

Jefferson County Circuit Court
Case Files - Civil
September, 1876

Box

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Folder

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Shiel, James

vs.

Mothershead, Nancy

Mothershead, Edward

Mothershead, Stonewall

Correct deed

80 acres in S15739123E

James Shiel plff.

^{vs}
Nancy Mothershead Edward Mothershead
and Samuel Mothershead defts.

In the Circuit Court of Jefferson
County Missin.

Sept. Term 1876.

Plaintiff states that ~~the~~ Charles Mothershead during his life time viz: on the 28th day of March 1864 conveyed to plaintiff certain real estate situate in Jefferson and Washington Counties in said State, and in said conveyance the said Charles Mothershead intended and attempted to convey to plff. the East half of the South East quarter of section no 15. Township no 39, R 3 E that lies west of big river, but plff. states that the draughts man in drawing said deed described the land as the East half of the N E. qr of section 15; Township & Range aforesaid, when of truth and in fact the last mentioned land was not intended to be sold to plff. nor was it the contract between plff. and defts. that plff. should receive a deed for said last mentioned tract.

Plaintiff further states that the

said draughtsman in drawing said deed wrote his name therein as if "James Shields", which is erroneous and incorrect, and should have been written James Shiel which is the proper name and the one under which he has always been known,

Plaintiff further states that he has never received from ~~the~~ Chas. Mothershead a deed correcting said mistake, and that since the making of the deed first above mentioned the said Chas. Mothershead has departed this life. Pltff. further states that the said Nancy Mothershead is the widow of said Chas. Mothershead, and that the depts. Edward & Thorewall are his children, and are minors under the age of twenty one years, and for ^{whom} ~~which~~ Pltff. asks the Court to appoint a guardian ad-litem - ~~to~~
~~to~~

Wherefore plaintiff prays the Court to make an order & decree of Court correcting said deed as to the description of the land and also as to the name of

of the grantee therein, and to
divest debts, of any title
they may have in said real estate
and to vest the same in plff,
and for other and further
relief.

For Williams
Attorney for Plff

H 2

James Shiel

vs

Nancy Hochenhead
et al

—

Filed Aug 25-78
C. H. H. H. H.
Clerk

#3 Paid to Jeff Wash. Court
#3 Paid to Clerk,

James Shield plff

Nancy Mothershead, Edward Mothershead and
Shenewall Mothershead Defs.

In the Circuit Court of Jefferson County
Missouri, Sept. Term 1876,

Plaintiff states that Charles Mothershead during
his life time viz, on the 28th day of March 1864
conveyed to plaintiff certain real estate situated in
Jefferson and Washington Counties in said State
and in said conveyance the said Charles Mothershead
intended and attempted to convey to plff. the East
half of the South East quarter of section No 15, Township
No. 39, R. 3. E. that lies west of big river, but plff.
states that the draughts man in drawing said deed
described the land as the East half of N.E. qr of
Section 15 - Township & Range aforesaid, when of
truth and in fact the last mentioned land was
not intended to be sold to plff, now was it the
contract between plff. and deft. that plff.
should receive a deed for said last mentioned
tract. Plaintiff further states that the
said draughts man in drawing said deed wrote his
name therein to wit; "James Shields" which erroneous
and incorrect, and should have been written
James Shields, which is the proper name and
the one under which he has always been
known. Plaintiff further states that

he has never received from Chas Mothershead
a deed correcting said mistake, and that
since the making of the deed first above
mentioned the said Chas Mothershead has
departed this life, Plff. further states
that the said Nancy Mothershead is the
widow of said Charles Mothershead,
and that Lefts. Edwards and Stenwall
are his children, and are minors, ~~and~~
under the age of twenty one years, and
for ~~which~~ ^{whom} Plff. asks the Court to
appoint a guardian ad litem -

Wherefore plaintiff prays the Court
to make an order & decree of Court cor-
recting said deed as to the description
of the land and also as to the name
of the grantee therein, and to divest
Lefts. of any title ~~they~~ may have
in said real estate and to vest
the same in Plff. and for other
and further relief.

Jos J Williams
Attorney for Plff.

A true copy of the petition.

Witness my hand and the seal of the
Circuit Court August 20 1876.
L M H Stone Clerk

The State of Missouri, } SS.
COUNTY OF JEFFERSON.

The State of Missouri,

Washington

TO THE SHERIFF OF THE COUNTY OF ~~JEFFERSON~~ -- GREETING:

*I do command you, that you summon Nancy Mothershead
Edward Mothershead and Stonewall
Mothershead*

*if he be found in your County, that he do 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 second
Monday after the fourth Monday of September next, then and there to
answer unto*

James Shiel

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

*Witness, C. THO. HORINE, Clerk of our said
Circuit Court, with the seal thereof hereunto af-
fixed, at office in Hillsboro, this 25th day
of August, A. D., 1876.*

C. Tho. Horine Clerk Circuit Court.

Executed the within writ in Washington
County Md August 26 1876 by delivering
a copy of the petition and writ to the writter
named ~~Nancy~~ Mothershead and delivering a copy
of the writ to the writter named Edward
Mothershead and Samuel Mothershead

Fee \$3.00
Pa by self

John M Anthony Sheriff
of Washington County

4376

RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

Sept.

TERM, 1876

James Shiel self.

vs

Nancy Mothershead
et al

original

NE 1/4 Sec 14 - 39 - 3 - E of R - 1
NE 1/4 Sec 22, 39 - 3 - (NE 1/4 NE 1/4 Sec 22 - 39 - 3)

James Shiel, Plaintiff
vs
Nancy Mothershead,
Edward Mothershead,
Stonewall Mothershead
Defendants

In the
Circuit
Court of
Jefferson
County
Missouri

For amended petition the
Plaintiff states that Charles
Mothershead now deceased
on the 28th of March 1864 sold
to the Plaintiff the following
described Real Estate situate
in the Counties of Jefferson
and Washington in the
State of Missouri to wit,
all that part of the West half
of the South East Quarter of
Section fifteen and ~~the~~ of the East
half of the North East Quarter of
Section Twenty Two and
the North East Quarter of the
North East Quarter of Section
Twenty Two, Township Thirty
Nine Range Three East
that is to say all that
portion of said Tracts of
Land as lies west of the

Main Channel of the Mineral
fork Creek being one Hundred
and fifty acres more or less
~~so much of~~ the East half of the
South East Quarter of
Section of section fifteen
Township Thirty nine Range
Three East that ~~is to say~~
~~that is to say~~ as lies west
of Big River

and at that date said Charles
Mothershead and Nancy
his wife executed and
delivered to Plaintiff a deed
of conveyance by which
they and the Plaintiff all at
the time thought they were
conveying said Lands to
the Plaintiff and by which
they intended to convey said
Lands to Plaintiff for the sum
of fifteen hundred Dollars the
amount of the consideration
which Plaintiff at the time
paid them therefor and both
they and Plaintiff thought at
the time that said Deed properly
described all said Lands and
+ both they and Plaintiff at the
time thought that said Deed
was made to Plaintiff conveying
said Lands to him by his
correct name To wit That
of James Shiel which was
+ and is his correct name
but Plaintiff states that
the draughtsman who drew
said Deed through mistake

inserted the name James Shields as grantee instead of James Shiel which name of James Shiel being the proper name of Plaintiff ~~and the name which~~ ^{was} the ~~name~~ ^{name} ~~which~~ ^{name} draughtsman of said Deed ought to have placed in said Deed as grantee, that is to say said Deed should have been drawn conveying said Lands to Plaintiff by his name of James Shiel whereas ~~it was~~ through the mistake of the draughtsman the name was ~~originally~~ inserted in said Deed as James Shields and Plaintiff states further that in drawing said Deed the draughtsman thereof made a mistake in the description of one tract of said Land in this, to wit: ~~The tract described herein~~

he inserted in said Deed
through mistake the descrip-
-tion of the ~~portion~~ East half of the
North East Quarter of
Section fifteen Township
Thirty nine Range three
East that is to say that
portion of it as lies west
of Big River containing
Twenty acres when it should
have been ~~the East half~~
~~of the South East Quarter~~
of that portion of the
East half of the South
East Quarter of Section
fifteen ~~in~~ Township
Thirty nine Range three
East which lies west of
Big River containing
Twenty acres which said
last mentioned tract was the
one actually sold by said
Charles Mothershead and
Nancy his wife and for which
he fully paid them and
which they intended to convey
to him by their said Deed
but which was through the
mistake of the person who

Whe saw Deed and
through the mutual mistake
of all parties to said Deed
unintentionally left out of
said Deed, and the wrong
description before was
inserted through mistake
as before stated in its
place. - Plaintiff states
that he has recently
discovered a said mistake
both in said Deed to him
from said Charles and
Nancy Mothershead both
as regards the before
stated mistake as to his
name and as to said descrip-
tion of said one tract of
said lands and Plaintiff
avers that said Charles
Mothershead has since said
Deed was executed died
leaving the defendants, r.
Nancy Mothershead his widow
and Edward and Monewall
Mothershead his heirs which
said heirs are minors under
Twenty one years of age

for whom Plaintiff asks
the appointment of a
guardian ad Litem, to
defend this action

Plaintiff prays the
court to decree that
said Deed from said
~~Nancy~~ Charles and
Nancy Mothershead to
Plaintiff dated as ~~aforsaid~~
aforsaid be so reformed
and corrected as to divest
defendants of all title of
~~the East half of the South~~
~~East quarter~~ so much
of the East half of the
South East quarter of
Section fifteen Township
thirty nine Range three
East as lies west of
Big River the same
being in Jefferson
County Missouri and
vest ~~it~~ the title of it in
Plaintiff by his proper
name, in ^{that portion of} Deed of the East
half of the North East East

Quarter of said Section as lies
west of Big River and that the
Court will further Decree
that said Deed made as
aforesaid from said Charles
Mothershead and Nancy his
wife of date March 28th 1864
be further reformed and corrected
in this, To wit, that whereas the
~~same as made to him~~ same
was made conveying to him the
Lands therein described (except
the East half of the South East
Quarter of said Section fifteen
which was omitted therefrom by
mistake as before stated and
for which a Decree is now prayed)
by the name of James Shields
which was done through mistake
as aforesaid when his name was
& is James Shiel he prays that
it be so corrected as to convey to
and vest in him said Lands in and
by his true name To wit that of
James Shiel and that the
Court will grant other proper
relief -

J. S. Williams
Attorney for Plaintiff

James Shiel
(23)
Nancy Motherhead
y others
Amended
Relators of
Plaintiff

Filed Jan'y 17 1877
Chas. H. H. H.
Clerk

James Sheil Plaintiff

against

Nancy Mothershead & others Defendant

Now at this day
came Edward & Charles Mothers-
head minors by their Guardian
ad litem John L. Thomas &
says that he has nothing
to say why judgment
should be rendered according
to the prayer of the amended
petition. John L. Thomas
Guardian ad litem
for Edward and
Charles Mothershead
minors

James Sheil
against
Ann & Motherhood
& others

Answer of
Guardian ad litem

Filed January 17 1877
C. Ho. Horine
Clerk