

Jefferson County Circuit Court  
Circuit Court - CRIMINAL  
December 38, No. 31

State

VS

Porter, James P.

Adultery

Change of venue from St. Louis  
County; cohabited with Louisa  
Matheny; defendant filed insolvent  
debtor petition after being jailed for  
not paying \$50 judgment

Box #

4 Folder # 24

1st Court quashed

State of Missouri  
County of St Louis ss. The Grand Jurors for the State of Missouri  
empanelled, sworn and charged to enquire for the body of  
the County of St Louis upon their oath present, That James P.  
Porter late of the County of St Louis laborer on the First  
day of July in the year of our Lord One thousand Eight  
hundred and thirty Eight and from that day to the tenth  
day of ~~August~~ Eighteen hundred and thirty Eight, did lewdly  
and lasciviously, associate and cohabit with one Louisa  
Matheny of the County of St Louis aforesaid, single  
woman, he the said James P Porter during all the  
time aforesaid, being a married man and having a  
lawful wife alive; Against the form of the Statute  
in such case made provided and against the  
peace and dignity of the State.

And the Jurors aforesaid upon their Oath, aforesaid do further present that James P Porter late  
of the County of St Louis laborer on the First day of  
July in the year of our Lord Eighteen hundred and thirty eight  
and from that day to the tenth day of ~~August~~ Eighteen  
hundred and thirty Eight, at the County aforesaid  
did then and then live in a state of Open and  
notorious adultery, with one Louisa Matheny of the County  
aforesaid, single woman, he the said James P. Porter  
during all the time aforesaid being a married man  
And having a lawful <sup>Contrary to the form of the Statute in such case made provided</sup> wife alive; Against the peace  
and dignity of the State.

John Kent  
Circuit attorney

The State  
of Indiana  
James P. Porter  
Secretary

Filed September 19<sup>th</sup> 1838  
John R. Reed Clerk

Witnesses  
Virginia B. Porter  
James M. Reed  
David Miller  
John Porter  
Mary Porter  
Samuel Kincaid

Not in full  
At test  
E. J. Porter  
James

**County of St. Louis, sct.**

**THE STATE OF MISSOURI,**

*To the Sheriff of the County of St. Louis—GREETING.*

We command you to take *James P. Porter* \_\_\_\_\_.

if he be found in your county, and him safely keep, so that you have his body before the Honorable Judge of our Circuit Court, now in session at the City of St. Louis, within and for the County of St. Louis, forthwith to answer unto the State of Missouri, of an indictment found against him by the Grand Inquest for the body of the county of St. Louis,

for *Adultery* \_\_\_\_\_

\_\_\_\_\_ contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State.

**Witness, John Ruland,** Clerk of our said Court with the seal thereof, hereto affixed, at office in the City of St. Louis, this *Nineteenth* \_\_\_\_\_ day of *September* \_\_\_\_\_ in the year of our Lord eighteen hundred and *thirty eight*

*John Ruland* Clerk.

The State of Missouri  
James P. Porter

Executed this writ and had  
the body of James P. Porter  
in open court on the 20<sup>th</sup> of  
September 1838  
Service of \$1.00 M. Brotherton  
Sheriff

THE STATE OF MISSOURI,

County of St. Louis, set.

To the Sheriff of St. Louis County---GREETING.

You are hereby commanded to summon

*James Walker, Lydia Walker  
Mary Calvert Wm Calvert, Nathan Porter and Williams  
Jacob Leach and Jacob Paul Franklin and Grace*

that setting aside all manner of excuse and delay, he <sup>be</sup> and appear in proper person  
before the Judge of our Circuit Court, on the *14th November inst*

at the city of St. Louis, then and there to TESTIFY,  
and the truth to say, in a certain matter of controversy now pending in our said Court

wherein

*the State of Missouri is*

plaintiff and

*James P. Porter is*

defendant on the part of *defendant*

and have you then and there this writ.

WITNESS, **JOHN RULAND**, Clerk of our said Circuit Court,

at the City of St. Louis, this

day of

*21*  
in the year of our Lord, eighteen hundred and thirty-*eight*

*John Ruland*  
CLERK, C. C. *by*

*Jacob Leach*

Apr. 7. 1838  
Cnr

State  
or  
J R Porter

Deft  
Isaac Hibler 12  
Lydia Hibler 12  
Mary Calvert 12  
Wm Calvert  
Mathew Porter 13  
John Williams  
Jacob Lash  
Mrs Lash  
Paul Franklin  
Thos Pence

14th Nov

Filed Dec 10th 1838

Mathew Porter

Executed this with by reading it  
to all the within named witnesses of  
Jeset Jacob Lash Wm Calvert and John  
Williams not found in my county  
I do therefore Sheriff  
dinner 3.50  
over 32 \$ 3.87 1/2

STATE OF MISSOURI,

COUNTY OF ST. LOUIS, SCT.

To the Sheriff of St. Louis County,—Greeting:

You are hereby commanded to summon

*Martin Calvert, the Porter Cynthia Porter, then  
Ebenes William Hale*

that setting aside all manner of excuse and delay, they be and appear in proper person  
before the Judge of our Circuit Court, on the *14th March next*

at the city of St. Louis, then and there to testify,

and the truth to say in a certain matter of controversy now pending in our said Court,  
wherein *the State of Missouri is*

plaintiff and *James O. Porter is*

defendant on the part of *deft*

and have you then and there this writ.

**Witness, JOHN FULAND,** Clerk of our said Circuit Court, at

the City of St. Louis, this

*2* day of *March*

in the year of our Lord, eighteen hundred and thirty-*eight*

*John Fuland* CLERK, C. C. *by*

*Geo. W. Hyde*

Nov 7. 1838

State

James P Porter

deft

B F Buchanan

Martin Calvert

Pro Porter

Cynthia Porter

Thos Grace

William Hale

14<sup>th</sup> Nov

Filed Dec 10<sup>th</sup> 1838

J Mathew

C/k

Executed this writ in the county of  
St Louis by reading it to all the within  
named witnesses except Martin Calvert  
who is not found in my county

M Brotherton Sheriff

Service Proven # 2.62 1/2

12.50  
1.50  
14.00

STATE OF MISSOURI,

COUNTY OF ST. LOUIS, SCT.

To the Sheriff of St. Louis County,—Greeting:

You are hereby commanded to summon

*and it appears, Elance Butler, Geo Porter, Cynthia Mary  
Porter Samuel Sturges John Bingham  
that setting aside all manner of excuse and delay, they be and appear in proper person  
before the Judge of our Circuit Court, on the 14<sup>th</sup> Nov 1861*

at the city of St. Louis, then and there to testify,

and the truth to say in a certain matter of controversy now pending in our said Court,  
wherein *the State of Missouri* is  
plaintiff and *James O. Porter* is  
defendant on the part of *James O. Porter*

and have you then and there this writ.

Witness, JOHN FULFORD, Clerk of our said Circuit Court, at

the City of St. Louis, this

3

day of

in the year of our Lord, eighteen hundred and thirty-

*eight*

CLERK, C. C. day

*See above*

Oct 27. 1838

State

Porter

Wm

X Wm at alias Porter

X James H. Brown

X Samuel Miller

X Wm Porter

X Cynthia M. Porter

X Samuel M. Porter

X John D. Bingham

14th May

Dec 10/1838

Wm at alias Porter

Executed this writ in the county of  
St Louis by reading it to all the within  
named witnesses &

Mc Brotherton Sheriff

Service \$ 3.50

STATE OF MISSOURI,

COUNTY OF ST. LOUIS, SCT.

To the Sheriff of St. Louis County,—Greeting:

You are hereby commanded to summon

*Sam. B.*

*W. H. Martin*

*Robert*

that setting aside all manner of excuse and delay, he be and appear in proper person before the Judge of our Circuit Court, ~~on the~~ *for the with*

at the city of St. Louis, then and there to testify,

and the truth to say in a certain matter of controversy now pending in our said Court, wherein *the State of Missouri is* plaintiff and *James Patton is* defendant on the part of *defendant*

and have you then and there this writ.

Witness, JOHN RULAND, Clerk of our said Circuit Court, at

the City of St. Louis, this *fourth* day of *November*

in the year of our Lord eighteen hundred and thirty-*eight*

*John Ruland*  
CLERK, C. C.

Edw. Christman

~~13 of 11~~

George Henderson

13 of 11

Attest  
as  
James P. Porter

Subscribed for

William B. Wait

for three the

that Lewis near  
the college & has  
latency was the it

Demands to the hands

Filed Dec 10 1838

Wm. A. Thayer

Executed this will in the county  
of St. Louis by reading it to the within  
named witnesses -

Mc Brotherton Shippy

Service 50  
50

STATE OF MISSOURI,

COUNTY OF ST. LOUIS, SCT.

To the Sheriff of St. Louis County,—Greeting:

You are hereby commanded to summon

*Thomas J Payne*  
& *Charles Sanders*

that setting aside all manner of excuse and delay, he be and appear in proper person before the Judge of our Circuit Court, on the *14<sup>th</sup> inst*

at the city of St. Louis, then and there to testify,

and the truth to say in a certain matter of controversy now pending in our said Court,

wherein

*The State is*

plaintiff and

*of order is*

defendant on the part of

*defendant*

and have you then and there this writ.

**Witness, JOHN F. LEAND,** Clerk of our said Circuit Court, at

the City of St. Louis, this

*12*

day of

*November*

in the year of our Lord, eighteen hundred and thirty-*8*

*John Mulcahy*

CLERK, C. C.

The State

vs  
Porter

Wm  
+ Thos J Payne  
+ Chas Sandoz

for 14th

Filed Dec 10th 1839

Shun Ticey Clerk

Executed this writ in the County  
of St Louis by delivering a true copy  
thereof to Thomas J Payne and by  
reading it to Chas Sandoz on the 14th  
day of November 1839

Service s.o.

Mo Brotherton Sheriff

James P. Porter  
advm  
The State

James P. Porter on his oath says that  
he was taken by surprise by the  
testimony of <sup>Sergeant</sup> J. H. Sigan in the  
trial of said Cause & he he was he  
can prove if a new trial is granted to  
him that said <sup>Sergeant</sup> testified to a fact  
which operated strongly against him  
and which fact so testified to had no  
existence. The affiant was surprised &  
did not guard against the evidence  
of said Sigan because knowing said  
Sigan was summoned as a witness  
against him affiant last Monday or  
Tuesday asked said Sigan to tell affiant  
if he thought it proper to state what  
he knew in relation to the charge  
of Adultery made against affiant  
when said Sigan without hesitation  
replied he knew nothing more than  
report & being affiant & Miss Matheny  
at the same house & about the house  
together and he then stated that he  
had never seen any improper or  
indecent conduct between said affiant  
& Matheny

James P. Porter

Sworn to & subscribed in open Court  
Nov. 16<sup>th</sup> 1838  
Jno. Ireland Clerk

J O Butler

acum

State

Applicant for

Ann Laid

Filed Nov: 16<sup>th</sup> 1858  
Pro Recorder Clerk

James O Porter

advm

The State of Missouri

In the Court of the Circuit

The defendant comes into court & moves  
to set aside the verdict & grant him a  
new trial & files here the following reasons  
therefore

- 1 The verdict ~~is~~ contrary to the evidence
- 2 The verdict ~~is~~ against the weight of  
evidence

- 3 The Court suffered in proper evidence  
to go before the Jury

H. B. Bond Atty

for Def

- 4 The defendant was surprised by the testimony  
of J. B. Bond the Bond being having  
seen the defendant was found that this  
defendant he was a witness against him  
but had never seen any thing in his conduct  
that was bad but believed the defendant  
was a gentleman

H. B. Bond Atty

for Def

Amos O. Parker

Adm.

State of New Jersey

Matthew Richardson

for Anna Neal

Filed Nov: 16<sup>th</sup> 1838

In Record Book

James P Porter

adame

The State of Missouri,

In St Louis Circuit Court

Indictment for a person

& Notorious Adultery

James P Porter the petitioner states that he is charged with living in a person & Notorious Adultery in St Louis County in said State within the last year with one Louis Mathony. Your petitioner states, that heretofore his former wife Virginia in this Court. Petitioner for a divorce on the ground that your Petitioner had abandoned her & was living in a state of adultery with said Mathony. Your Petitioner states that at the last August Term of this Court the case of Virginia Porter against your Petitioner was finally heard & determined & said Virginia was divorced from the Bands of Matrimony by her Contract with this <sup>the appellant</sup> appellant is informed & believes that that on the hearing of said cause evidence was adduced to prove that this appellant had been guilty of adultery with said Mathony & that this Court in that case found this appellant guilty of Adultery. This appellant for these reasons believes the Judge of this Court is & must be prejudiced against him so that he fears he can not have a fair trial without a change of venue

he therefore prays the venue may be  
changed & the cause sent to some  
county where the cause complained  
of may not exist

James P Porter

The above petitioner on his oath says  
the facts above stated are true.

James P Porter

Sworn to & subscribed  
in open court Nov: 17<sup>th</sup> 1838  
Geo Neiland Clerk

James P Porter

vs

State of Missouri

Petition for a  
Change of Venue

Filed Nov: 17<sup>th</sup> 1838

Geo Neiland Clerk

Filed Dec 10<sup>th</sup> 1838

Wm A. Thomas

Att'y

Dickson  
Hubler

State of Missouri \* County of St Louis set.

Indictment.

Be it remembered that heretofore to wit at the September Term of the Circuit Court of the said county of St Louis, and on the nineteenth day of said month the Grand Jurors of the State of Missouri empanelled sworn and charged to enquire in and for the body of the county of St Louis, delivered into said court by the hands of their foreman an Indictment against James P Porter which is in the words and figures following to wit - "State of Missouri. County of St Louis. ss. The Grand Jurors for the State of Missouri empanelled sworn and charged to enquire in and for the ~~case~~ body of the county of St Louis upon their oath present, that James P Porter late of the county of St Louis laborer on the first day of July in the year of our Lord one thousand eight hundred and thirty eight and from that day to the tenth day of August, Eighteen hundred and thirty eight, did lewdly and lasciviously, associate and cohabit with one Louisa Matheny, of the county of St Louis aforesaid, single woman, he the said James P Porter, during all the time aforesaid, being a married man and having a <sup>lawful</sup> wife alive; against the form of the statute in such case made and provided and against the peace and dignity of the state. And the Jurors aforesaid upon their oath aforesaid do further present that James P Porter late of the county of St Louis laborer, on the first day of July in the year of our Lord Eighteen hundred and thirty eight and from that day to the tenth day of August, Eighteen hundred and thirty eight, at the county aforesaid did then and there live in a state of open and notorious adultery, with one Louisa Matheny of the county aforesaid, single woman, he the said James P Porter, during all the time aforesaid being a married man and having a lawful wife alive contrary to the form of the statute in such case made

Indorsement.....

Capias.....

Return.....

"and provided and against the peace and dignity of the state  
"John Bent Circuit attorney" On which said Indictment was  
"the following indorsement to wit - " A true Bill Edw Brooks  
"forme" Whereupon the clerk of said Circuit Court issued  
a capias which is in the words and figures following to wit -  
"County of St Louis sc. The State of Missouri. To the Sheriff  
"of the County of St Louis. Greeting. We command you to take  
"James P Porter, if he be found in your county and him  
"safely keep, so that you have his body before the Honorable  
"Judge of our Circuit Court, now in session at the city of St Louis  
"within and for the county of St Louis, forthwith to answer  
"unto the State of Missouri, of an indictment found against  
"him by the Grand Inquest for the body of the county of St Louis  
"for Adultery, contrary to the form of the statute in such  
"Case made and provided, and against the peace and dig-  
"nity of the State. §8 Witnes, John Puland, clerk of our  
"said Court with the seal thereof, hereto affixed, at office in  
"the City of St Louis, this Nineteenth day of September, in the  
"year of our Lord, eighteen hundred and thirty eight. John  
"Puland Clerk." On which was the following Sheriff's Re-  
turn to wit - " Executed this writ and had the body of James  
"P Porter in open court on the 20<sup>th</sup> of September 1838 M Bro-  
"therton Sheriff." - And afterwards at the November Term of  
said Circuit Court and on the fourteenth day of said month  
the following proceedings were had in said cause to wit - "The  
"State of Missouri - vs - James P Porter. Adultery, Now at this day  
"comes as well the Circuit attorney, who prosecutes for the State in  
"this behalf as the said defendant in his own proper person, who  
"being demanded of and concerning the premises, and how he  
"will acquit himself thereof, saith he is not guilty in manner  
"and form as charged upon him in the said indictment, and for  
"his trial puts himself upon the country, and the Circuit attor

"may who prosecutes as aforesaid doth the like, thereupon the said  
"defendant by his attorney moves the court to quash the first count  
"of said indictment, which motion being seen and heard, and by the  
"court here fully understood, it is considered that said motion be  
"sustained - therefore it is considered by the court that the said state  
"take nothing by said ~~count~~ first count, but that said defendant go  
"thereof without day." and afterwards on the fifteenth day of November  
"in the year aforesaid the following further proceedings were had  
"in said cause to wit "The State of Missouri - vs - James P Porter. A  
"dultery. Now at this day comes again as well the circuit attorney  
"who prosecutes for the state in this behalf as the said defendant  
"in his own proper person, and thereupon come also a jury to wit  
"Solomon J Levi, Charles D Gillespie, James L Jamison, James  
"Marshall, Edward Chouteau, Robert Howard, Benjamin F Wimer  
"Charles Welsh, George M Moore, William W Kitzmiller, George  
"Edwards, Lambert Deakers, twelve good and lawful men who  
"being duly elected tried and sworn the traverse between the parties  
"aforesaid well and truly to try, and true deliverance make, upon  
"their oath aforesaid say that the said defendant is guilty in  
"manner and form as charged upon him in the second count of  
"said indictment, and they assess his punishment at a fine of  
"one hundred dollars & twenty days imprisonment in the com-  
"mon jail." And afterwards to wit on the sixteenth day of Novem-  
"ber eighteen hundred and thirty eight the following motion for a  
"new Trial was filed in said Cause to wit - "James P Porter adm -  
"The State of Missouri - In St Louis Circuit. The defendant comes  
"into court and moves to set aside the verdict & grant him a new  
"trial and files here the following reasons therefor - 1, The verdict is  
"contrary to the evidence 2 The verdict is against the weight of evidence  
"3 The court suffered improper evidence to go before the jury. 4 The  
"defendant was surprised by the testimony of Jesse H Dixon - the said  
"Dixon having since the indictment was found told the defendant

Motion for New Trial...

Affidavit  
11

"he was a witness against him but had never seen any thing  
"in his conduct that was indecent but believed the defendant  
"was a gentleman. I A Bird atty for Deft." And on the same day  
and year last aforesaid the following affidavit for a new  
Trial was filed in said Cause to wit - "James P Porter-adm -  
"The State. James P Porter, on his oath says that he was taken by  
"surprise by the testimony of Jesse H Dixon on the trial of said  
"Cause & he believes he can prove if a new trial is granted to him  
"that said Dixon testified to a fact which operated strongly a -  
"gainst him and which fact so testified to had no existence  
"The affiant was surprised & did not guard against the evidence  
"of said Dixon because knowing said Dixon ~~Dixon~~ was summon  
"ed as a witness against him, affiant last Monday or Tuesday  
"asked said Dixon to tell affiant if he thought it proper to state  
"what he knew in relation to the charge of adultery made  
"against affiant, <sup>to him,</sup> when said Dixon without hesitation replied  
"he knew nothing more than report, and seeing affiant and  
"Miss Matheny at the same house & about the house together  
"and he then stated that he had never seen any improper  
"or indecent conduct between said affiant and Matheny.  
"James P Porter. Sworn to and subscribed in open court Nov  
"16<sup>th</sup> 1838. Notuland Clerk." And afterwards on the seventeenth  
day of said month in the year aforesaid the following further  
proceedings were had in said Cause to wit - "The State of  
Missouri - vs - James P Porter. Now at this day comes the said  
"Circuit attorney who prosecutes for the state in this behalf, as  
"well as the said defendant by his attorney and thereupon the  
"said motion of the said defendant for a new trial is by them  
"submitted to the court, which being seen and heard and by  
"the court here fully understood, it is considered that said  
"motion be sustained - thereupon the said defendant moves  
"the court for a change of venue of this cause and files his

sustained...

Venue changed...

Recognizance...

Petition for change  
of  
Venue.

"petition and affidavit therefor, and the Judge of this Court  
"being personally cognizant of the facts stated in said petition as  
"the ground for said motion, it is accordingly ordered that the  
"venue of this cause be changed to the County of Jefferson in the  
"ninth judicial Circuit of this state, and that the Clerk of this  
"Court certify the record and proceedings to the Clerk of the Circuit  
"Court for said County of Jefferson accordingly. Thereupon the  
"said James P Porter, as principal, and John Porter as his secu-  
"rity acknowledge themselves each to owe the state of Missouri  
"the sum of Three hundred dollars, to be levied of their respective  
"goods and chattels, lands and tenements - yet upon condition  
"that if said James P Porter, shall appear before the Circuit  
"Court for said County of Jefferson, on the first day of the  
"next term thereof to be begun and held at the Town of Mercurian  
"sum in said County on the second Monday after the fourth Mon-  
"day of this month, then and there to answer the indictment afore-  
"said for Adultery, and shall not depart said Court without leave  
"thereof then this recognizance to be void, otherwise to remain in full  
"force. And the said petition for for a change of venue above re-  
"ferred to is in the words and figures following to wit = "James  
"P Porter, adm, The State of Missouri = In the St Louis Circuit Court  
"Indictment for open and notorious Adultery. James P Porter the  
"petitioner states that he is charged with living in open and notorious  
"adultery in St Louis County in said State within the last year with  
"one Louisa Matheny. Your petitioner states that heretofore his former  
"wife Virginia in this Court petitioned for a divorce, on the  
"ground that your petitioner had abandoned her, and was  
"living in a State of Adultery with said Matheny, - Your petition-  
"er states that at the last August Term of this Court the case  
"of Virginia Porter against your petitioner was finally heard  
"and determined and said Virginia was divorced from the  
"bands of matrimony by her contracted with this affiant.

"This affiant is informed and believes that that on the hearing  
of said Cause evidence was adduced to prove that this affiant  
had been guilty of Adultery with said Matheny and that this  
Court in that case found this affiant guilty of adultery. This  
affiant for these reasons believes the Judge of this court is  
and must be prejudiced against him so that he fears he  
cannot have a fair trial without a change of venue - he  
therefore prays the venue may be changed & the cause sent  
to some County where the Cause complained of may not exist.  
James P Porter. The above petitioner on his oath says the  
facts above stated are true, James P Porter. Sworn to and sub-  
scribed in open court. Nov 17<sup>th</sup> 1838. John Ruland Clerk."

State of Missouri  
County of St Louis <sup>2<sup>nd</sup></sup> I John Ruland Clerk of the Circuit Court  
within and for the County of St Louis and Eighth Judicial Cir-  
cuit of the State of Missouri, certify the foregoing to be a full  
and true transcript of the record and proceedings of said  
court in the case of the State of Missouri vs James  
P Porter upon an indictment for Adultery, as the  
same now remain in my office.

In testimony whereof I have here-  
unto set my hand and affixed the  
seal of said Court at office in  
the city of St Louis this sixth  
day of December A D 1838.

W. Ruland Clerk



# COUNTY OF JEFFERSON, SCT.

THE STATE OF MISSOURI,

To the Sheriff of Saint Louis

County,—GREETING:

You are hereby commanded to summon Isaac Miller, Lyman Miller,

Henry Leavitt, William Leavitt, Nathaniel Porter

John Williams, Jacob Cook, John Cook, Paul

Franklin, Thomas Spencer, W. Buchanan, Leavitt

Leavitt, John Porter, William B. Pratt, Thomas

Barney, and Charles Leavitt, John E. Porter

Albanus & Nephew, Mahalia City.

that, setting aside all manner of excuse and delay, they be and appear in proper person before the Judge of our Circuit Court, on the eighth day of September, at the town of Her-  
laneum, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein the State of Missouri is plaintiff, and Leavitt is defendant, on the part of the defendant; and have you then there this writ.

Witness, HERMAN W. CLARK, Clerk of our said Circuit Court, at the town of Her-

laneum, this twenty-third day of September, in the year of our Lord one thousand eight hundred and thirty-two

Her. M. Leavitt  
CLERK, C. C.

Jefferson Co's Court  
April Term 1839.

State of Missouri } April  
vs } 8<sup>th</sup>  
James P. Porter. } 1839

Wit's for Defendant

Isaac Hilder

Lydia Hibler

Henry Calvert & Wm Calvert

Matthew Porter & John Porter

John Williams

Jacob Lash. Sells & Lash

Paul Franklin

Thomas Spence

W B Buchanan

Eleazar Calvert

William B Wait

Thos J Payne

Charles Lardozes -

John C Porter

Catharine Shephard

Mahalia Pitty

File case April 6 1839

Wm Calvert & Co

Executed this writ in the county of St Louis by reading  
it to the within named Witnesses on the 26<sup>th</sup> February  
1839 except Matthew Porter, John Williams, Thomas Spence,  
William B Wait, Charles Lardozes not found in  
my county

Shew \$7.00  
5 monest 62 1/2  
\$7 62 1/2

Marshall Brotherton Sheriff  
By Benjamin Lacy D<sup>y</sup> Sheriff

COUNTY OF JEFFERSON, SCT.

THE STATE OF MISSOURI,

To the Sheriff of Saint Louis

County,—GREETING:

You are hereby commanded to summon

Virginia Bennett alias Porter,  
Diana H Dixon, Daniel Heiler, John Porter  
by the alias Porter, James Lincoln  
and John Wingland

that, setting aside all manner of excuse and delay, they be and appear in proper person before the Judge of our  
Circuit Court, on the eightth day of April next, at the town of Herculaneum, then and there to testify and the truth to say in a certain matter of controversy now pending in our said  
Court, wherein the state of Missouri is plaintiff,  
and James Porter and James Porter defendant,  
on the part of the Plaintiff

Witness, HENRY BATES, Clerk of our said Circuit Court, at the town of Herculaneum, this twenty third day of February,

in the year of our Lord one thousand eight hundred and thirty three

Wm. A. Bates, CLERK, C. C.

Profferson do to in court  
April Term 1839

State of Missouri } April 8<sup>th</sup>  
vs } 1839  
James P. Porter

Witnesses for Plaintiff

Virginia Bonnet alias Porter

James F. Dixon 26

Daniel Nobles

John Porter

John the slavey Porter

Samuel Kincaid

John Bingham

Filed April 8<sup>th</sup> 1839

W. M. Weathering  
W. M.

Executed this writ in the county of St. Louis  
by reading it to the within named witnesses on  
the 26<sup>th</sup> day of February 1839

Service \$ 3.50

Marshall Brotherton  
By Benjamin Lacy Dpt Sheriff  
Sheriff

James O. Porter

vs

Jefferson County Circuit Court

The State of Tennessee }

The said defendant came into Court &  
now that the verdict of the jury may be  
set aside & a new trial granted him for  
the following reasons

- 1 The verdict is not warranted by the evidence
- 2 It is contrary to evidence
- 3 It is against the weight of evidence
- 4 It is against the law of the land

Respectfully

James O. Porter

State  
vs  
J Porter

Motion for new  
trial.

Filed April 8<sup>th</sup>  
1839

J Mathew,  
clerk

State

Wm Porter }  
his attendance in the above case  
1 day attendance 50 miles travel \$3.50  
do not subscribe to  
before me a Justice of the Peace  
1839. Wm W. Woodward

6/12

State  
vs  
Porter

Filed Apr 9<sup>th</sup> 1839  
Matthews  
clrk

State

no

James Porter } Daniel Webster writing

in the above case showing

1 stop attendance at 50 miles travel \$3.30

Writing to Daniel 8th/89

All other expenses

Daniel Webster

6/15

State  
vs  
Porter

fee bill

filed aprie 9<sup>th</sup> 1839

J Mathews  
clerk

3  
Henry Beck

Superior County Circuit Court

vs.

The State of  
The People

The defendant in this case  
comes & moves in arrest of  
judgment in this case be-  
cause it is apparent from the record  
that the sum in bond be made was  
changed contrary to the law &  
this court has no jurisdiction.

Wm Bond atty  
for deft

Porter  
vs  
State }

Motion to arrest  
Magr

Book of  
Spells

Filed April 8<sup>th</sup> 1887

W. Mathews

clerk

The State of Missouri

James O. Carter

But remembered that on the trial of this cause the following is all the evidence produced in court, Daniel Nelson a witness produced in behalf of the State testified that he had known the prisoner & Louisa Matheny for some years that the father of prisoner lived in St Louis county about half a mile from Muthup that about three or four years past the prisoner was married & lived near Muthup in St Louis county that Louisa Matheny lived with the family of the prisoner & was his relation her mother was poor & she had no relations in Missouri to knowledge of Muthup except her mother & John Porter & his family one of which is the prisoner, that three or four years ago Miss Matheny left the county of St Louis & remained absent near three years that <sup>about a fortnight</sup> after Miss Matheny left St Louis county the prisoner also left said county & was absent near three years - that after Porter the prisoner & Miss Matheny had left their usual residence perhaps a fortnight after this Muthup having heard that prisoner had left his wife at the request of prisoner's wife daughter the prisoner & found him in St Louis at the Market house - prisoner then said he had taken Miss Matheny across the river & he intended to do something for <sup>her</sup> he denied any intention of abandoning his wife but said he was going away on business - The prisoner after an absence of about three years returned

to St Louis County. He returned Antwerp  
thinks in July or August A.D. 1838. He  
has since resided principally at his father's  
house in St Louis County. Shortly after the  
return of the prisoner as aforesaid Miss  
Mathew also made her appearance &  
remained at the house of David John  
Porter where prisoner resided. She had two  
children before prisoner returned his wife  
had David for a son & she obtained her  
divorce in August or September last.

Lieut. A. Dixon sworn in behalf of the State  
testified that last Summer he occupied a  
room in the house of John Porter in St  
Louis County. That in July last he thinks  
the prisoner returned to his father's house  
after an absence of some time. Prisoner told  
Lieut. he had while absent pursued the  
business of Boat Carpenter that he had  
been at Cincinnati, Louisville & New Orleans.  
Shortly after the return of the prisoner  
Lieut. saw Miss Mathew at the house  
of John Porter. The house of John Porter  
had four rooms one of which was  
occupied by Lieut. & family. He had  
frequently seen prisoner & Miss Mathew

One of which is the sleeping room of his  
father & Mother ~~the~~ another has no bed in  
it & the third room was used as a bed  
room for the rest of the family in this  
room was three beds in one of which he  
& the prisoner slept in another slept the  
two children of Mrs Porter by his wife in  
the other slept Miss Mart as she called  
her self <sup>otherwise Mathew</sup> & the two children but Miss  
does not know whether Prisoner & this  
Mrs Mart or Miss Mathew had any intercourse  
with each other when absent  
but Miss always slept with his brother  
when at his father's house, the Prisoner  
generally got up first the next saw  
any improper conduct between prisoner  
& the person called Miss Mathew their children  
even called the children of Benjamin  
Moyt whom she called her husband.  
The man heard them spoken of by any  
one in his father's family as the children  
of the Prisoner

at night he had seen them going into  
the same room together at night &  
that the door after them had seen  
her take one of her children & the prisoner  
the other & go together in same room  
he thought they acted very much like  
man & wife but he had seen no indecency  
or impropriety of conduct between the  
prisoner & Miss Matheny except as above  
stated he was not guilty of spying  
or eavesdropping about the house where  
they lived he & the prisoner had  
some difficulty & talk of fighting

John C. Porter testified as a witness produced for  
the prisoner testified that he was  
brother of the prisoner, that he lived  
with his father in St Louis, that prisoner  
returned after an absence of some three  
years in July last to his father's house  
where he has since remained that about  
a fortnight after this Louisa Matheny came  
to his father's house where she has since  
remained his father & family are her  
only relations near in Missouri she is  
his second cousin. There are three rooms  
in his father's house ~~occupied~~ used as the  
one occupied by Sarah Lyon

on the above evidence the Jury found  
the defendant guilty the defendant  
moved the court to set aside the  
verdict & grant a new trial &  
filed his reasons as follows / here  
copy the reasons the court refused  
to grant a new trial & to the decision  
of the court in overruling this motion  
the defendant accepts & tenders this  
Bill which is signed & made part  
of the record. David Storigers

James O. Porter  
Attorney  
State of Mo

Bill of Captations

Filed July 15/89  
J. M. Porter  
Att

# STATE OF MISSOURI,

## COUNTY OF JEFFERSON, SCT.

WHEREAS, *the State of Missouri* *vs. James W. Porter* *an* *Association for recovery* *damages amounting to the sum of fifty dollars. as well as the* *costs and charges about the suit in that behalf by heretofore*

At the Sheriff of the County of Jefferson GREENING.

at our Circuit Court, before our Judge

which to the said *State of Missouri* 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

*James W. Porter* costs; that you have the same before the Judge of our said court, on the *first* Monday of *August* next, to render to the said *State of Missouri* in your bailiwick, you cause to be made the aforesaid *damages and* costs; that you have the same before the Judge of our said court, on the *first* Monday of *August* next, to render to the said *State of Missouri* the *costs 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 *James W. Porter* if *he* be found in your bailiwick, and *him* safely keep, so that you have *his* body before the same Judge, on the said *first* Monday of *August* to satisfy the said *State of Missouri* of the aforesaid *damages and* costs, and that you certify to our said Judge how you execute this writ; and have you then and there this writ.

*John W. Bates*  
HENRY P. BATES, Clerk of our said Court, at HERCULANEUM, the

*eightth* day of *July* in the year of our Lord, one thousand eight hundred and thirty nine

*John W. Bates* CLERK, C. C.

I Received this Execution July 10th 1839

John Hammann Sheriff

Received on the within Execution fifty dollars July 10th 1839 Being the amount of the fine imposed as within By the Circuit Court No property found where on to levy the within Execution on to make the costs and I have the Body of the said James P. Porter in custody for the same

John Hammann Sheriff

Sh. Jeff. Circuit Court  
August Term 1839

State of Missouri vs  
of St. Louis County

vs Execution

James P. Porter

Receipt Apr 8th 1839 \$50.00

costs — 15.04

John A. Hays Clerk — 14.54

John D. St. Louis — 25.87

B. Brothers & Co. St. Louis — 4.88

J. Hammond St. Louis — 1.55

Sarah Miller Witness — 1.50

Henry Calvert — 1.50

Virginia Davis — 1.50

Wm. Calvert — 4.85

Dana Miller — 1.55

J. J. Miller — 1.00

John Calvert — 1.00

Chas. Vapner — 3.30

Dease & Co. St. Louis — 128.00

This Execution — 1.00

Printer & Execution 1.00

in City fees — 4.00

John S. Winkley — 134.00

paid July 8th 1839

John S. Winkley

The costs in this case being paid by the fees  
of John S. Winkley being John Hammann  
John S. Winkley being to John Hammann  
John S. Winkley

To the Clerk of the County Court within and for  
the County of Jefferson, State of Missouri, the petition  
of James P. Porter respectfully represents, that he  
is imprisoned in the jail of said County by John  
Hammond Sheriff of the County aforesaid for  
the costs of a certain prosecution, the State of  
Missouri vs said Porter, the petitioner prays that  
he may be permitted the benefit of the law  
for the relief of insolvent debtors, and submits  
the following Schedule

A debt due to H and J Tison (residing in St Louis, by  
account amounting to five dollars, said debt accrued  
for dry goods in St Louis

A debt due Louis Tison (residing in Carondelet,  
money loaned amounting to one dollar and fifty  
cents, said debt accrued in St Louis

A debt due John Porter residing in St Louis County  
amounting to <sup>twenty five</sup> ~~eight~~ dollars money loaned which  
accrued in said County of St Louis

A debt due Samuel Kirkland, residing in St Louis, due  
by note money loaned, twenty five dollars, which  
accrued in said County

A debt due James Whitney, residing in the Platte  
County by note for schooling amounting to twelve  
dollars which accrued in St Louis County

A debt due John F Darby, residing in St Louis  
twenty five dollars Lawyers fee which accrued in  
St Louis

A debt due Gustavus A Byrd residing in St Louis seven  
= ten dollars & sixty eight cents Lawyers fee which  
accrued in St Louis County

A debt due Joseph Leblond residing in St Louis County, due  
bill three dollars for goods & groceries, which accrued  
in St Louis County

A debt due Yates & Coors, residing in St Louis, account  
for work done one dollar sixty two cents, which

account with Lewis County  
a debt due John Porter residing in St Louis County  
fifty five dollars, money loaned which accrued in  
Jefferson County, also to Huntington & Boggins <sup>St Louis</sup> ~~County~~ seven dollars & no cents  
a debt due the officers of the Jefferson <sup>St Louis</sup> Circuit Court  
residing in said County Judgment upon a prosecution  
State of Missouri vs James P. Porter amounting to  
One hundred & Seventeen dollars, eighty seven and a  
half cents which accrued in said Counties

A list of the property belonging to said James  
Porter real personal or mixed in law or  
equity

A Tax title to a tract of land lying in St Louis  
County containing about 90 acres

State of Missouri  
County of Jefferson

James P. Porter being duly  
Sworn by the undersigned, upon his oath saith that  
I do swear that the account of my creditors and  
the inventory of my estate which are annexed to my  
petition & here with delivered are in all respects just  
and true, and that I have not at any time or in  
any manner whatsoever disposed of or made over  
any part of my estate for the future benefit of my  
self or my family or in order to defraud any of  
my creditors, & that I have in no instance credited  
or acknowledged a debt for a greater sum than I  
honestly and truly owed, and that I have not paid  
or caused to be paid or in any way compensated with  
any of my creditors with a view fraudulently to  
obtain the benefit of this act

Subscribed and Sworn  
to before me this 9<sup>th</sup> July

1839 Not. Matthew  
Clerk

James P. Porter

County of Jefferson Set  
The State of Missouri.

To the Sheriff of Jefferson  
County. Greeting.

Whereas James P. Porter in  
your custody, has applied to me John S.  
Matthews Clerk of the Circuit Court within  
and for the County of Jefferson aforesaid for  
the benefit of the Insolvent Laws of the State  
of Missouri, and having filed his schedule  
of Debts due by him, and of his real and  
personal property, and taken the oaths as  
required by Law. (These therefore are to  
command you that you release the body  
of the said James P. Porter from confinement  
in the jail of Jefferson County, and this  
shall be your warrant for so doing, and  
make return how you execute the same

In Witness whereof I have hereunto  
set my hand and affixed the  
seal of said Court at Office  
in the Town of Mercurianum the  
10<sup>th</sup> day of July AD 1839

John S. Matthews  
Clerk

Executed the within by releasing the body of James  
P. Porter from confinement in the jail of Jefferson  
County on the tenth day of July 1839

John Hammond Sheriff

Ex. Jefferson Circuit  
Decr Term 1839

State of Missouri }  
vs }  
James P. Porter }

Warrant to discharge  
Prisoner from jail

pleaded July 4<sup>th</sup> 1839

Matthew C. H.

James J. Porter's  
Application for the  
benefit of the insolvent  
laws.

Filed July 9<sup>th</sup> 1839.

Matthews Clk

|                                                    |                                    |                 |
|----------------------------------------------------|------------------------------------|-----------------|
| State                                              | April Term 1839 Sheriff fee        | 75              |
| James Porter                                       | To Committing Isaac Porter to Jail | 75              |
| Releasing him from the Jail                        | Bringing him before the Court      | 75              |
| Committing him to Jail                             | Releasing him from the Jail        | 75              |
| to Keeping Isaac Porter Prison <del>two</del> days |                                    | 34.12           |
|                                                    |                                    | <u>\$ 37.02</u> |

John Hammersmith Sheriff of the County  
of Jefferson

$$\begin{array}{r}
 92 \\
 \hline
 8/27 \ 6 \\
 \hline
 34
 \end{array}$$

filed Aug 6<sup>th</sup> 1789  
 J<sup>th</sup> Mathew  
 Clerk