFFERSON.

To W. R. Rely.

You are Herely Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *second and last* day of *March* *1870* 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*

Plaintiff, and

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 *March* day of *1870*

Clerk.

SUBPOENA

RETURNABLE TO
JEFFERSON CIRCUIT COURT.

March Term, 18*80*

Washington

vs
Ma Douche

B. R. P. P.

Served the within this 11th day of March 1890 by reading
the same to the within named A. S. Perry in his hearing
and presence of Jefferson Lewis and

per so do's

Edw. Lusklem & Co. Schuy
by Fred Walton & Co

Deposits

State of Missouri to the use of
John S. Washington
vs
M. A. Douthett &
W. G. Herold

In the Jefferson County
Circuit Court
March Term 1890

Now at this day Come the defendants by their
Attorneys herein and move the Court to dismiss
said above entitled Cause for the following reasons:

Because "the petition filed in said cause is
founded upon an instrument of writing
charged to have been executed by the defendants
which instrument of writing was not in said
petition alleged to have been lost or destroyed
nor was it filed with said petition."

Because - The law requires that where a
written instrument charged to have been
executed by the defendant is the foundation
it shall be filed with the petition before
process issues -

Because The Statute has provided
for prosecuting an action, or maintaining
a defence where the instrument is
"alleged to be lost or destroyed"

William S. Brown
Atty

State of Missouri
to the use of
John T Washington
vs

M. A. Dougherty vs
Mr G Harold

Motion to dismiss sent
Williams & Brown
attys

Filed March 15 1876
Elias T. Keweenaw
By L. H. Hays
37 Mo p 10708

The Note to the use of
John T. Washington

²
M. R. Douthett et al

Now at this day comes
Plaintiff and moves the Court to set aside
the Judgment of the Court dismissing
this Cause and grant him a new
trial for the following reasons.

1. Because the motion to dismiss the
action was not properly filed.
2. Because the Plaintiff's petition
is amply sufficient.
3. Plaintiff accounts for the original
bond & the copy filed is sufficient.
4. Because said Cause should not ~~be~~
have been dismissed.
5. The Causes alleged by Defendant in
his motion to dismiss are no causes
for dismissal.
6. Because the Court improperly re-
fused to allow Plaintiff to amend his
petition.

John L. Thomas & Mrs.
Atty for Plaintiff.

State to use John J. Wash-
ington

M. A. Dougherty et al

Motion to set aside
judgment & grant
a new trial.

Filed March 23rd 1886
Honeywell

State of Missouri to the use of } In the
 John I. Washington Plaintiff } Jefferson
 against } County Cir-
 M. A. Douthett & } cuit Court
 Wm. G. Herold Defendants } March Term
 1870

Be it remembered that on the
 14th day of March 1870 being the
 8th day of the March Term for 1870
 of the Jefferson County Circuit Court
 the Defendant filed a motion to dis-
 miss the above entitled cause which
 motion was in words & figures as
 follows (here copy motion) which
 motion was on the 22^d day of
 March 1870 being the 14th day of the
 March Term 1870 of the Jefferson County
 Circuit Court) by the Court sustained
 and this cause dismissed to which
 decision of the court in sustaining
 said motion and dismissing of
 said suit Plaintiff at the time
 excepted, Plaintiff then asked
 leave of the court to file an
 Amended Petition to which defend-
 ant objected and ^{very objection} was by the
 court sustained ^{the Court refused to permit Plaintiff to amend his petition} to which
 ruling of the Court refusing

to permit Plaintiff to file Amended
Petition The Plaintiff at the time
excepted,

Plaintiff then on the 23^d day of
March 1870, being the 15th day
of the March Term of the Jefferson
Circuit Court for 1870 filed his
motion for new Trial as
follows (here copy Motion) which
motion the Court overruled to which
decision of the Court in overruling
said motion the Plaintiff at the
time excepted & herein in open
Court tenders this his bill of
exceptions, and prays that the
same may be signed sealed
and made a part of the record
in this Cause which is according-
ly done

J. H. Vail. Judge

Geo B

3068

The Not Sure of
J. J. Washington

2

M. A. Davenport

Bill of Exchange

Black March 23^{1/2}
E. J. Houghton