

Jefferson County Circuit Court

Case files - Civil

January 1875, No. 15

Wright, Sarah, next friend

Wright, Hiram

Wright, James

Wright, Mary

Wright, John

VS

Cunningham, William

Wright, David Warren

Ejectment

80 acres in S18T42R3E;

\$500 damages

Box

33

Flder 52

To the Clerk of the Circuit Court of
Jefferson County Missouri,

The undersigned states to you
that she is the mother of
minor children under the age of
Eighteen years, named respectively
Hiram Wright, James Wright, Mary
Wright Sarah Wright & John Wright

That their father is dead,
That they are the owners of the E¹/₂
of the S¹/₂ E¹/₄ of Section 18 in Township
42 N of Range 3 E. of the 8th P. M.,
subject to the dower interest of
your petitioner: That it is nec-
essary to institute against John
Cunningham and David H. Wright
who are in possession of said
premises in order to get possession
thereof, and for that purpose your
petitioner asks you to appoint her
as the next friend of said minors
to prosecute said suit

Sarah Wright

In compliance with the above
petition I hereby appoint Sarah Wright
as next friend for said minors to
to prosecute said suit

This Dec 26th 1874

H. D. Bryce Clerk
By W. Thos. Horne Deputy.

Sarah Wright, in her own proper person,
Hiram Wright, James Wright, Mary
Wright and Sarah Wright ^{& John Wright} minors by
their next friend Sarah Wright Plaintiffs
against

William Cunningham and
David Warren Wright Sr. Defendants
In the Circuit Court of Jefferson
County Missouri January Term
1873

Sarah Wright in her own proper
person and Hiram Wright, James Wright
Mary Wright Sarah Wright & John Wright
who are minors under
the age of twenty one years who appear
by their next friend Sarah Wright
Plaintiffs herein state that they were
on the 1st day of January A.D. 1873
entitled to the possession of the
following described real estate situated
in Jefferson County Mo. viz: The East
half of The South East Quarter of
Section Eighteen in Township Forty
Two North of Range Three East of
The 5th Principal Meridian contain-
ing 80 acres, and being so entitled
to the possession thereof that the
defendants afterwards viz: on the
2^d day of January A.D. 1873, entered

into such premises and unlawfully
withholds from the Plaintiffs the
possession thereof to their damage
✓ in the sum of Five hundred dollars,
they further state that the value of
of the monthly rents and profits
of the premises is [✓] twenty five dollars
wherefore they demand judgment
for the recovery of the premises
and Five hundred dollars, dam-
ages for the unlawfully withholding
of the same from Plaintiffs, and
Twenty five dollars for the
monthly rents and profits from
the rendition of the judgment
until the possession of the premises
is delivered to plaintiffs,

Plaintiffs further state, ^{that} they have
a meritorious cause of action
and that said Sarah Wright nor the
other Plaintiffs herein have any
means to prosecute said suit and
they therefore ask the court to permit
them to prosecute the same as
poor persons, and for such
other and further relief as they
are entitled

Sarah Wright in person,
and Heron Wright

James Wright
Mary Wright
Sarah Wright
John Wright
By Sarah Wright their
next friend

Filed Dec. 21st 1874

W. J. Boyce Clerk

D. J. H. Horner

Sept

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 Cunningham*
and *David Mauren Wright*

if ~~he~~ be found in your County, that ~~he~~ *he* 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 *Second*
~~Monday after the fourth~~ Monday of *January* next, then and there to
answer unto *Sarah Wright* in her own proper person
William Wright, James Wright, Mary Wright,
Sarah Wright & John Wright ~~minors~~ by
their next friend *Sarah Wright.*

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
affixed, at office in Hillsboro this *21st*
day of *December* A. D. 18*74*.

W. S. Boyce Clerk Circuit Court.

By *C. H. Horane* Deputy.

157128

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

TERM, 1875.

David Warren Wright

Cunningham & Wright

Original

Shenck Bros

I Executed this writ at the County of Jefferson in the State of Missouri this 23^d day of December AD 1874 By delivering to David Warren Wright one of the within named Defendants a true copy of the within writ and Petition as furnished me by the Clerk of the Circuit Court at Hillsboro Mo. I further executed this writ by leaving a true copy of the within writ of Summons as furnished me by said Clerk at the usual place of abode of the within named William Cunningham with a white member of his family over the age of fifteen years

T.B. Mop Shenck
By Wm. T. Mock Rod Deht

Sarah Wright, in her own proper person
Thomas Wright James Wright Mary Wright
Sarah Wright ~~and Sarah Wright~~ and
John Wright - minors, by their next
friend Sarah Wright - Plaintiff
against
William Cunningham and David W. Wright Jr
Dybs

In the Jefferson
County Circuit Court
May term 1873

Now come the above named
defendants and answering the petition
of plaintiffs, ~~deny~~ ^{that} the above named
plaintiffs were on the 1st day of January 1873
or at any other time entitled to the possession
of the real estate described in this petition.

~~Deny~~ that they unlawfully withheld
the possession of the same

Deny that plaintiffs are damaged in
the sum of five hundred dollars, or any other
sum. Deny that the monthly rents and
profits are twenty-five dollars or any other
sum. Deny that plaintiffs are poor
persons. Deny that there are such parties
in existence as these plaintiffs are rep-
resented to be. Wherefore dybs prays
the court to be discharged and have
his costs etc. William T. Byrnes,
attys for Dybs.

Sarah Wright

no

Dunningham & Wright

(Answer)

Filed April 5 1885

W. H. Dunningham

Clark

Sarah Wright et al
vs
Cunningham and
Wright }

Now come said Plaintiffs and allege that the affidavit made by the Defendants in this cause is not sufficient to authorize a continuance, for the following reasons.

1. It is not averred in said affidavit when the Sheriff's sale referred to in said affidavit was made. ~~It~~ Hence the Court cannot determine whether Defendants used due diligence in obtaining a deed or not.
2. Said affidavit does not show that any valid Sheriff's sale was ever made and hence the Court cannot presume that any deed will ever be ordered to be made.
3. This is an attempt to continue the case ~~for~~ not to obtain existing testimony but to manufacture testimony in the future, which was never done before.

4. The defendants ask the Court to give them time in the future to obtain a title to defeat Plaintiff's title.

5. The affidavit does not show that the pretended Sheriff's sale was made before the commencement of this suit.

6. The affidavit avers that his present deed is void & does not aver that he could not have discovered that fact prior to April 1875. He men says that they did not discover the ~~errand~~ defect in ~~his deed~~ this deed sooner when they aver that it is void on its face, is of itself conclusive evidence of negligence on their part.

7. The affidavit ~~also~~ does not show that defendants made any effort to obtain a deed.

8. The records in this case show that defendants had knowledge of the defect of this pretended deed on the 21 day of September 1874.

9. The defendants cannot be injured by a judgment as they can bring

a suit after they get their deed
if they should ever get one
John L. Shomus, Jr.
att'y for Plaintiffs

Wright

v

Cunningham & Wright

— " —

obj. to affd

for cont

— " —

Quetaines

— " —

Filed January 18-7876

L. H. Morine

Clerk

Sarah Wright
vs Etal,
David W. Wright &
Wm Cunningham } In The
Circuit
Court of
Jefferson
County
Missouri

Now at this day come the
Defendants and move the
Court to set aside the ~~verdict~~
finding and judgment of
the Court and to grant
a new trial of said Cause
or dismiss said case
for the following reasons

1st Because the Court
erred in refusing a
continuance to defendants
in said Cause upon the
affidavit filed therefor by
David W. Wright,

2nd Because the Court
committed error on the
trial of said Cause by
admitting illegal and incomp-
etent evidence offered by
the plaintiffs against the

objections of defendants
viz evidence of the statements
of David W. Wright to
the effect that Hiram
~~Wright~~ Wright was dead at
the same was detailed on
the trial by John L. Thomas
also the Court erred on
the trial in admitting the
evidence of John L. Thomas
regarding the marriage or
supposed marriage of
~~Sarah Wright~~ Hiram
Wright with Sarah ~~Wright~~
~~Wright~~ ~~he~~ Wright one
of the plaintiffs, or,
pretended plaintiffs

3^d Because said suit was
prosecuted and judgment
rendered therein without
the consent and against
the consent and direction
of the plaintiffs as is
shown by the affidavit of
Sarah Wright filed herein
this 17th of January 1876,

~~By ~~Wright & Williams~~~~
~~for defendants~~

Because

4th The Attorneys of Defend-
=ants were surprised by
the action of the Attorneys
of the Plaintiffs in insisting
upon and causing the
Court to force them to
proceed to the trial of this
cause at this Term of
the Court as shown by
the affidavits of Joseph J. Williams
and Sam. Byrnes filed
herewith

Byrnes & Williams
Attorneys for Defend-
=ants

4128

David Wright Esq.

vs

Cumington and
Wright

Motion for new
trial —

Filed January 17 1876

to the Court

Clerk

Sarah Wright et al }
 Cunningham & Wright }

Jan'y 1st 1875 Boyce clk,
 Cop. let. ⁵⁰ (cos ⁵⁰ with 2 cos ^{1.20} } 2.20
 files ¹⁵ (order ³⁵ } 45 } 2.65

Jan'y 1st 1875 Horine clk,
 Lanebant ²⁰ (cont. ²⁵ } .40⁰

May 1st 1875, Dock ¹⁵ (cont. ²⁵ } 40

Sept 1st 1873 Dock ¹⁵ (cont. ²⁵ } 40

Jan'y 1st 1876 7 aff ⁵⁰ (ent & file ²⁰ (, rule ²⁰ (, } .90

sub ³⁰ (Judgt. ⁵⁰ (issues joined ⁵⁰ } 1.35

Motion ²⁰ (affs ¹⁰ (motion for writ ²⁰ } 65

affs. Affs ²⁵ (ent. file ²⁰ (} 45

order to withdraw paper. ³⁵ } 35

rule ²⁰ (, order to file. bms & c. ³⁰ (} 55

appeal ³⁵ (, 10¹⁰ (costs ⁷⁵ } 1.20

Exp } 1.00 } 7.65

10 B mof 10 aff. writs } 2.00

Cases. } .75 } 2.75

} 13.00

Wright et al

vs

Cunningham

Wright

See Bill

17115
 Harveretick } (241) = 1715
 vs
 Harveretick } 506, 537, 540, 542

Long 14,35 } (112)
 vs } 406, 422, 463, 511, 541.
 m^{rs} Gready } 555, 558.

Lee 10,19 } (226)
 vs } 504, 545
 Lee }

16-76
 m^{rs} Cornack } (181)
 vs } 421, 459, 508, 546
 Williams }

12,95 } (135)
 Burgess }
 vs } 376, 481, 571.
 Atallow }

(175)
 Bruhw }
 vs 9,90 } 418, 499, 534,
 Anderson }

(170)
 Asborn }
 vs } 99, 415, 570.
 Jones }

(182)
 Valle }
 vs } 421, 470, 533
 Lee Etal }

(284)
 Dees }
 vs 6,70 } 527, 536
 Brolaack }

Waldron }
 vs } 237, 330, 408, 509, 532
 Waldron }

46 81
 15 15
 23 0 405
 46 14 81 35
 69 1215 346
 1215 280

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 81