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Jefferson County Circuit Court

Case Files - Civil

November 1833, No. 4

Byrd, Thomas, assignee of
Fletcher, Clement B.
vs.

McKean, John

Debt, note

Debt \$400, defendant also "McKane"

Twelve months after date I promise
 to pay to A. Fletcher or order Ten hundred
 dollars for value received to remain interest
 at the rate of Ten per Cent for special agreement
 from date without default until stated at
 Worcester this 10th day of September 1829

attest

The In ites

John W. Brown

Witness

400	1000
110	
290	29

116
14.50
130.50

139. Nov 10 1826.

Twelve month after date I promise
to pay to B. Ditcher or order Ten hundred
dollars for value received to draw interest
at the rate of Ten per Cent for unpaid amount
from date without deduction of interest at

Wiscassini this 10th day of September 1839
at that

The Shiles

of the town of Wiscassini

Witness

400
110
290

29
4

116
14.50
130.50

139. Nov 10 1836

John M. Kean

To E state

C. B. Fletcher

16 Oct 1830 or By sale of Land in
Trust one hundred Ten Dollars

Pay the within to Thomas Ryd
on order August 1. 1832

C. B. Fletcher

Filed 7th October 1833
C. Smith Clerk.

Jefferson County Court

November Term Circuit Court
1833

Thomas Byrd Plaintiff states that he holds a
~~note~~ on the defendant John M. Keane in substance
as follows: \$400, Twelve months after date I promise
to pay to C B Fletcher or order four hundred dollars
for value received to draw interest at the rate of ten
per cent per annum from date without
deduction or stated at present value this 10th day
of September 1829

John M. Keane
Debt

attest
J. M. Keane

on which is the following judgment: "pay
the within to Thomas Byrd or order August
1832"

C B Fletcher

whereby the Plaintiff hath become the proprietor
thereof, of which the defendant hath had due
notice, yet the said debt remains unpaid
wherefore he prays judgment for his debt and
damages for the detention of the same together
with costs.

P. Boh alt for
Byrd

Served the within petition & summons on John M. Hearn
in the County of Jefferson by giving him a true and attested
copy thereof this 30th of October 1833

Wm. H. Hearn

J. H. Knighton
Sheriff

Filed 7th October 1833
E. Smith Clerk

This is an extract of
a bill of partition
between J. H. Hearn
and J. H. Knighton
of the County of Jefferson

John M. Hearn
vs
J. H. Knighton

Nov 4

279

State of Missouri
County of Jefferson

The State of Missouri

To the Sheriff of said County " Greeting

You are hereby commanded to summon John M. Hearn
that he do and appear before the Judge of our Circuit Court
on the second day of the next term thereof to be held at
the Town of Herculaneum within and for said County
on the third Monday of November next, then and there
to answer unto Thomas Byrd Assignee of Clement B.
Hatcher to the foregoing action of debt and petition.
And have you then there this writ.

Witness Chauncey Smith Clerk of our said
Circuit Court at office this seventh day of
October in the year of our Lord one thousand
eight hundred & thirty three

Chauncey Smith Clerk

Thomas Byrd affs &c
 Ass. } Nov. Term 1833
 John McKane }

The above Defendant John McKane upon his oath says that he verily believes that he has a good and just defence to the above action that he is advised and does believe he can not go safely to trial of this Cause at this term of this Court. That he has not had it in his power to set up his defence in due form and to procure his necessary evidence in the Cause to enable him to go to trial at this term since the writ was served on him. And this Affiant further states that this affidavit is not made for the mere purpose of verification or delay but to enable him to plead and make his defence according to justice and right - And further that he believes he can be ready for trial at the next Term of this Court

And this Affiant further states that he does believe his is justly intitled to a large amount of Credits on the above demand which he is not now prepared to prove and establish, but that he can do so by next Court

John McKane

Severe term open Court of
 Nov 1833
 C. Smith Clerk.

Michael 19th Nov 1833
E. Smith Clerk

Lamed

John M. Kane
als. } Nov. Term 1833.
Thos Byrd apse &c }

And the said defendant John M. Kane
by his attorney comes and defends this action when & where
he ought to, and for plea says that the said plaintiff
ought not further to have or maintain his action hereof
against him the said defendant Because he the said
defendant says, that after the making of the said
promissory note — and before the commencement
of this suit, and before the supposed assignment of the
said Note — by the said Clement B. Fletcher
to the said Thomas Byrd, he the said defendant
at the County aforesaid well and truly paid and
fully satisfied the said Clement B. Fletcher the
said sum of money in the said promissory note
specified And this he the said defendant is ready
to verify and prove. Wherefore he prays judgment
if the said plaintiff ought further to have or
maintain his aforesaid action hereof against
him and &c —

Wm Smithy atty for
deft.

And for further plea in this behalf the said deft.
says that the said plaintiff ought not to have or maintain
his aforesaid action thereof against him the said
defendant. Because he says that the Clement B.
Fletcher did not assign and transfer the said
promissory note and the interest therein to the
said Thomas Byrd in manner and form

as the said plaintiff hath alleged -
wherefore he prays Judgment if &c. and
&c - In Testimony atty for
plff.

And for further plea in this behalf the said
defendant says he did not promise and agree
to pay the said sum of money in the said
petition mentioned in manner and form &c
the said plaintiff hath alleged - and
of this he the said Defendant puts himself
upon the County. Bulky for Sept

and the said plaintiff doth
the said P. Cole
att.

Mr. Thomas Byrd - the above plaintiff and
P. Cole Esq. his Attorney of Record.

You will please to take notice that the Defendant
John McKane will give in evidence on the trial
of the above cause by way of set off to the
plaintiff's action the following sums of money and
for the following causes to wit,

For cash received for the sale of a certain tract of
land five hundred dollars - also for money had
and received to and for the use of the said
defendant the sum of five hundred dollars
also for money paid to the said Clement B.
Fletcher before the assignment of the said
note five hundred dollars - and also
the further sum of five hundred dollars
for goods wares and merchandise sold and delivered
to the said defendant and at his special in-
stance and request - Bulky for Sept

John M. Kane

25.

Thos. Ford aka Sec
of E. D. Fisher

1. Full payment.

2. no agreement

3. non competent

4. notice of att-off.

Filed 19th Nov 1853
C Smith Clerk

Thos Byrd of

John W. Kear

And the said Plaintiff says that
he ought not to be bound from here
and maintain his action should
be and the said defendant by reason
of my mother or her in the said
plaintiff's first and second places
in this behalf above pleaded, because
he says, that he the said Defendant
did not well and truly sign the said
note to the said Plaintiff - he is not
of his own consent to the said Plaintiff
of the same, and before the commencement
of the above action, ~~wherein~~
and from as the said defendant has
in said first place in this behalf above
pleaded, and of this he the said Plaintiff
has been informed by the court, and
as to the said second place of the
said defendant, the said Plaintiff
says that the said Plaintiff did

graves and transfer the said roots
to the said chelocation cemetery
found to the said Thomas, in
recourse and same is there
accepted and set forth and of the
in the said Thomas' hands being
upon the county.

J. L. Clark
att.

Wm. Byrd & Co.

John Dickson

Replication

to 1st & 2^d Decr

Filed 17th March 1834

C. Smith Clerk.

State of Missouri }
County of Jefferson } ss

The State of Missouri to the
Sherriff of Jefferson County Greeting, Whereas at a Circuit
Court begun and held for the County aforesaid on Monday
the seventh day of March Eighteen hundred and thirty
four, a certain Thomas Byrd assignee of Clement B. Fletcher
by judgment of the same Court, recovered against a certain
John McKean late of said County, judgment in said
Court (upon a Petition and Summons upon a note) for
the sum of two hundred and ninety dollars debt
and also the sum of one hundred and thirty dollars
and fifty cents for his damages by him sustained by
reason of the detention of said debt, and also his costs
and Charges by him about his suit in that behalf laid
out and expended, as appears of record, and now on the
behalf of the said Thomas Byrd assignee of Clement B. Fletcher
it hath been understood in the said Court, that although the
judgment thereof is given, yet execution for the debt, damages,
costs and Charges aforesaid, still remains to be made for him
wherefore the said Thomas Byrd assignee as aforesaid hath concluded
that a proper remedy be granted him in this behalf. There
therefore Command you that you summon the said John
McKean that he be and appear before the Judge of our
Circuit Court at a term thereof to be holden on Monday
the seventh day of November next at Herodanum in
the County aforesaid, to show if he hath or can say any thing
for himself why the said Thomas Byrd assignee as aforesaid, ought not
to have his execution against him for the debt damages costs & Charges
aforesaid, according to the force form & effect of the recovery aforesaid,
if he the said John McKean shall think fit, and further
to do and receive what the said Court shall then and
there counsel or concerning him in this behalf and
have you then and there this writ, and that

you make due return how you execute the same
Witness Henry P. Bates Clerk
of said Circuit Court at his
office this seventeenth day of
October Eighteen hundred and
thirty six

Henry P. Bates Clerk

I served the within Copy as on John
McKean in the County of Jefferson on the 20
th day of October 1836 By Reading the
same in his hearing and presence

J. W. Easton Sheriff
By John Hammond Deputy
Sheriff

Thos Byrd aforesaid
vs Sciga
John McKean

To Nov Term 1836
Judge A. F. Green D.C.

20

J

STATE OF MISSOURI,

COUNTY OF JEFFERSON, SCT.

To the Sheriff of the County of Jefferson==GREETING.

WHEREAS, *Thomas Regard assignee of Mount Pleasant* at our Circuit Court, before our Judge thereof, recovered against *John McLean* the sum of two hundred and ninety dollars debt and also the sum of one hundred and thirty dollars and fifty cents damages and also his costs by him in that behalf expended

which to the said *Thomas Regard assignee as aforesaid* were adjudged, as appears to us of record: These are therefore to command you, that of the goods and chattels, lands and tenements of the said

John McLean in your bailiwick, you cause to be made the aforesaid debt, damages and costs; that you have the same before the Judge of our said court, on the first Monday of March next, to render to the said *Thomas Regard assignee as aforesaid* his debt, damages and costs aforesaid. And for want of sufficient goods and chattels, lands and

tenements, whereon to levy and make the same, we command you to take the said if be found in your bailiwick, and safely keep, so that you have bod before the same Judge, on the

said Monday of ~~the~~ to satisfy the said costs, and that you certify to our said Judge how you execute this writ; and have you then and aforesaid there this writ.

WITNESSE, **HENRY P. BATES**, Clerk of our said Court, at HERCULANEUM, the 26th day of November in the year of our Lord, one thousand eight hundred and thirty six

Henry P. Bates CLERK, C. C.

Received the within Execution November 30th 1836
J. N. Crismon Sheriff

The within Execution returned by order of
C. B. Fletcher agent
J. N. Crismon Sheriff

March term 1834

Shad Payrol free

as 3 Grain

John McLean

Indy^g returned 14th March
1834

Debt \$ 296.00

damages 130.50

Clark Batey fees 2.50

Shirley McLean
J. N. Crismon