

Jefferson County Circuit Court
Case files - Civil
January 1877

Box 36 Folder 32

Wiley, Thomas J.

vs

McKay, William, exec
Murdell, Samuel, exec.
Murrell, John
Williams, William F

Executor bond

Plaintiff due \$102.85

Thomas J. Wiley
Plaintiff

vs
William McKay, &
Samuel Murrell,
Executors of the Estate
of John Murrell &
William F. Williams
Defendants

In the
Circuit
Court of
Jefferson
County
Missouri

Plaintiff States that James Evans
departed this life in Jefferson
County Missouri in the year 1868
having first executed his will
whereby he appointed defendant
William McKay Executor of his
Estate which will was after the
death of said Evans admitted to
probate ~~in~~ by the County Court of
said County on the 18th of December
1868 on which day said McKay
duly qualified as Executor of the
Estate of said James Evans and
filed in said County Court on that
day a Bond - a copy of which is
herewith filed the original being on
file in said Court - by which he as
~~Security~~ Principal and the other
~~the~~ William F. Williams, and John

Murrell and Allen Maness as
his securities bound themselves
under their hands and seals unto
the State of Missouri in the sum of
Four Thousand Dollars conditioned
that said William McKay as Executor
of the last Will and Testament of
said James Evans should well
and faithfully execute the said
last Will and Testament & make
true and faithful Inventories,
returns and settlements of
accounts of the Estate of the said
Testator according to Law and
moreover do and perform all
other matters and things touching
the execution of said last will and
as should be ^{prescribed by Law or} enjoined on him by
The order, sentence or decree of
any court having jurisdiction
which Bond was on said 18th of
December 1868 by said County Court
approved and said William McKay
entered on the duties of his said
Trust as such Executor but the
Plaintiff avers that he did not
~~keep and perform~~ his duties as
such Executor as by the terms

and conditions of said Bond he was bound to do but committed a breach of said Bond in this viz on the 19th of January 1869 The County Court of said County rendered a judgment in favor of Eli Wiley against said Estate allowing him one Hundred and sixty one & ³/₁₀₀ Dollars against said Estate in the fifth class upon a promissory note executed to him by said James Evans in his life time which judgment of allowance bore interest from the date the allowance was made at ten per cent per annum, Plaintiff further says that since the allowance of said claim the said Eli Wiley, has assigned it to Plaintiff, Plaintiff says also that on the 30th day of December 1874 said William McKay as such Executor made in the Probate Court of said County of Jefferson his final settlement of the Estate of said James Evans upon which settlement a balance of assets by him in his said settlement shown to be in his hands belonging to said

Estate subject to payment of
the demands therefore allowed
against it in the fifth class
sufficient to pay on said
claim of the Plaintiff ~~at the for~~
~~for~~ the sum of one Hundred and
Two & $\frac{85}{100}$ Dollars & the said
Court then and there ordered said
assets in the hands of said Admin-
istrator subject to the payments of
the debts allowed against the Estate
in the fifth class to be distributed
among the creditors of said Estate
in said class ratably and judicially
found upon such settlement that
the rateable share and proportion
of such assets which said Adminis-
trator ought to pay on said claim
of Plaintiff was the above named
sum of one Hundred & Two & $\frac{85}{100}$ Dollars
which the Co said Probate Court then
and there upon said settlement by
proper order & judgment of Record
ordered said ~~Administrator~~ ^{Executor} to pay
+ on said claim but Plaintiff avers
that said Executor has ever-
since failed and though often
requested so to do has refused and
still fails and refuses to pay

the same or any portion of it
but that the same is still
unpaid and due to Plaintiff
wherefore Plaintiff prays the
Court ^{in his favor against the defendants} to render judgment of
forfeiture of said Bond and for
the sum of four thousand
Dollars and that Execution
issue for the said sum of
One Hundred & Two & $\frac{85}{100}$ Dollars
the amount due Plaintiff on his
^{together with interest from December 31st 1874}
claim aforesaid, and that the
Court will otherwise render
such orders & judgments as
may be just & right

Jo: Williams
Attorney for Plaintiff

Filed Dec 21st 1876

C. H. Haines

Clerk

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 McKay
and Samuel Murrell Executors of the
Estate of John Murrell and William
F. Williams*

*if he be found in your County, that he 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 January next, then and there to
answer unto*

Thomas J. Wiley

*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 22nd day
of December, A. D., 1876.

C. Th. Horine, Clerk Circuit Court.

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RETURNABLE

TO

JEFFERSON CIRCUIT COURT.

January TERM, 1877.

Thomas J. L. L. L.

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William McKay

and Samuel Munnell

Executor of the Estate

of John Munnell

and William J. Williams

Attest
Signed

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I Executed the within Summons at the County of Jefferson State of Missouri on the 15 day of Dec 1876 by delivering to the within named William J. Williams he being first served a true copy of the within writ and petition as furnish me by the Clerk and further executed said writ by delivery on the same day delivering to William McKay a true copy of the writ.

John Williams Sheriff
By J. C. Johnston Deputy