

DeForsen County Circuit Court
Case Files - Civil

March 1872, No. 22

Box

29 Folder 47

Williams, Sarah
Williams, John

vs

Smith, William
Smith, Thorton
Smith, John Noah
Null, Susan
et al

Partition

Heirs of John Smith; 422 acres
in S25, 36 T41 R4E; other defendants
Paschal Null, Lydia Ann Shelton, Edward
Shelton, Isabella Smith

Sarah Williams and John Williams her husband Plaintiffs against William Smith, Thornton Smith James Smith, John Noah Smith, Susan Null & Paschal Null her husband, Lydia Ann, Shelton & Edward Shelton her husband & Isabella Smith Defendants	{	In the Jefferson County Mo. Circuit Court March Term A.D., 1872
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Plaintiffs state that John Smith departed this life intestate about the year 1867, seized and possessed of the following described Real Estate situate in Jefferson County Missouri To wit: The North half of the North East qr of Section Thirty Six (36) containing Eighty one $\frac{88}{100}$ acres, also the North West qr of Section Thirty Six (36) containing one hundred and ~~Twenty~~ ^{Sixty} three $\frac{76}{100}$ acres both of said tracts being in Township Forty one (41) North of Range No Four (4) East of the 5th Principal Meridian, also the South East qr of Section Twenty five (25) in Township Forty one (41) North of Range No Four East of the 5th Principal Meridian containing one hundred & sixty five acres, and

left surviving him Isabella Smith his widow, and the following named Children The Plaintiff Sarah Smith who has since intermarried with John Williams, and the defendants William Smith, Thornton Smith, James Smith, John Noah Smith, Susan Smith who has since intermarried with Paschal Kull, and Lydia Ann, Smith who has since intermarried with Edward Shelton to whom said Land descended, subject to the dower of said Widow, such interest being one third thereof during her natural life, Plaintiffs state that their interest in said Land is one undivided seventh part subject to the dower interest of Isabella Smith, and that the defendants William Smith, Thornton Smith James Smith, John Noah Smith are each entitled to one undivided seventh part of said Land subject to the dower interest of Isabella Smith, and that Susan Kull & Paschal Kull her husband are entitled to one undivided one seventh of said Land subject to the dower interest of the said Isabella Smith, and that Lydia Ann

Shelton and Edward Shelton her husband are entitled to one undivided one seventh, ^{part of said land} Subject to the dower interest of said Isabella Smith,

Plaintiffs aver that John Cook Smith is a minor under the age of twenty one years, and therefore pray the court that a Guardian Ad litem be appointed to defend his interest herein

In consideration of the premises Plaintiffs prays the court to ~~decree~~ & adjudge that the dower of Defendant Isabella Smith in said land be set off to her and that Partition and division of said Real Estate be made between Plaintiffs and defendants, in accordance with the respective rights and interests of the parties and that an order of ^{of the same} sale be made for the purpose of effecting such Partition if the same cannot be divided without great prejudice to the owners and that other proper relief be granted

John L. Thomas & Bro.
Attys for Plaintiffs.

W. H. H. Thomas one of the Attorneys for the Plaintiffs an oath says that

The foregoing petition and the matters
as therein stated he believes to be
true and that James Smith
one of the defendants is a
non resident of the State of
Missouri

Subscribed & sworn to before } W. H. Thomas
me this Jan'y 9th 1872. }
W. S. Boyce clerk }
By Chas. Horine Dep't. }

Sarah Williams Et al

vs
William Smith Et al

Petition

(Original)

Law order Publications

Filed January 9th 1872,

W. S. Boyce clerk,

By Chas. Horine Dep't.

Sarah Williams and John Williams
her husband - Plaintiff
against

} In the Jefferson County
Mo.

William Smith, Thornton Smith
James Smith, John Noah Smith
Susan Null & Paschal Null her
husband, Lydia Ann Shelton &
Edward Shelton her husband &
Isabella Smith. (Defendants).

} Circuit Court
March Term A.D. 1872.

Plaintiffs state that
John Smith departed this life intestate about the year
1867 seized and possessed of the following described Real
Estate situate in Jefferson County Missouri to wit: The
North half of the North East qr of Section Thirty six (36)
containing Eighty one ⁸⁸/₁₀₀ acres, also the North West qr
of Section Thirty six (36) containing one hundred and
Sixty three ⁷⁶/₁₀₀ acres both of said tracts being in
Township Forty one (41) North of Range No Four (4)
East of the 5th Principal Meridian, also the South East
qr of Section Twenty five (25) in Township Forty one
(41) North of Range No Four East of the 5th Prin-
cipal Meridian containing one hundred & Sixty five acres,
and left surviving him Isabella Smith his widow, and the
following named Children The Plaintiff Sarah Smith
who has since intermarried with John Williams, and the
Defendants William Smith, Thornton Smith, James Smith
John Noah Smith, Susan Smith who has since inter-
married with Paschal Null, and Lydia Ann Smith
who has since intermarried with Edward Shelton to
whom said land descended, subject to the dower of
said widow, Such interest being one third thereof

during her natural life, Plaintiffs state that their interest in said land is one undivided seventh part subject to the dower interest of Isabella Smith, and that the defendants William Smith, Thornton Smith, James Smith, John Noah Smith are each entitled to one undivided seventh part of said land subject to the dower interest of Isabella Smith, and that Susan Null & Paschal Null her husband are entitled to one undivided seventh of said land subject to the dower interest of the said Isabella Smith, and that Lydia Ann Shelton and Edward Shelton her husband are entitled to one undivided one seventh part of said land subject to the dower interest of said Isabella Smith,

Plaintiffs aver that John Noah Smith is a minor under the age of Twenty one years, and therefore pray the court that a Guardian-ad-litem be appointed to defend his interest herein. In consideration of the premises Plaintiffs pray the court to Decree & adjudge that the dower of defendant Isabella Smith in said land be set off to her and that partition and division of said Real Estate be made between Plaintiffs and Defendants, in accordance with the respective rights and interests of the parties and that an order of sale of the same be made for the purpose of effecting such partition if the same cannot be divided without great prejudice to the owners thereof and that other proper relief be granted.

John L. Thomas Esq.
Attys for Plaintiffs

W. H. N. Thomas one of the attorneys for the Plaintiffs
on oath says that the foregoing petition and the matters
as therein stated he believes to be true and that James
Smith one of the Defendants is a non-resident of the
State of Missouri
Subscribed & sworn to before me this Jan'y 9th 1872,
W. S. Boyce Clerk,
By Thos. Corrine Deputy,

A true copy of the original petition now on file
in my office.

Witness, W. S. Boyce clerk of said Court
with the seal thereof hereunto affixed at
office this January 9th 1872,
W. S. Boyce Clerk,
By Thos. Corrine Deputy,

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 *William Smith, Thornton Smith*
John Noah Smith, Susan Null, Paschal Null
Lydia A. Shelton, Edward Shelton and
Isabella Smith

if *they* be found in your County, that *they* be and appear before the Honorable 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 *third*
Monday after the fourth Monday of March next, then and there
to answer unto *Sarah Williams and John Williams*

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

Witness, W. S. BOYCE, Clerk of our said

Circuit Court, with the seal thereof hereunto af-
fixed, at office in Hillsboro, this *ninth*

day of *January* A. D. 18*72*

W. S. Boyce

Clerk Circuit Court.

By

Chas. Horine

Deputy.

Rec'd Return "Writ" - Served Jan 11th

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

March Term, 1872.

Sarah Williams and
John Williams her husband

vs
The Partitions

William Smith

Thomson Smith

John Mack Smith

Susan Muel

Paschal Muel

Lidia et Shelton

Edward Shelton

Isabella Smith

vs

Forfeited fine

(original)

John Williams Sheriff

I Executed this Writ in Jefferson County Mo on the
tenth Day of January 1872 on Isabella Smith
by Delivering to her above copy of this Writ and
Petition, and William Smith Thomson Smith
John et Smith Susan Muel Paschal Muel
Lydia et Shelton and Edward Shelton
by Delivering to Each of them above
copy of this Writ as furnished by the clerk
John Williams Sheriff

In the Circuit Court of Jefferson County, Missouri,
May Term AD 1872,

Friday May 24th 1872.

In said circuit court on the day
aforesaid among other proceedings therein had the following
appears of record To-wit:

Sarah Williams and John Williams her
husband - Plaintiffs

vs.

William Smith, Thornton Smith,
John Noah Smith, Susan Null
& Paschal Null her husband
Lydia Ann Shelton & Edward
Shelton her husband & Isabella
Smith Defendants.

In Partition

Now at this day
come the plaintiffs by their attorney, and the said
Defendants being three times called come not, though duly
notified to appear, the said James Smith by publication proof
of which is filed, and the other defendants by personal ser-
vice, the said publication and writ returnable to the
March Term AD 1872, but make default, neither have
they answered the petition of plaintiffs, whereby the
same remains wholly undefended ordered that said default
be entered, And this cause coming on to be heard upon
the evidence of plaintiff, the court doth find that said
plaintiffs and defendants are owners and tenants
in common of the following described Real Estate

situate in Jefferson County State of Missouri to-wit.
The North half of the North East qr of Section Thirtysix (36) containing Eighty one $\frac{88}{100}$ acres. Also the North West qr of Section Thirtysix (36) containing one hundred and Sixty three $\frac{76}{100}$ acres both of said tracts being in Township Forty one (41) North of Range No Four (4) East of the 5th principal meridian, Also the South East qr of Section Twenty five (25) in Township Forty one (41) North of Range No Four East of the 5th principal meridian containing one hundred and Sixty five acres, and the court proceeding to adjust and settle the rights and interests of the parties in and to said real estate doth declare the same as follows
the said Isabella Smith widow of John Smith deceased is entitled to dower in said lands of one third thereof for and during her natural life, That Sarah Williams and John Williams her husband own one undivided one seventh thereof subject to said dower, that William Smith, Thornton Smith, James Smith, John Noah Smith are each entitled to one undivided one seventh of said land subject to said dower, that Susan Null and Paschal Null her husband are entitled to one undivided one seventh of said land subject to the dower aforesaid, and that Lydia Ann Shelton and Edward Shelton her husband are entitled to one undivided one seventh part of said land subject to the dower interest of Isabella Smith aforesaid, It is thereupon ordered adjudged and decreed by the Court that par-

tion and division of said Real Estate be made between the parties aforesaid according to their several rights and interests herein set out, and it appearing to the Court here that partition and division in kind of said Real Estate cannot be made without great prejudice to the parties interested therein, It is ordered by the court that the Sheriff of Jefferson County proceed to advertise and sell said Real Estate at public auction to the highest bidder for twenty per cent of the purchase money in cash and the residue in twelve months and for the deferred payment take a bond or note from the purchaser or purchasers thereof with good and sufficient security bearing interest at the rate of ten per cent per annum, and that said sale take place on some day during the session of the Circuit Court for said County and be governed by the same regulations prescribed by law for sales of Real Estate under execution, Notice thereof being given in the manner prescribed by law for such sales and make report of his proceedings herein to the court.

A true copy from the record.

Witness. W. S. Joyce Clerk of said Circuit Court with the seal thereof hereunto affixed
this 20th June A.D. 1872

W. S. Joyce Clerk
By M. H. Curran Deputy

Sarah & John Williams

vs

Wm. Thornton and
John N. Smith & Co

For Partition

order Sale

Order of Publication.

IN the Circuit Court of Jefferson county, Missouri, in vacation, January 9th, 1872.

Sarah Williams and John Williams, her husband, plaintiff, against William Smith, Thornton Smith, James Smith, John Noah Smith, Susan Nell, and Paschal Nell, her husband, Lydia Ann Shelton, and Edward Shelton, her husband, and Isabella Smith, defendants.

Now, at this day comes said plaintiffs in the above entitled cause, by their attorney, before the undersigned Clerk of the Circuit Court of Jefferson county, in vacation and filed their petition verified by affidavit as required by law, stating among other things that one of the above named defendants, James Smith, is a non-resident of this State. It is thereupon ordered by the clerk aforesaid, in vacation, that publication be made, notifying him that an action has been commenced against him, by petition in the Circuit Court of Jefferson county, in the State of Missouri; the object and general nature of which is to obtain a decree of partition of the following described real estate, situated in said county and State, to-wit:

The north half of the north east quarter of section thirty six; containing 81.25-100 acres; also the northwest quarter of section thirty six, containing 163.75-100 acres, both of said tracts being in township forty one, north of range four, east of 5th Principle Meridian; also the south east quarter of section twenty five, in township forty one, north of range four, east of the 5th principal meridian, containing 163 acres, and that the interest of said James Smith in and to said land is one seventh subject to the lesser interest of Isabella Smith, which is one third thereof for and during her natural life; and that unless he do and appear at the next term of said Court, to be holden in the Court House in Hillsboro, within the county of Jefferson, on the third Monday of March next, it being the 18th day of March, A. D. 1872, and on or before the sixth day thereof, answer or demur to said petition, the same will be taken as confessed, and judgment rendered accordingly. It is further ordered that a copy hereof be published in the Jefferson Democrat, a newspaper printed and published in said county of Jefferson, State of Missouri, for four weeks successively, the last insertion to be at least four weeks before the first day of said next term.

A true copy from the record. Witness W. S. Boyce, Clerk of said Circuit Court with the seal thereof hereunto affixed, at office this January 9th, 1872.

W. S. BOYCE, Clerk.
By O. The' Horne, Dep'y.

STATE OF MISSOURI, County of Jefferson.

Be it Remembered, That on this 5 day of March 1872, before the undersigned Clerk of the County Court of Jefferson County, Mo., came R. W. McMULLIN, who, being by me duly sworn, says the annexed advertisement was published in the Jefferson Democrat, a newspaper, printed and published in the County of Jefferson, State of Missouri, of which he is printer, for 4 weeks, the first insertion being on the 15 day of Jan, 1872, and the last insertion on the 2 day of July 1872, as follows, to-wit:

Quarter of section twenty five, in township forty one, north of range four, east of the fifth principal meridian, containing 166 acres, and that the in-

PHILIP PIPKIN.

to Practices in all the Courts of the State.

(DEUTSCHER ADVOCATE) HILLSBORO, MO.

In No. 1,	Jan 12,	1872
In No. 2,	" 19,	1872
In No. 3,	" 26,	1872
In No. 4,	July 2,	1872
In No. ,	Aug 10,	1872

Sworn to and subscribed before me this 5 day of March 1872

Printer's Fee, 15.00. Received Payment.

App 23
15.23

Sarah & John Hilling
vs
Wm Smith et al

Filed Mar 20 1872

W. S. Boyce cl

In the Circuit Court of Jefferson
County, State of Missouri.
September Term 1872.

Wednesday Sept. 18th 1872.

In said Circuit Court on
the day aforesaid among other proceedings, the
following were had viz:

Sarah Williams and John Williams
her husband, }
William Smith, Thornton Smith, }
John Noah Smith, Susan Hull }
& Paschal Hull her husband }
Lydia Ann Shelton & Edward Shelton }
her husband & Isabella Smith }

Now come the
Plaintiffs by their attorney, and move the court
for a renewed order of sale in said cause, and
there being no objections thereto, and it further
appearing to the court that the order of sale
herein made has not been complied with,
It is ordered by the court that a renewed order
of sale be made in said cause, and that the
Sheriff proceed to advertise and sell said
the Real Estate in Plaintiffs petition described
situate in Jefferson County, Missouri to-wit:
The North half of the North East quarter of Section
Thirty six containing Eighty one $\frac{88}{100}$ acres, also
the North West qr of Section Thirty six containing

one hundred and sixty three $7\frac{1}{2}$ acres both
said tracts being in Township Forty one
north Range No Four East of the 5th prin-
cipal meridian, Also the South East q^r.
of Section Twenty five in Township Forty
one, North of Range No Four East of
the 5th principal meridian containing one
hundred and sixty five acres, That said
lands be sold at public auction, to the highest
bidder for twenty per cent of the purchase
money in cash and the residue in twelve
months, and for the deferred payment
take a bond or note from the purchaser
or purchasers thereof with good and suf-
ficient security bearing interest at ten
per cent per annum, That said sale take
place on some day during the sitting of
the circuit court, and be governed by the
same regulations prescribed by law for
sales of Real Estate under execution, (Notice
thereof being given in the same manner
provided by law for such sales, and
divide the proceeds among the parties
according to their rights and interests
as declared by the judgment of this
court, and report his proceedings herein
and this cause is continued

A true copy from the records

Witness. W. S. Boyce Clerk of said
Court with the seal thereof hereunto
affixed at office this Eighth
day of November A.D. 1872

W. S. Boyce clerk
By C. H. Horne Depy

January Term 1873.

John Williams and
Sarah Williams

vs

Wm Smith & Ab

For Partition

"

Order of Sale

No. 3842

Jefferson Circuit Court.

March Term, 1872,

Sarah Williams and?

John Williams her husband
vs.
William Smith, Thornton Smith
James Smith, John Noah Smith, Susan
Null & Paschal Null her husband
Lydia Ann Shelton & Edward Shelton
her husband & Isabella Smith

Judgment, - - \$

Date 18

Fee Book No. Page

Judg't Docket, Page

For Partition

John L. Thomas & Co.
Plaintiff's Atty.

ATTORNEYS: Exercise care and return promptly.

C. F. Chamberlin & Co., Printers and Stationers, St. Louis.