

Dofferson County Circuit Court

Case Files - Civil

September 1887

Shute, Richard H.

VS

Smith, Sophia

Cannon, Frank

Cannon, Nicholas

Cannon, Sophia

Partition

Access in 53-39 124E

Box 39 Folder 11

State of Missouri, County of Jefferson ss.
In the Circuit Court

To September Term 1887,

Richard H. Shute Plaintiff

vs.

Saphia Smith and Smith her husband
Frank Cannon, Nicholas Cannon and
Saphia Cannon Defendants.

For Partition

Plaintiff states that he and defendants are
the owners and tenants in common of the following
described real estate situated in the County of
Jefferson and State of Missouri to-wit:

A part of Lot three in the North East frac-
tional quarter of Section three in township (39) thirty
nine, range four (4) East of the 5th principal
meridian bounded as follows: Beginning at
the Southwest corner of said lot three, thence
South $85\frac{1}{4}$ degrees East, along the Southern line
of said lot, seven chains to a stake; thence
North $73\frac{1}{4}^{\circ}$ West, seven chains and twenty seven
(27) links to a stake on the Western line of
said lot three, thence South with the west
line of said lot three, five (5) chains and
seventy nine (79) links to the beginning contain-
ing $2\frac{11}{100}$ acres, and being the same land descri-
bed in a deed recorded in Book 8 at page
397 Jefferson County Records.

Plaintiff states that he is the owner and entitled to the undivided one half of said real estate; that, ^{defendants} Sophia Smith formerly Sophia Cannon and widow of Frank Cannon deceased is entitled to dower of one third in the undivided one half of said real estate, for and during her natural life as the widow of said Frank Cannon deceased; that Frank Cannon, Nicholas Cannon and Sophia Cannon defendants, are each entitled to the undivided one sixth of said real estate subject to the dower of their mother Sophia Smith, formerly Cannon, in the undivided one half thereof.

Plaintiff further states that said defendants Frank Cannon and Nicholas Cannon are minors under the age of twentyone years, and that Sophia Cannon is a minor under the age of eighteen years.

Plaintiff further states that defendants Sophia Smith and Smith her husband, and Nicholas Cannon and Sophia Cannon are non-residents of the State of Mississ.

Plaintiff prays that partition be made of said land in accordance with the respective rights of the parties; that if partition cannot be made in kind that said land may be sold and the proceeds appropriated according to law.

and for such farther relief as to the court may
seem just and proper,

Thomas & Morine

Attorneys for Plaintiff.

C. Tho. Morine one of the attorneys for the plaintiff
being duly sworn, says that the above peti-
tion and the matters therein stated, he believes
to be true, and that Sophia Smith and

Smith her husband, Nicholas Cannon
and Sophia Cannon are not residents of
the State of Mississ.

C. Tho. Morine

Subscribed and sworn to before me this 7th,
day of June AD 1887,

L. B. Veazey
Clerk C. C.

To the Jefferson Circuit Court
Sept. 4, Term 1887

Richard H. Shute
Plaintiff

vs } Defendant

Sophia Smith and
Smith her husband
Shrants Cannon, Nicholas
Cannon and Sophia
Cannon Defendants

Clerk will give to
Jefferson Co. for Shrants, and
other prob. as to other
defendants.

Shrants is at wife's

Filed June 7th 1887
D. D. Keagy
Clerk.

Thomas Osborne
for Plaintiff

THE STATE OF MISSOURI } ss.
County of Jefferson.

The State of Missouri,

To the Sheriff of Jefferson County--Greeting:

We command you, that you summon

Frank Cannon

if found in your County, to be and appear before the Honorable Judge of our Circuit Court, on the first day of the next term thereof, to be begun and holden at the town of Hillsboro, within and for the County of Jefferson, on the *second* Monday of *September* next, then and there to answer unto

Richard H. Shute

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

D. B. VEAZEY

Witness, C. THO. HORINE, Clerk of our said Circuit Court, with the seal thereof hereunto affixed, at office in Hillsboro, this *7th* day of *June* A. D., 188*7*

R. B. Veazey, Clerk Circuit Court.

I hereby certify that I executed the within writ
in the County of Jefferson and State of Missouri
on the 11th day of June 1887 by leaving a true copy
of the within writ and arrest petition as furnished
me by the Clerk of the Circuit Court in the hands
of the within named Frank Cannon

Fee \$1.00

Geall W. Fry Sheriff

By, W. H. Jahn,

Deputy.

145, 194, 195- 220, 263

Record Entries

June 7/87	Order Publication	13-145-
Sept 24 87	Default - Guard ad. et. et. et.	19455
Jan 9/88	Ans of Guard ad. et. et. et.	
" 21 "	Ans for Partition	

6369

No 66756

To the Jefferson Circuit Court
September Term 1887

Richard W. Shute
Plaintiff.

vs } Partition

Sophia Smith and

Smith her husband

Frank Cannon

Nicholas Cannon

Sophia Cannon

Defendants

Original

ORDER OF PUBLICATION.

STATE OF MISSOURI, } ss.
 County of Jefferson, }

In the Circuit court of said county, to September term, 1887,—in vacation, June 7, 1887.

Richard H. Shute, plaintiff, vs. Sophia Smith and—Smith, her husband; Frank Cannon, Nicholas Cannon and Sophia Cannon, defendants.

At this day comes the plaintiff herein, by his attorney, and files his petition and affidavit, alleging among other things that defendants—Sophia Smith and—Smith, her husband, and Nicholas Cannon and Sophia Cannon—are non-residents of the State of Missouri. Whereupon it is ordered by the clerk, that said defendants be notified by publication that plaintiff has commenced a suit against them and their co-defendant in this court, the object and general nature of which is to obtain a decree of said court, making partition and division between said plaintiff and defendants of the following described real estate, situated in said county and State, to-wit: A part of lot three in northeast fractional quarter of section three, township thirty-nine, range four, east of the fifth principal meridian, bounded as follows—beginning at the southwest corner of said lot three; thence south, $85\frac{1}{4}$ degrees east, along the southern line of said lot, seven chains to a stake; thence north, $73\frac{1}{4}$ degrees west, seven chains and twenty-seven links, to a stake on the western line of said lot three; thence south with west line of said lot three, five chains and seventy-nine links to the beginning, containing two and eleven-hundredths acres—in land, if the same can be done without prejudice otherwise for an order of sale and division of the proceeds; that the interest of said Sophia Smith, in and to said real estate, is her dower of one-third of the undivided one-half during her natural life; that the interests of the defendants, Nicholas Cannon and Sophia Cannon, are the undivided one-sixth each of said real estate, subject to the dower of their mother, Sophia Smith; and that unless the said Sophia Smith and—Smith, her husband, and Nicholas Cannon and Sophia Cannon, be and appear at this court, at the next term thereof, to be begun and holden at the courthouse in the Town of Hillboro, in said county, on the second Monday of September next, and on or before the sixth day of said term, if the term shall so long continue—and if not, then on or before the last day of said term—answer or plead to the petition in said cause, the same will be taken as confessed and judgment will be rendered accordingly.

And it is further ordered that a copy hereof be published, according to law, in the Jefferson Democrat, a newspaper printed and published in Jefferson county, Missouri.

D. B. VEAZEY, Circuit Clerk.

A true copy from the record.

Witness my hand and the seal of the Circuit court of Jefferson county, Missouri,
 | Seal | this 7th day of June, 1887.

June 15, 1887.

D. B. VEAZEY,
 Circuit Clerk.

STATE OF MISSOURI, } S.S. COUNTY OF JEFFERSON,

Be It Remembered, That on this day of 1887.

before the undersigned Clerk of the 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 June, 1887, and the last insertion on the
day of 1887, as follows, to-wit:

In No. 26,	June 15,	1887.
In No. 27,	" 22,	1887
In No. 28,	" 29,	1887.
In No. 27,	July 6,	1887

Sworn to and subscribed before me, this 17 day

of September, 1887

H. B. Glessey, County Clerk.

Printer's Fee, \$17-}

Affidavit, \$ 25- }

Received Payment, ...

Filed Sept 24th 1887
D B Veazey
Clerk
W.

ORDER OF PUBLICATION.

Wagner's Statutes, Page 1008, Sections 13-15.

State of Missouri,

COUNTY OF

SS.

In the

Circuit

Court

of

said County,

To September Term, 1887.

In Vacation June 7th 1887

Richard H. Shute

VS

Plaintiff

Sophia Smith and Smith, her husband Frank Cannon, Nicolas Cannon and Sophia Cannon

Defendant

*AT THIS DAY COMES the Plaintiff herein, by his Attorney

and filed his

Petition and affidavit, alleging, among other things, that Defendants

* Sophia Smith and Smith her husband, Nicolas Cannon and Sophia Cannon

are non

residents

of the State of Missouri:

WHEREUPON IT IS ORDERED by the

Clerk

that said Defendants be notified by

Publication that Plaintiff has commenced a suit against them in this Court,* and their Co-defendant in this Court, the object and general nature of which, is, to obtain a decree of ^{said} Court making partition and division, between said plaintiff and defendants of the following described real estate situate in said County and State to wit: A part of lot three in North East fractional quarter of section three Township (39) thirty nine Range (4) four East of the Fifth principal meridian bounded as follows: beginning at the South West corner of said lot three; thence South 85 1/4 degrees East, along the Southern line of said lot (7) seven chains, to a stake; thence North 73 1/2 West seven chains and (27) twenty seven links, to a stake on the Western line of said lot three; thence south with West line of ^{said} lot three (57) or five chains and (79) seventy nine links to the beginning, containing 2 1/2

(OVER)

acres, in kind if the same can be done without prejudice
otherwise for an order of sale and a division of the proceeds
That the interest of ^{said} Sophia Smith in and to said real estate
is her dower of one third of the undivided one half during her
natural life: That the interests of the defendants Nicholas Cannon
and Sophia Cannon are the undivided one sixth each of said
real estate, subject to the dower of their mother Sophia Smith
and that unless the said Sophia Smith ~~and Nicholas Cannon~~ and Smith her
husband and Nicholas Cannon and Sophia Cannon

be and appear at this Court, at the next Term thereof, to be begun and holden at the Court House in the town
of Hillsboro, in said County, on the second Monday of September
next, and on or before the sixth day of said Term, if the Term shall so long continue—and if not, then on or
before the last day of said Term—answer or plead to the Petition in said cause, the same will be taken as confessed, and
judgment will be rendered accordingly.

And it is further ordered, that a copy hereof be published, according to law, in the Jefferson
Democrat a newspaper printed and published in
Jefferson County Missouri

R. B. Keagy

CIRCUIT CLERK.

A True Copy from the Record.

WITNESS my hand and the Seal of the Circuit Court of Jefferson
County, this 7th day of June 1887.

R. B. Keagy

CIRCUIT CLERK.

D. C.

GEO. D. BARNARD & CO., PRS., ST. LOUIS.

Order of Publication.

Wag. Stat., pg. 1008, Secs. 13-15

Richard H. Schute

VS.

Sophia Smith et al.

TO THE PUBLISHER OF THE

Please publish the within for four successive
weeks, the last insertion to be, at least, four
weeks before the _____ day
of _____ 1887.

CLERK.

Filed June 25/87
R. B. Keagy
-CER

Richard H. Shute Plaintiff.
Against
Sophia Smith and others Defendants.
In the Circuit Court of
Jefferson County Mo.

Now comes James F. Green, who has been appointed by the Court Guardian ad li-
tem for the defendants in the above
entitled cause who are minors, (viz. Frank
Cannon and Nicholas) and accepts his
appointment as such Guardian ad
litem, and for answer to the petition
in the said cause, says that he has no
knowledge or information sufficient to
form a belief whether or not the allegations
in said petition are true, and therefore
denies generally each and every allegation
in said petition contained.

J. F. Green
Guardian ad litem for
Frank Cannon and Nicholas Cannon.

A. H. Smith M

no
Stephen Smith (son)
Sept

Answer of Examination
and Literary

Filed Jan'y 9th 1888
W. D. Vealey
Clerk

CERTIFIED COPY OF ORDER.

(Rev. Stat., Sec. 2321.)

STATE OF MISSOURI, }
 COUNTY OF Jefferson } ss. January Term, 1888
 In the Circuit Court of said County, on the Twenty first
 day of January, 1888, the following, among other proceedings, were had, viz:

Richard H. Shute Plaintiff
 Sophia Smith and Smith her husband.
 Frank Cannon. Nicholas Cannon and.
 Sophia Cannon. Defendants

} For Partition
 } now on this 21st day of January
 1888 comes the Plaintiff

by his attorney. Also comes the minor defendants Frank Cannon and Sophia Cannon and Nicholas Cannon by their guardian ad litem James F. Green. but the adult defendants, Sophia Smith and Smith her husband come not, default having been entered against them at the last term of this court. ^{of Plaintiff, and all and singular the matters contained in said petition} neither have they answered the petition, being by the court here seen, ~~heard~~ heard and fully understood the court doth find that plaintiff and defendants are owners and tenants in common of the following described real estate situated in Jefferson County State of Missouri to wit, a part of lot three in the North East fractional quarter of section ⁽³⁾ three in Township ⁽³⁹⁾ thirty nine range ⁽⁴⁾ four ^{East} of the 5th principal meridian, bounded as follows; Beginning at the South west corner of said lot three; thence South $85\frac{1}{4}$ degrees East along the southern line of said lot seven chains, to a stake; thence north $73\frac{1}{4}^{\circ}$ West seven chains and twenty seven (27) links to a stake on the western line of said lot three (3); thence south with the West line of said lot three, five (5) chains and seventy nine (79) links to the beginning containing 2 1/2 acres, and being the same land described

in deed recorded in book 8 at Page 397 Jefferson
County records. And the Court doth further find
that Plaintiff Richard ~~and~~ H. Shulte is the own-
-er and entitled to the undivided one half of
said real Estate, That defendant Sophia Smith
formerly Sophia Cannon and widow of Frank
Cannon deceased is entitled to dower of one
third in the undivided one half of said real
Estate for and during her natural life, as the
widow of said Frank Cannon deceased, that
Defendant Frank Cannon, Nicholas Cannon ^{and}
Sophia Cannon and each entitled to the und-
ivided one sixth of said real Estate subject to
the dower of their mother Sophia Smith formerly
Cannon in the undivided one half thereof
And that said real Estate cannot be divided
in kind between said parties with ^{out} great prej-
udice to their interest, it is thereupon considered
and adjudged by the Court here that partition
and division of said real Estate be made between
plaintiff and defendants according to their respec-
tive rights & interests as here in found and dec-
lared by the Court, and because partition and
division thereof in kind cannot be made, it
is ordered by the Court that the Sheriff of Jefferson
County aforesaid proceed to advertise and sell
said real Estate at public auction to the high-
est bidder for cash in hand. It is further or-
dered that said sale take place some day du-
ring a session of ^{the} circuit court for said county,
and be governed by the same regulations prescri-
bed by law for sales of real Estate under execution
notice thereof being given in the manner provid-
ed by law for such sales & bring the proceeds thereof
into Court here to abide its further orders, on the prem-
ises ordered that these proceedings be certified and
the cause continued for the report of the Sheriff

STATE OF MISSOURI,

COUNTY OF

Jefferson
Circuit

ss.

I,

D. B. Veagey

, Clerk

of the

Court, in and for said County, hereby certify the above and foregoing

to be a true copy of the proceedings of our said

Circuit

Court, on the day and

year above written, as the same appears of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed

the seal of said Court, at office in

Hillsboro

, this

the

25th

day of

February

18*88*.

Clerk

D. B. Veagey

Circuit

Court.

By

D. C.

CERTIFIED COPY OF ORDER

—OF—

Circuit

Court,

MADE AT

January Term, 18*88*

IN THE MATTER OF

Richard H. Shute

vs
Sophia Smerk et al

Sheriff's Sale in Partition.

Richard H. Shute, plaintiff, vs. Sophia Smith and—Smith, her husband; Frank Cannon, Nicholas Cannon and Sophia Cannon, defendants.—In the Circuit court of Jefferson county, Missouri.

By virtue and authority of an order made by the Circuit court of the County of Jefferson, State of Missouri, at its January term, 1888, I will, on the 16th day of May, 1888, at the courthouse door in the Town of Hillsboro, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day, offer for sale at public auction, to the highest bidder, the following described land or real estate, to wit: A part of lot three in the northeast fractional quarter of section three, township thirty nine, range four, east of the fifth principal meridian, bounded as follows—beginning at the southwest corner of said lot three; thence south, $85\frac{1}{4}$ degrees east, along the southern line of said lot, seven chains to a stake; thence north, $73\frac{1}{4}$ degrees west, seven chains and twenty-seven links, to a stake on the western line of said lot three; thence south with the west line of said lot three, five chains and seventy-nine links to the beginning, containing two and eleven hundredths acres, being the same land described by a deed recorded in book 8, page 397, Jefferson county records, and situated in Jefferson county, Missouri—for the purpose of making partition between said parties, for which the purchaser will be required to pay the purchase money in hand at the time of sale.

April 18, 1888.

G. W. McFERY, Sheriff.

STATE OF MISSOURI, } SS. COUNTY OF JEFFERSON,

Be It Remembered, That on this 16th day of May 1888, before the undersigned Notary Public, 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 5 weeks, the first insertion being on the 18 day of Apr 1888, and the last insertion on the 16 day of May, 1888, as follows, to-wit:

In No. 18,	Apr 18	1888.
In No. 19,	May 23	1888.
In No. 20,	May 23	1888.
In No. 21,	May 29	1888.
In No. 22,	May 16	1888.

Sworn to and subscribed before me, this 16 day

of May, 1888

Edna Mallett Notary Public
my term expires May 7th 1892

R. W. McMullin

Printer's Fee, \$10.80 }
Affidavit, \$ 25 }
14.05

Received Payment,

SHERIFF'S REPORT OF SALE.

To the Honorable, the Circuit Court,
County of Jefferson, in the State of Missouri,

May Term, 1888.
I, George W. McFay Sheriff of Jefferson

County, beg leave respectfully to report that in pursuance of an Order of Sale made at the
January Term, 1888, by the Circuit Court
in said County of Jefferson, in the cause of

R. H. Shute. Plaintiff

against Sophia Smith and Smith, her hus-
band - Frank Cannon - Nicholas Cannon
and Sophia Cannon Defendants

in partition, a certified copy of which has been to me delivered, I did cause the Real Estate described
in said Order of Sale, to wit: a part of lot three in the North East

fractional quarter of Section (3) three in Township
(39) thirty nine range (4) four East of the 5th principal
meridian, bounded as follows; Beginning at the
South West corner of said lot three; thence South 85 $\frac{1}{4}$
degrees East, along the Southern line of said lot, seven
chains to a stake, thence north 73 $\frac{1}{4}$ West seven chains
and twenty seven (27) links to a stake on the Western
line of said lot three (3), thence South with the West
line of said lot three, five (5) chains and seventy
nine (79) links to the beginning, containing 2 $\frac{1}{100}$
acres, and being the same land described in
deed recorded in book 8 at Page 397 Jefferson
County records.

To be advertised for sale by advertisements in the Jefferson Democrat newspaper
printed in said County of Jefferson containing a particular description of the
Real Estate to be sold, and stating the time, place and terms of said sale, for a period of not less than
twenty days next preceding the day of sale: that on the 16th day of May
1888, being the day by me appointed for sale, as stated in said notices, being the 3rd day of the
May Term of the Circuit Court

for the year 18⁸⁸, and while said Court was in session, between the hours of nine o'clock A. M., and five o'clock P. M. of said day, I did proceed to offer and expose to sale at public auction to the highest bidder, at the Court House door in the town of Hillsboro, in the said County of Jefferson, the Real Estate above described, on the following terms, to wit:

the purchase money in hand at the time of sale

and having then and there publicly and openly cried the same for a long space of time, as aforesaid, and R H Shute

being the highest, best and last bidder for the land as above described

For the sum of Fifty Dollars and the same was struck off and sold to him for that price, and that the said R H Shute has paid all ~~per cent~~ of the purchase money, the amount by him bid for said Real Estate as aforesaid, and ~~executed to me~~ for the residue of the amount by ~~bid as aforesaid~~, with good and sufficient security, according to law, and the order of Court. All of which is respectfully submitted.

Sheriff of Jefferson County.

And I hereby certify that the costs and expenses attending the execution of the order of said Court as aforesaid, have been as follows, viz :

COSTS DUE TO WHOM AND FOR WHAT.		AMOUNT.	
as per fee bill herewith	DTB Veazey Cir CLK	11	15
	R W McMullin Printer	28	05
	Thomas & Horine atty fee	10	00
	Geo H McGary	4	80
		54	00
TOTAL COSTS AND EXPENSES, \$			

G W McGary

Sheriff.

REPORT OF SALE.

R. A. Shute

AGAINST

Joseph Smith et al

Filed *May 21st*, 18*88*

W. H. Verney

CLERK.

By

DEPUTY.

Richard H. Shute Plff } Partition
 vs
 Sophia Smith Et al Defts }

Bill of Costs
 D. B. Veary & Co
 5 files 25/ 6 blocks 30/ Ord Pub. 30/ Ord to print 30/ 1 05-
 Copy cts 100/ Copy per cts 100/ Writ & copy 110/ 3 10
 proof Pub 30/ Defaulth 30/ Appr 10 70
 Guard ad litem Appointed 30/ Ans 30 60
 Cont 25/ 2 affa 30/ Verd 30/ Judgt 50 1 55-
 Ord Sale 30/ Ord to certify 30/ Copy cts 25- 1 85-
 Ord allowing atty fee Guard ad litem 30
 Ord allowing atty fee 30/ final Judgt 50 80
 Fee bill 10/ Making Cts 20/ Copy 20 50
 Report of Sale 30/ Ord distribution 30 60
 11 15

Geo W. McFry Shff
 Serving writ 100/ 6 calls 30/ Ord Sale 100/ 2 30
 Advertising 100/ Com on 500- 150- 250 4 80

R W Mc Mallin Printer
 Ord publication 17 00
 Adv. Shffs. Sale 11 05 28 05

Thos & Horine Atty fee 10 00

James F. Green Guard ad litem 54 00