

Jefferson County Circuit Court
Case Files - Civil
October 1835

Box 2 Folder 37

Baptiste, by next friend
Bartibeau, Pierre

^{vs.}
Chouteau, Pierre, Sr.

Trespass, assault and battery, false imprisonment

Freedom suit; change of venue from St. Charles,
from St. Louis; began July 1825; Supreme Court
upheld decision for Baptiste, June 1837; Baptiste
son of Marguerite, daughter of Marie Scipion;
bill of exceptions

State of Missouri } In the Circuit Court July
County of St Louis } Term 1825

Baptiste, a free boy of color, held in slavery, who is permitted by the court to sue by
his next friend, as a poor
- Pierre Barribeau

person, by his Attorneys Gamble & McGirk, ^{& Harris} assigned
as counsel by the court, complains of Pierre Chouteau
Senior, of a plea of trespass, ^{for} that the said
Pierre, heretofore to wit, ~~on~~ the first day January
in the year of our Lord Eighteen hundred and
twenty five, with force and arms, at the County of
St Louis aforesaid, an assault did make upon the
body of the said Baptiste, and then and there
beat bruised and ill treated him the said
Baptiste, and kept and detained him in prison
there against his will, without any reasonable or
probable cause whatsoever, and has ever since
kept and detained him the said Baptiste in prison
there, and still keeps & detains him in prison
there against his will without any reasonable or
probable cause whatsoever contrary to the
laws of this State; and the said Pierre otherwise
then and there did to the said Baptiste, against
the peace of the State. Wherefore, the said Baptiste
says he is greatly injured by the said Pierre
and has sustained damage to the amount of five
hundred dollars, and therefore he sues &c.

Harris - Gamble & McGirk
Attys for plff

County of Saint Louis Jr.

The State of Missouri To the Sheriff of said County Greeting

We command you to summon Pierre Chouteau Senior that he be and appear before the Judge of our Circuit Court at the next term thereof to be held at the City of St. Louis within and for the County of St. Louis on the fourth Monday in July next then and there to answer unto Baptiste a free boy of Color who is permitted by the Court to sue by Pierre Baribeau his next friend as a poor person of a plea of trespass to the damage of said plaintiff of five hundred dollars. and have you then return this writ.

Witness Archibald Gamble clerk of our said Court
at Office this second day of June 1825
Archibald Gamble Clerk

Apr 28

In the Circuit Court

July Term 1825

Baptiste

vs { none

Pierre Chouteau Sen

To the clerk

This is an action of trespass, against & Battery and false imprisonment

Open a summons for Defendant

Farris, Gamble & McGirk

Attys P. L.

Filed 2nd June 1825

Archibald Gamble clerk

Executed this writ on Pierre Chouteau Sen^r June 14th 1825 in the City of St. Louis by giving the writ & Declaration to him to read and his Acknowledging the service thereof

Service \$1.00

John R. Walker Sheriff
By L. Simonds Jr. D. Shff

Pierre Chouteau sent
ad

C. C. C. Louis July term 1825

Baptiste a boy of color
by his next friend J. C. Baribeau

And said Pierre Chouteau by his
attorney comes and defends the same

and says when he and says as to the
assaulting beating bruising ill treating and impris-
-oning the said Baptiste as in said declaration
mentioned that the said Baptiste ought not to
have or maintain his aforesaid action thereof against
him because he says that before and at the time when
he in said declaration mentioned to wit at St Louis
aforesaid the said Baptiste was a slave in the lawful
possession and service of said Pierre Chouteau wherefore
the said Pierre then and there detained and held and still
detains and holds said Baptiste in his service
and possession which detention and possession are
the assaulting beating ill treating bruising and imprison-
-ing the said Baptiste in said declaration mentioned
and thus the said Pierre Chouteau is ready to verify
wherefore he prays judgment of the said Baptiste
ought not to have or maintain his aforesaid action
against him.

Attest
J. C. Baribeau

George
H. H. H.
H. H. H.

Given August 14th
1895 AG and all

Baptiste

vs.

Pierre Chouteau Jr.

And the said plaintiff says that the said plea of the said defendant and the matters and things therein contained in manner and form as the same are therein stated and set forth, are not good and sufficient in law to bar or preclude him the said plaintiff from having and maintaining his aforesaid action thereof against the said defendant, and that he the said plaintiff is not bound by the law of the land to answer the same, and this the said plaintiff is ready to verify; wherefore for want of a sufficient plea in this behalf the said plaintiff prays judgment &c.

W. G. Kirk & Farris for Plff.

For the Defendant

W. G. Kirk & Farris for Plff.

Bathurst

P. ^{at} Shannon Cr.

Answer to Alex.

Alex August 20th 1893

Aganishit

P. Chouteau and
~~James D. Hays~~

Adm.

Bakke

And the said fund to come
and defend the wrong and injury when so
and say that these they are not guilty of the
and several supposed trespasses of of every of
them in manner and form as the said
Bakke hath above himself complained
against them and of this put themselves out
on the Country &c

And the said Bakke doth the like as
Granville Hays
of Hays & Hays
for self

Coyey
for self.

Prine Shoutam Ind.
~~Chambers. Tolley~~

adm. plea

Baptiste

~~Mr~~

¹⁴
Filed August 31st 1895
J. G. Smith CLK

Baptiste a free boy of color } 3d In the Circuit Court
 vs } of St. Louis, County.
 Pierre Choteau Jr } In vacation before the
 November Term 1825

And the said Baptiste by his attorney, as to the said plea of the said Pierre, by him first above pleaded ~~as aforesaid~~, as to the said several trespasses in the introductory part of that plea mentioned, & therein attempted to be justified, saith, that he the said Baptiste by reason of any thing, by the said Pierre in that plea alleged, ought not to be barred from having & maintaining his aforesaid action thereof against him the said Pierre, because he saith, that he the said Baptiste was not at the time of the committing of the said several trespasses in his declaration thereof set forth, by him the said Pierre, nor is he now a slave, as the said Pierre in his said plea hath above alleged, but that he the said Baptiste was at the time of the committing of the said several trespasses by the said Pierre, in his ^{said} declaration above set forth, & is now a free person, by & according to the usages & customs & laws of the land & ought not to be held & detained as a slave in the possession & service of the said Pierre, nor of any other person by or under whom the said Pierre may claim & this he the said Baptiste

prays may be enquired of by the County. &c.

Gamble McGin &
Farris Attys for plff

Baptists
vs
P. Leighton & Co.
Plffs

Gamble McGin &
Farris, Attys for
plff

Filed Oct. 31st 1895
A. Gamble & Co.

Baptiste, a boy of colour } p. sent for freedom in the
vs } Circuit Court of St Louis County
Parr Chautau Sr. } 1828.

The Petition of Baptiste, the above named plain-
tiff, represents to this Honorable Court, that he fears he
will not receive a fair trial in this court, in which
his suit, above mentioned, is pending, on account that
he verily believes the Judge thereof is prejudiced against
him and his claim to freedom, so that he cannot &
does not expect a fair and impartial trial of said
cause in said court; wherefore your petitioner prays
that a change of venue may be awarded by this court,
in said cause, and that said cause may be sent to
some other court and county to be tried, where the cause
is complained of do not exist; and your petition-
er will ever pray &c.

attest. J. C. McElgish

Baptiste +
mark

State of Missouri } p. Personally appeared before
County of St Louis } me the undersigned, a Justice
of the Peace within & for the county of St Louis, -
Baptiste, a boy of colour, who being by me duly
sworn, upon his corporal oath, swears, that
the facts set forth in the foregoing petition by
him subscribed, are true as he verily believes, and
that he cannot and does not expect a fair
trial & impartial trial of his said suit in said
petition mentioned, on account that the Judge
of said court is prejudiced against him and
his claim to freedom.

Taken, sworn to & subscribed
before me at the county & city
of St Louis, this 24th day of
November 1828.

Witness my hand & the seal
of the Court

Baptiste +
his
mark

Petition of Baptists
for a change of name.

Filed & Decemr 1828

Received of the
Baptist Church of
the City of New York
the sum of \$1.50
for the purchase of
a copy of the
petition of the
Baptists of the
City of New York
for a change of name.
This receipt is
not valid unless
it is countersigned
by the Secretary
of the Church.

Witness my hand
this 1st day of
December 1828

Petition &
order

State of Missouri }
County of St Louis } Be it Remembered that heretofore to wit, at the March Term of the
Circuit Court for the County of St Louis in the year Eighteen Hundred and twenty five
on the Nineteenth day of May in the year aforesaid Isaac C. McKirk presents here
to the Court the petition of Mary, Carmelite, Joseph, Julie, Hellen, Marguerite
Cathliche, Antoine, Baptiste, Michael and Francois praying that they may be
permitted to institute suit against Pierre Chouteau Senr for establishing their
right to their freedom and that they may be permitted to sue as poor persons
thereupon the Court permit the Mary, Carmelite, Hellen, Marguerite, Antoine
Baptiste, Michael and Francois to sue as aforesaid and direct that an action
of assault and Battery and false Imprisonment be commenced in the name
of the said Mary, Carmelite, Hellen, Marguerite, Antoine, Baptiste, Michael
and Francois by their next friend against the said Pierre Chouteau Senr
and assign Isaac C. McKirk, Hamilton R Gamble and Robert P Farris as their
counsel. and it is ordered by the Court that the said defendant permit the
said plaintiffs to have a reasonable liberty of attending their counsel and the
Court when occasion may require it and that the said plaintiffs shall not
be taken or removed out of the Jurisdiction of this Court and that the said
plaintiffs shall not be subject to any severity of treatment on account of
their said application for freedom. and afterwards to wit on the second day
of June in the year aforesaid Baptiste one of the petitioners aforesaid by his
attorney filed in the Office of the Clerk of the said Circuit Court his declaration
against the said Pierre Chouteau which said declaration is in the words and

Declaration figures following to wit; State of Missouri County of St Louis } In the Circuit
Court July Term 1825. Baptiste a free boy of color held in slavery who is
permitted by the Court to sue by Pierre Barribeau his next friend as a
poor person, by his attorneys Gamble & McKirk & Farris assigned as counsel
by the Court, complains of Pierre Chouteau Senr of a plea of trespass,
For that the said Pierre heretofore to wit; on the first day January in the
Year of our Lord Eighteen Hundred and twenty five, with force and arms
at the County of St Louis aforesaid, an assault did make upon the body
of the said Baptiste and then and there beat, bruised and ill treated him
the said Baptiste and kept and detained him in prison there against
his will without any reasonable or probable cause whatsoever and has
ever since kept and detained him the said Baptiste in prison there, and still
keeps & detains him in prison there against his will without any reasonable
or probable cause whatsoever contrary to the laws of this State; and the said
Pierre other wrongs then and there did to the said Baptiste against the peace
of the State. Wherefore the said Baptiste says he is greatly injured by the
said Pierre and has sustained damage to the amount of Five Hundred
dollars, and therefore he sues & Farris, Gamble & McKirk Attys for plff.-
and afterwards to wit on the said second day of June in the year aforesaid
the Clerk of the said Circuit Court endorsed thereon a writ of summons
in the words and figures following to wit; County of Saint Louis } The
State of Missouri } To the Sheriff of said County Greeting, We Command you
to summon Pierre Chouteau senior that he be and appear before the Judge
of our Circuit Court at the next term thereof to be held at the City of St Louis

within and for the County of St Louis on the fourth Monday in July next
then and there to answer unto Baptiste a free boy of Color who is permitted
by the Court to sue by Pierre Barribeau his next friend as a poor person
of a plea of trespass to the damage of said plaintiff of Five Hundred dollars
and have you then there this writ *Seal* Witness Archibald Gamble
Clerk of our said Court at office this second day of June 1825. Archi-
bald Gamble Clerk and afterwards to wit; at the return term thereof the Sheriff of
the County of St Louis returned the same into Court with his return thereon endorsed in
the words and figures following to wit; Executed this writ on Pierre Chouteau Senr
June 14th 1825 in the City of St Louis by giving the writ & declaration to him to read
and his acknowledging the service thereof - John K Walker Sheriff by Dr. Simonds
Jr D. Shiff - and afterwards to wit; at the said July term of the said Circuit Court
in the year aforesaid the said defendant by his attorney filed his plea in the
words and figures following to wit; C C C Louis July Term 1825. Pierre Chouteau and
Baptiste a boy of Color by his next friend P^r Barribeau. And said Pierre
Chouteau by his attorney comes and defends the force and injury when &c and
says as to the assaulting, beating bruising ill treating and imprisoning the said
Baptiste as in said declaration mentioned that the said Baptiste ought not to
have or maintain his aforesaid action thereof against him because he says that
before and at the time when &c in said declaration mentioned to wit at St Louis
aforesaid the said Baptiste was a slave in the lawful possession and service of
said Pierre Chouteau wherefore the said Pierre then and there detained and
held and still doth detain and hold said Baptiste in his service and possession
which detention and possession are the assaulting, beating ill treating bruising
and imprisoning the said Baptiste in said declaration mentioned and this
the said Pierre Chouteau is ready to verify wherefore he prays Judgement if
the said Baptiste ought to have or maintain his aforesaid action against him
Lawless cozens Att^r and afterwards to wit at the same term of the said Circuit Court
in the year aforesaid the said plaintiff by his attorney filed his Demurrer to said
plea in the words and figures following to wit Baptiste vs Pierre Chouteau &c. And
the said plaintiff says that the said plea of the said defendant and the matters
and things therein contained in manner and form as the same are therein stated
and set forth are not good and sufficient in law to bar or preclude him the said
plaintiff from having and maintaining his aforesaid action thereof against
the said defendant and that he the said plaintiff is not bound by the law of the
land to answer the same and this the said plaintiff is ready to verify; wherefore
for want of a sufficient plea in this behalf the said plaintiff prays Judgement
&c McGirk & Janis for plff Loinder Dem^r Lawless cozens Att^r - and afterwards to
wit at the said July term of the said Circuit Court in the year aforesaid come the
said parties by their attorneys whereupon all and singular the premises are
by them submitted to the Court which being seen and heard and by the Court
here fully understood and mature deliberation being thereupon had for that it
appears to the Court that the said plea of the said defendant and the matters and
things therein contained in manner and form as the same as therein stated and
set forth are not good and sufficient in law to bar or preclude him the said
plaintiff from having and maintaining his aforesaid action thereof against
the said defendant and that the said Plaintiff is not bound by the law of the
land to answer the same - and afterwards to wit at the said July Term on the Thirty

Plea

Demurrer to
plea

Loinder

Demurrer
Sustained

first day of August in the year Eighteen Hundred and twenty five the said Pierre Chouteau
plea by his attorney filed his plea in the words and figures following to wit: P Chouteau Sen
adsm. Baptiste. And the said defendants come and defend the wrong and injury
when &c and say that that they are not guilty of the said several supposed trespasses
or of any of them in manner and form as the said Baptiste hath above thereof
complained against them and of this put themselves upon the Country &c Cozens
for defts. And the said Baptiste doth the like &c Gamble, McGirk & Farnis Attys for
plff. - and afterwards in vacation to wit on the thirty first day of October in the

Replication Year Eighteen Hundred and twenty five the said Baptiste by his attorneys filed
his Replication in the words and figures following to wit: Baptiste a free boy of
Color vs Pierre Chouteau &c In the Circuit Court of St Louis County In Vacation
before the November Term 1825. and the said Baptiste by his attorneys as to
the said plea of the said Pierre by him first above pleaded as to the said several
trespasses in the Introductory part of that plea. Mentioned & therein attempted
to be justified saith that he the said Baptiste by reason of any thing by the
said Pierre in that plea alleged, ought not to be barred from having & main-
taining his aforesaid action thereof against him the said Pierre because he
saith that he the said Baptiste was not at the time of the committing of the
said several trespasses in his declaration thereof set forth, by him the said
Pierre. nor is he now a slave, as the said Pierre in his said plea hath above
alleged but that he the said Baptiste was at the time of the committing
of the said several trespasses by the said Pierre in his said declaration above
set forth & is now a free person by & according to the usages customs & laws
of the land & ought not to be held & detained as a slave in the possession &
service of the said Pierre, nor of any other person by or under whom the said
Pierre may claim & this he the said Baptiste prays may be enquired of by the
Country &c Gamble, McGirk & Farnis Attys for plff. - and the said cause was continued
from term to term until the November term of the said Circuit Court in the Year
One thousand Eight Hundred and twenty Eight the plaintiff by his attorney presents to
the Court his petition verified by affidavit praying for a change of venue in this case, it
is therefore ordered by the Court that the venue be changed to the County of St Charles
in the second Judicial Circuit of this State and that the Clerk of this Court do certify
and transmit a full transcript of the Record and proceedings in this case together
with all papers filed in the cause and appertaining to or forming a part of the
Record to the Clerk of the Circuit Court for the County of St Charles at the next term

Petition for
Change of Venue thereof. - and the petition and affidavit aforesaid are in the words and figures following
to wit: Baptiste a boy of Colour, vs. Pierre Chouteau &c So Suit for freedom in the Circuit
Court of St Louis county 1828 The petition of Baptiste the above named plaintiff
represents to this Honorable Court that he fears he will not receive a fair trial in
this Court in which his suit above mentioned is pending. on account that he verily
believes the Judge thereof is prejudiced against him and his claim to freedom, so
that he cannot & does not expect a fair and impartial trial of said cause in said
Court; wherefore your petitioner prays that a change of venue may be awarded
by this Court in said cause, and that said cause may be sent to some other Court
and county to be tried where the causes complained of do not exist and your petitioner
will ever pray &c Baptiste ^{his} ~~mark~~ Attest, J. C. McGirk. State of Missouri County of St
Louis &c. Personally appeared before me the Undersigned, a Justice of the Peace
within & for the County of St Louis. - Baptiste a boy of Colour who being by me duly

sworn, upon his corporal oath saith that the facts set forth in the foregoing petition by him subscribed are true as he verily believes, and that he cannot and does not expect a fair and impartial trial of his said suit in said petition mentioned on account that the Judge of said Court is prejudiced against him and his claim to freedom. Baptiste ^{his} _{mark} = Taken sworn to & subscribed before me at the County & City of St Louis this 24th day of November 1828 Clement B Penrose Justice of the peace.

State of Missouri }
County of St Louis } I, Archibald Gamble Clerk of the Circuit Court for the County of St Louis do certify that the foregoing is a full transcript of the Record and proceedings in the case of Baptiste versus Pierre Chouteau Senior as the same now remains in my Office —

Given under my Hand and the Seal of the said Circuit Court at Office this Twelfth — day of March in the Year of Our Lord Eighteen Hundred and Twenty Nine —

Archibald Gamble Clerk

The fees due in the above case to the following named officers of the Court are —

To A Gamble Clerk St Louis Circuit Court for this	\$ 2. 40
Transcript — Excluding Tax —	5. 26
" Same for Costs in this suit —	1. —
To R Walker late Sheriff of St Louis	\$ 8. 66

In all Eight Dollars & Sixty Six cents
Archibald Gamble Clerk —

Baptiste
vs
Change of Venue
Pierre Chouteau Sr

- Change of Venue to St Charles -

Transcript — \$ 2. 40
Tax — 1. —

Filed 17th March 1829
Win Chouteau Jr C.C.C.

State of Missouri
 County of St Charles } ss: Be it remembered that on the
 seventeenth day of March in the year of our Lord Eighteen
 hundred and twenty nine, was filed in the office of the
 clerk of the circuit court for the said county of St Charles, a
 transcript of the record and proceedings in the case of "Baptiste
 against Pierre Chouteau senior," certified from the circuit
 court of the county of St Louis, on an order of change of venue
 to the said county of St Charles: in which said cause, at the
 October Term of our said court for the year aforesaid, on the
 first day thereof, and the fifth of October, aforesaid, the following
 proceedings were had = to wit:

"Baptiste } Petition for Freedom
 " ^{vs} Pierre Chouteau sr } On motion and affidavit filed, it is or-
 " = dered that this case be continued at the cost of the Defendant."

And afterwards the said cause was continued from
 term to term in our said court until the June term thereof
 for the year Eighteen hundred and thirty five, when the fol-
 = lowing order was made = to wit

"Baptiste } Tuesday - June 9 - 1835
 " ^{vs} } Petition for Freedom.
 " Pierre Chouteau sr } The Judge of this court having been
 " of counsel for one of the parties to this action, it is ordered by the
 " court that the venue be changed to the county of Jefferson, in
 " the seventh judicial circuit of this ^{state} ~~court~~, and that the clerk
 " of this court do certify and transmit a full transcript of the
 " record and proceedings in the cause - together with all papers
 " appertaining to and filed in the same - to the Clerk of the circuit
 " court for the said county of Jefferson, at the next Term thereof."

State of Missouri
 County of St Charles } ss: I, William Christy, Jr, clerk of the
 circuit court within and for the county aforesaid, certify
 the above to be a full and correct transcript of the record

and proceedings in the above case of "Baptiste against
Pierre Chouteau s^r," as the same now remain of record in my
office - accompanied by all the papers appertaining to s^d cause.



Given under my hand and the seal
of said court at office in the Town of St Charles
this 27th day of October A.D. 1835.

Fees in St Charles

Circuit court }

William Christy Jr clerk

for costs of this suit	\$8.10
" this transcript	.32 1/2
" certificate & seal	.50
" Tax	.62 1/2

9.55

" Forwarding papers
to Herculaneum
fifty miles }

5.00
<u>\$14.55</u>

Baptiste
as
Pierre Chouteau
Change of
name

Clark's fees \$14.53

Baptiste
 vs
 Pierre Chouteau Jr } Sent for Freedom

Be it remembered that at the trial
 of this cause it was admitted that the plaintiff
 is the son of a woman named Margueritte
 who is the daughter of a woman named
 Marse Scipin mentioned in the depositions
 herein after set forth
 The plaintiff read in evidence the following depositions,
 (here insert the depositions marked A as
 in Margueritte's case)
 The plaintiff also read in evidence the
 statement of Edw B & Lucas as follows
 (here insert the statement marked A 2
 The defendant then read in evidence
 the following depositions / here insert the
 depositions marked A 3 -
 Edw Payson a witness for defendant
 testified as follows / here insert his
 testimony as in Margueritte's case)

No other evidence being given the defendant by
 his counsel moved the court to instruct the jury
 as follows -

here insert the instructions marked A a as
 in Margueritte's case)
 which instructions the court refused to give
 and the defendant excepts to the opinion of
 the court refusing said instructions -

And the defendant prays the court to
sign & seal this bill of exceptions which
is done accordingly - this 10th Nov 1830

Wm Scott Secy
cc

In the Supreme Court - 3^d Judicial ~~Circuit~~ District

June Term 1837 - Monday 26 June 1837

Pierre Chouteau

vs

Baptiste

Appeal from Jefferson Circuit Court

Now at this day come again the parties aforesaid by their respective attorneys and the court here being now sufficiently advised of and concerning the premises, do consider and adjudge that the judgment aforesaid in form aforesaid by the said ^{Circuit} Court rendered be in all things affirmed and stand in full force, and it is further considered, that the said Baptiste, the appellee, recover of the said Chouteau the appellant, his costs and charges by him about his defence in this behalf expended and that he have thereof execution.

State of Missouri

3^d Judicial District

I John Clerk of the Supreme Court in and for said District certify the foregoing to be a true copy of the judgment of said Court in the case of Pierre Chouteau vs - Baptiste as the same now remains of Record in my Office

In testimony whereof I have hereunto set my hand & affixed the seal of said Court at Office in the city of St Louis this 21st day of July AD 1837

W. Ruland Clerk

Supreme Court June Term 1894

Gene Houston

vs

Bakelite

Judgment

Filed Oct 7th 1887.

W. H. B. B. B.