

Jefferson County Circuit Court

Case Files - Civil

January 1876

Box

35 Folder 19

Prewitt, Rosa Hannah
Prewitt, T.

vs

Estate of William Martin

Appeal

Plaintiffs appealed from
Probate Court on \$426.90
Judgment

State of Missouri
County of Jefferson

The Estate of William Martin, late
of Jefferson County, deceased
to

Rose Hannah Prewitt and
J. Prewitt, her husband, Jrs

To judgment rendered in Circuit
Court of St. Louis County, Missouri, on
May 29th 1872 during the life-time
of said William Martin \$ 354. 10
Interest to April 29. 1875, 2 years 11 months 62. 49
\$ 419. 59

Costs in Circuit Ct.

Transcripts 1

3. 00
\$ 422. 59

Frederick Gottschalk, being duly sworn, upon
his oath, says: That he is the attorney and agent
of the said claimants herein, and that said claimants
have given credit to the estate for all payments and
effects to which it is entitled, and that the balance
of 422⁵⁹ 00 is justly due. And he further says,
that he has been entrusted with the collection of
the above demand and the prosecution of said suit
from its institution to the present date, and has
personal knowledge of its correctness and
of the facts above set forth

Fred. Gottschalk

Sworn and subscribed to before me
this fourth day of May 1875

Henry Jaeger
Notary Public
St. Louis Co. Mo.

In the Circuit Court of St Louis County.
April Term 1872.

Wednesday May 29th 1872.

Rose Hannah. Humes }

vs

William Martin. }

Now again come the parties by their respective attorneys, and also the jurors empannelled and sworn herein, and the trial of this cause progresses, and being finished the jurors aforesaid, upon their oaths aforesaid having agreed upon a verdict, say they find for the plaintiff, and assess her damages at the sum of Three hundred and fifty seven dollars, and ten cents. It is therefore considered by the Court that the plaintiff recover of the defendant, the damages aforesaid as assessed together with her costs and charges in this behalf expended, and have execution therefor.

State of Missouri }

County of St Louis }

J. J. Fred Thornton, Clerk of the Circuit Court of St Louis County, Certify the above and foregoing to be a full true and complete transcript of the judgment, rendered in the above entitled case as fully as the same remains of record in my Office.

In Testimony Whereof I hereto set my hand & affix the seal of said Court at office in the City of St Louis this 14th day of April ad 1875
J. Fred. Thornton
Clerk.

Rose Hannah Jones

and.

William Martin.

Transcript of Judgment

1100 paid by J. Gottschalk

Esq.

State of Missouri ss.

Be it remembered that of the record and proceedings of the Supreme Court held at St. Louis of the State of Missouri, in a certain cause lately therein pending, on appeal from the St. Louis Circuit Court, wherein Roe Hannah Names was respondent and William Martin was appellant, the following is a part, to-wit:

March Term 1874
Tuesday March 17. 1874

Roe Hannah Names Respondent vs William Martin appellant	} Now comes the said Respondent by her Attorneys and suggests to the
---	---

Court that since the last continuance of this cause she has intermarried with T. Prewitt. Whereupon comes the said Prewitt by his Attorneys and on motion is made co-respondent herein. And said respondent also suggests the death of the said Appellant William Martin and that Susannah Martin has been duly appointed his Administrator, and on motion of said Respondent said Susannah Martin as such Administrator is substituted in the place and stead of said William Martin deceased, unless good cause be shown against such substitution. And it is ordered by the Court that a summons issue to the said Susannah Martin to appear in this Court ^{or before} on the Third Monday of October next and show cause if any she have why she should not be so substituted.

March Term 1874
Monday May 18. 1874

Rose Hannah Prewitt (late Humes)	Respondent	Now at this
et al		
^{vs}		day comes
William Martin's Administratrix	Appellant	Susannah
		Martin Ad-
		ministratrix

of William Martin deceased and enters her
appearance herein as party appellant in
her capacity as such Administratrix, whereupon
This cause stands continued.

March Term 1875
Monday March 29. 1875

Rose Hannah Prewitt (late Humes)	Respondents	Appeal from
and S. Prewitt her husband		
^{vs}		St Louis
Susannah Martin Administratrix	Appellant	Circuit Court
of William Martin deceased		
		Now again
		come the

parties aforesaid by their respective Attorneys and
the Court being now sufficiently advised of and
concerning the premises, doth consider and
adjudge that the judgment rendered herein by
the said St Louis Circuit Court be in all things
affirmed and stand in full force and effect
and that the said Respondents recover of the
said Appellant their costs and charges herein
expended - Opinion filed -

State of Missouri St:

I Josiah Thompson
Clerk of the Supreme Court held at St Louis of
the State of Missouri certify the above to be a true
copy of the proceedings of said Supreme Court
had in the above entitled cause on the said
17th day of March 1844, 18th day of May 1844
and 29th day of March 1845 as the same
appear of record in my office.

In Testimony Whereof I hereto
set my hand and affix the seal
of said Court at office in the
City of St Louis This 24th day
of April A.D. 1845.
Thompson Clk.

State of Missouri } In the Probate
County of Jefferson } Court,

The within judgment is
examined by the Probate Court of Jefferson
County, Missouri this 30th of November 1875
and classed for Four Hundred & Twenty Six
790 Dollars in favor of the plaintiffs & against
the Estate of W^m Martin and classed in the
Sixth class =

Judge
of Probate

The Supreme Court of Mo.

See Manual Circuit
Date Nov 21st
of 1875

Remond Martin
Adm^r of W^m Martin
Decided 21st

Consent of parties
and proceedings

Filed July 19
1875 and
certified
Judge of Probate

See Sec 200 Mo. Probate

State of Missouri } In the
County of Jefferson } Probate Court
The within Judgment
=ent is classed for Four
Hundred and Twenty Six & $\frac{20}{100}$
Dollars by the Probate Court
of said County of Jefferson on
November 30th 1875 in favor
of the Plaintiff therein and
against the Estate of Wm
Marlin deceased in the
Sixth class ~~of~~ ^{Wm Williams}
Judge of Probate

Filed Nov 22 1876
Chas Horine
Clerk

Rose H. Permitt and T.
Permitt her husband, petts.

vs.

The Estate of William Mar-

tin, deceased,
Martin, Administrator,
To

Messrs. John L. Thomas & Bro., Att.,
Attorneys for defendant.

Gentlemen

Take Notice, that at the next term
of the Probate Court of Jefferson County,
Missouri, to be begun at Hillsboro, in
said County on the 2^d Monday of
the present month (January 1876.)
and on the first day thereof or as
soon thereafter as I can be heard,
I shall present a motion in the
above case, a copy of which is
accompanying this, when and where
you may attend, if you desire.

This 7th day of January 1876.

F. Gottschalk

and Henry F. Ahrens
Attys. for petts.

In the Probate
Court of Jeffers-
son County,
Missouri
January Term
1876.

We waive the necessity of the
within notice being served on us
by an officer

Jan'y 7th 1876

John L. Thomas, Att'y
atty for Mrs Susan
Martin Adm'r
of the Martin dec'd

In the Probate
Court of Jefferson Co.
January Term 1876

Rose H. Premitt and
T. Premitt her husband,

vs.
Estate of William
Martin, deceased,

Motion

by plaintiff, to
set aside judgment.

Filed this
8th day of
August, A.D.
1876 - Joseph Williams
Judge of Probate

Filed Jan'y 4 1877,
Chas. Horine
Clerk

Rose H. Permitt and T. Permitt } In the Probate
 her husband, petff. } Court of Jefferson
 ss. } County, Missouri,
 the Estate of William Martin, } January Term
 Martin, Admstr. } 1876.

Now come the plaintiffs in the above case
 by their Attorneys, and move the Court,
 to set aside the judgment of classifica-
 tion, as the same appears on the records
 of said Court among the proceedings on
 the last day of the last term, the Novem-
 ber Term 1875, being the 30th day of Novem-
 ber 1875, by which judgment of classifi-
 cation a judgment of plaintiffs against
 defendants for \$426 ⁹⁰/₁₀₀ was put into
 the 6th class, for the following rea-
 sons, to wit:

1st Said judgment was palpably put into
 the wrong class; it should have been
 classed in the 4th class;

2nd This case was submitted to the Court
 on the day of 1875, and kept
 by the Court for several months under
 advisement; no day was set, on
 which the judgment should be render-
 ed, and the parties were not notified
 by a docket of future proceedings
 or otherwise of any day, on which

a Judgment would be rendered;
and none of the parties had any
knowledge of any such day.

3rd On the 30th day of November 1875,
when said Judgment was rendered
according to the Records of said
Court, this case was not called up
for the purpose of rendering said
Judgment, and neither the plaintiffs
or their attorneys, nor the defendants
or their attorneys had any notice
whatsoever, that on said day said
Judgment would be rendered, or
anything would be done in said
case.

4th ^{they} Neither the plaintiffs, nor defendant,
nor the attorneys of either party, were
called into Court, on said day for
the purpose of hearing said Judg.
ment rendered, or for any purpose;
but said Judgment was put on Record
without having actually been rendered
in the personal or legal presence of the
parties or either of them.

5th The plaintiffs found out only 13 days
after said rendition of Judgment, as
it is on Record, that the same was
on Record, wherefore they had not

even an opportunity, to appeal from
said judgment.

For the reasons aforesaid plain-
tiff ask to set the judgment aside
and grant a new hearing.

F. Gottschalk
and H. F. Ahlrens
Attys for plaintiff.

Plaintiff
 against
 the Estate of William Martin,
 deceased.

In the Probate
 Court of
 Jefferson Co.,
 Mo.
 March Term 1876.

Now come plaintiffs by their Attorneys and
 appeal from the decision of the Probate Court
 on the motion made by plaintiffs, to set
 aside the judgment of said Court putting the
 claim of plaintiffs into the 6th class and
 grant a new trial, which motion is over-
 ruled by said decision; and for this purpose
 Henry F. Ahlers, one of Attorneys for plaintiffs
 being sworn says, that this appeal is not
 taken for the purpose of vexation and
 delay, but because the affiant believes
 that the appellants are aggrieved by the
 decision of the Court.

Sworn to and sub-
 scribed before me
 this 18th day of March.
 A.D. 1876.

Henry F. Ahlers,
 Atty. for p^{ts}.

J. M. Mullin
 Judge of Probate

B

Premitt

against
Estate of William
Martin, deceased,

—
Affidavit
for appeal
—

15 days in which to give

bond.

Filed Apr. 20th 1876

Wm. Miller
Justice of the Peace

Filed for. 22 1876

Chas. Morine

Clk

Know all Men by these Presents,

That we, Frederick Gottschalk and L
as principal, and Louis Gottschalk

as sureties, are held and firmly bound unto Susanna Martin, adm
istratrix of the Estate of William Martin dec'd in the sum of
One Hundred Dollars,
for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors
and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and
dated at St. Louis, this eighteenth day of
November A. D. 1876.

The Condition of the above Obligation is such That whereas Rose Hannah Premitt
and P. Premitt her husband,

~~have~~ appealed from the judgment rendered against ~~overruling their motion~~ and in favor of
~~to set aside the judgment of the Probate Court, putting their claim of~~
~~\$426.90 into the 6th class against said Estate, and grant in the~~
~~a new trial~~

~~Circuit Court of St. Louis County, for the sum of~~

~~dollars, and~~
~~cents,~~
together with costs.

Now, If said appellants shall prosecute their appeal, ~~with due diligence, to a~~
~~decision in the St. Louis Court of Appeals, and shall perform such judgment as shall be given by~~
~~the St. Louis Court of Appeals, or such as the St. Louis Court of Appeals may direct the Circuit~~
~~Court of St. Louis County to give, and, if the judgment or any part thereof be affirmed, will com~~
~~ply with and perform the same, so far as it may be affirmed, and pay all~~ ^{debt} ~~damages and costs~~
which may be awarded against them ~~by the St. Louis Court of Appeals,~~ then this obliga-
tion to be void, otherwise to remain in full force and effect.

Fred^r Gottschalk SEAL
Louis Gottschalk SEAL
SEAL
SEAL

Q
Rose Hannah Premitt
and T. Premitt her
husband.

vs.

William Martin's
Estate.

Appeal Bonds

Filed Nov 21 21 1876

Wm. M. M. M.
Jury of Probate.

Filed Nov 22 1876

© Thos. M. M.

Clear

State of Missouri
County of Jefferson

In the matter of the case of
Rose Hannah Prewitt and T Prewitt vs. Est. of William
Martin deceased, In the Probate Court of Jefferson
County, the following proceedings were had, as appears
by the records of said Court, to wit:

Tuesday November 30th 1875.

Rose H. Prewitt and T Prewitt her husband, } On Judgment.
The Estate of W^m Martin.

Now at this day the transcript of
Judgment rendered in the Circuit Court of St Louis County,
Missouri, in favor of plaintiffs, against W^m Martin,
which transcript was filed here July 12th 1875, is examined
by the Court, and is classed for payment, due notice of
its presentation having been given to the administrators
of said estate, for the sum of four hundred and
twenty six & ⁹⁶/₁₀₀ Dollars, the same being classed by the
Court in the sixth class of demands against said
estate.

Wednesday
Thursday November 10th 1876.

Rose Hannah Prewitt and T Prewitt } Motion to set aside
Est of William Martin deceased. } Judgment of Allowance.

Now at this day come the parties to this case,
by their respective attorneys, and the matter coming on to
be heard, the Court after hearing the argument and

duly considering the issues, doth overrule the motion to set aside the judgment of allowance made in this case by this Court, on the 30th day of November 1875.

Monday November 20th 1876

Rose Hannah Prewitt and T. Prewitt }
vs
Estate of William Martin decd. } Now at this day
came the plaintiffs by their attorney, and file an affidavit for an appeal from the decision of this Court, overruling their motion to set aside judgment of allowance, whereupon the Court doth order that the appeal be granted, upon the filing by plaintiffs of a bond in the sum of One hundred dollars, conditioned as the law requires.

Tuesday November 21st 1876.

Rose Hannah Prewitt and T. Prewitt her husband, } Bond for
vs
Estate of William Martin decd. } Appeal

At this day came the plaintiffs by their Attorney, and file their bond for an appeal from the judgment of this Court, overruling their motion to set aside judgment for allowance made in their favor, which appeal bond is by the Court approved, and the appeal is granted, to the Circuit Court of Jefferson County Missouri, and a Transcript of the record

in this case, together with the papers filed herein, are ordered transmitted to the clerk of the said Circuit Court, within ten days from this date.

I D. W. McMullin, Judge of the Probate Court of Jefferson County Missouri, hereby certify that the above and foregoing is a full true and correct transcript of the record of said Court, made in the case of Rose Hannah Brewitt ~~and~~ ^{the} Estate of W^r Martin deceased, as the same now remains in my office, and that the accompanying papers, Transcript of Judgment marked A, affidavit for appeal marked B. and Appeal bond marked C, are all the papers connected with said case found on file in my office,

In Testimony Whereof I have hereunto signed my name and affixed my seal of office,
This 21st day of November 1876

D. W. McMullin
Judge Probate

4277

Race M Prewitt
et al

vs

Est. Wm Martin

Appeal from
Probate Court

— " —

Filed Nov 22 1876

C. H. Henshaw

CLK

Bills of Costs

Joseph Williams - Juror	Filing motion, entering order, index &c	\$4.50
Wm. McNeill - Juror	taking & filing affidavit, entering same &c	3.50
		60
Do	Filing bond	2.50
	entering same &c	3.50
		60
Do	making Transcript	10.00
	certified &c	50.00
		1.30

Filed Dec 17 1876,
Thos Horne
Clerk

Rose A Prewitt and T. Prewitt
her husband Plaintiffs
against
Estate of H^r Martin Deft.

Now at this day comes
the defendant for the purpose
of making this motion and
nothing else, and moves
the Court to dismiss the
appeal in this cause because
said appeal was not taken
within the time prescribed by
law to take appeals after
the judgment was rendered
John L Thomas Clerk
Atty for Deft.

Rose H. Brewster Elmer,
against

Wm Martin's Estate

Notice to
his heirs appear

Filed January 9th 1877
C. H. Gouin
Clerk

Rose St O'Connell & Co
Est. Wm^r Martin

See Bill.

Joseph Williams Judge
Romm-mullin

45

2.50

The Home Sec Co's

Lock¹⁵ / file³⁰ / motion²⁰ / rules²⁰ / sub³⁵ / f 1.20

Judgt.⁵⁰ & lock³⁰ / .80

Trans 1340 words & fig @ 15^c 3.57

cert & se ab⁵⁰ / 2 B¹⁰ / costs²⁰ / .80

f 6.31

Prewitt

to

Wm Martins Esq

Free Bill