

Tofferson County Circuit Court

Box 8 Folder 11

Case Files. Civil  
November 1853

Hiney, Basil

vs.

Huskey, William  
Huskey, Letitia  
Richardson, Matilda  
Richardson, Robert

Correction of deed

55 acres in S5 T38 R4E

Pazil Wiley  
vs

William Husky and  
Titia his wife formerly  
Titia Richardson  
Matilda Richardson  
Robert Richardson

In the Circuit Court  
of Jefferson County

Plaintiff states, That  
Jonathan Smith the admin-  
istrator of the estate of  
Andy Richardson deceased  
late of the County of

Jefferson and State of Missouri sold by order of  
the County Court of said County at the June  
term thereof 1879 to Johnson H. Alfred the  
following described real estate belonging to  
said deceased to wit The E  $\frac{1}{2}$  of Lot No. 2 of the  
N. E  $\frac{1}{4}$  of Sec. 3 Township 38 Range four East  
in Jefferson County aforesaid. Containing 55  $\frac{4}{100}$   
acres, but by mistake said land was described  
as being in Range five instead of range four  
as was the intention of said administrator and as  
it was believed to be by the said purchaser.

At the time of said sale it was distinctly stated  
to the bidder that the land was the same owned  
by said Andy Richardson and that there was there-  
on a dwelling house, out houses and a small  
farm

Plaintiff further states that the advertisement  
giving notice of the time terms and place of said  
sale, also stated that the land was of the estate of  
Andy Richardson and that there was thereon a  
dwelling house out houses and a small farm  
which advertisement together with the petition  
order of sale appraisement sale bill and Report  
are made exhibits in this suit & parts of this petition

Plaintiff avers that said deceased owned no such land in Range Five nor any other land in said Range, & that said land was understood to be by the appraisers when they viewed and appraised the same where it really was in range four and that the land they viewed and appraised and which was on the same day sold to said Alfred was the land on which said Richardson had lived, on which said improvements above spoken of were made and all parties concerned and the public and bidders present well understood <sup>and knew what land was selling and was actually sold</sup>

Plaintiff further states that said Administrator intended to and did sell the land in Range four known as the E 1/2 of Lot No. 2 of the N.E. 1/4 of Section five of Range four East containing 53 4/5 acres, and that the same was bought by said Alfred at the price of Fifty Dollars, and the purchase money has been fully paid to the estate of said Andy Richardson deceased.

Plaintiff further states that he is the owner of said land having bought the same of said Alfred, Administrator as will be seen by reference to his deed here filed marked "A" and which is made a part of this petition.

That the full intent and purposes of said sale so made as aforesaid may be carried into execution and that the intentions, objects and aims of the parties to said sale may be made effectual and binding plaintiff prays the Court to correct the mistake in the deed of said Administrator of Richardson to Alfred here to the Court shown so that it may read

Range ~~four~~ instead of Range five and for  
such other and further relief as the nature  
of his case demands & is in duty bound.

Plaintiff states that said defendant Purdy  
intermarried with Leticia a daughter of said  
Andy Richardson and that they and the other  
defendants who are infants are the heirs of  
said Andy Richardson.

Bazel Hiney  
By Pipkin  
his atty.

Philip Pipkin makes oath and says that  
the foregoing petition and the matter therein as  
stated he believes to be true.

Examined & subscribed before me  
Oct 15th 1853.

Philip Pipkin.

This is the sketch of the

1171

On the Lieutenant General  
Frederick James 1813

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Major Henry  
is

William Henry  
and wife & others

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Attendants to erect monuments  
in recognition of lands sold  
to J. H. Alfred -

John  
attys

Sold Oct 15th 1853  
The Old Town  
CEN

Bazile Hiney

vs

William Hensky and  
Letitia his wife formerly  
Letitia Richardson  
Matilda Richardson  
Robert Richardson

In the Circuit Court  
of Jefferson County

Plaintiff States that  
Jonathan Smith the admin-  
istrator of the Estate of Andy  
Richardson deceased, late

of the County of Jefferson and State of Missouri. Sold  
by order of the County Court of said County at the June  
term thereof 1849, to Johnson H. Alford the following  
described real Estate belonging to said deceased  
to wit: The E $\frac{1}{2}$  of Lot No 2. of the N E  $\frac{1}{4}$  of Sec 3, Township  
38, Range four East. in Jefferson County aforesaid  
containing 55  $\frac{42}{100}$  acres, but by mistake said land  
was described as being in Range five instead of  
Range four as was the intention of said, adminis-  
trator, and as it was believed to be by <sup>the</sup> said purchaser

At the time of said Sale it was distin-  
ctly Stated to the bidders, that the land was the same  
owned by said Andy Richardson, and that there -  
was thereon a dwelling, house out houses and a small  
farm.

Plaintiff further States that the advertisement  
giving notice of the time terms and place of said  
Sale, also Stated that the land was of the Estate of  
Andy Richardson and that there was thereon a  
dwelling house out houses and a small farm, which  
advertisement together with the petition, order of sale  
appraisement Sale bill and Report are made exhibit  
its in this suit & parts of this petition

Plaintiff avers that said deceased owned no  
such land in Range five nor any other land

in said Range, & States, that said land was understood to be by the appraisers when they viewed and appraised the same where it really was in range four, and that the land they viewed and appraised and which was on the same day sold to said Alford was the land on which said Richard son had lived on which said improvements above spoken of were made

Plaintiff further States that said administrator intended to and did sell the land in Range four known as the E 1/2 of Lot No 2 of the N E 1/4 of Section five of Range four East, containing  $53\frac{12}{100}$  acres, and that the same was bought by said Alford at the price of Fifty dollars

Plaintiff further States that he is the owner of said land having bought the same of said Alford, administrator as will be seen by reference to his deed here filed marked "A" and which is made a part of this petition.

That the full interest and purposes of said Sale so made as aforesaid may be carried into execution and that the intentions objects and aims of the parties to said Sale may be made effectual and binding, plaintiff prays the Court to correct the mistake in the deed of said administrator of Richardson to Alford here to the Court shown so that it may read Range four instead of Range five and for such other and further relief as the nature of his case demands He, as in duty He,

Plaintiff States that said defendant Housky intermarried with Letitia a daughter of said Andy Richardson and that they and the other defendants who are infants are the heirs of said Andy Richardson

Basil Hiney  
By Pipkin his atty

Philip Pipkin makes oath and says that the foregoing petition and the matters therein as stated he believes to be true

Sworn to & Subscribed before me  
Oct 13th 1853

Philip Pipkin

Thos Fletcher Clk

A true copy of the original petition and affidavit on file in my office

In Testimony Whereof I here to  
Set my hand and affix the Seal  
of said Court at office Octo  
17th 1853

Thos L Fletcher Clk

4<sup>th</sup> 13

In the Jefferson Co. Court

Nov. Term 1853

Joseph Henry

vs } Defendants

William Housley & wife

Plaintiffs

Robert Richardson

Sheweth fees \$3.50

Filed Nov 14<sup>th</sup> 1853

Wm. A. Fletcher  
Clerk

The State of Missouri

To the Sheriff of the County of Jefferson "Greeting"  
We command you that you Summon, William Husky  
and Letitia his wife formerly Letitia Richardson, Matilda  
Richardson and Robert Richardson if they be found in  
your County that they be and appear before the Judge  
of our Circuit Court on the first day of the next term  
thereof to be begun and held at the town of Hillsboro  
within and for the County of Jefferson on the fourth  
Monday of November next - then and there to answer  
unto Bazile Hiney upon his original petition a  
copy whereof is hereto annexed and have you then  
there this writ

Witness Tho. C. Fletcher Clerk of our  
Said Circuit Court with the Seal  
thereof hereto affixed at office  
this 17th day of October 1853

Tho C Fletcher

CLK

I executed the foregoing writ at the County of Jefferson  
on the 5th day of November 1853, by delivering to the  
defendant William Husky a true copy of said writ  
of the petition hereto annexed as furnished by the clerk and  
on the same day by leaving a true copy of said petition  
and writ as furnished by the clerk at the usual place  
of abode of said defendant Letitia Husky with a free  
white person a member of the family over the age of

fourteen years. and also executed the foregoing writ at the County of Jefferson on the 9th day of Nov 1853 by reading the same and the petition hereto annexed in the presence & hearing of Robert Richardson therein named, Matilda Richardson not found in my Co James McColloch Sheriff

Basil Hiney

vs

William Husky et al

} In the circuit Court of Jeff  
erson County Mo

The answer of Matilda and Robert Richardson minor defendants by J A Bial their guardian ad litem appointed by the court

For answer the defendants say that they know nothing personally of the charges in the plaintiffs petition. They are minors and had no part in the sale of the land in petition mentioned.

The defendants deny any knowledge sufficient to form a belief in regard to the charges of mistake in the description and in the number of the land sold or intended to be sold.

In the absence of any knowledge of the charges of mistake sufficient to form a belief, the defendants deny that there was any mistake in the description of the land sold such as the plaintiff charges, also deny that the charges in relation what may have been intended to be sold & require strict proof.

Defendants deny that there is any equity in the petition, they charge that the case as presented by the petition stands in the position of all judicial & official sales that is, they understand the purchaser has no warranty and must abide by the given description of sale.

and of the numbers of the Survey and that  
the case presented is one not recognized by  
Courts as requiring any interference.

The defendants are minors & pray the protec-  
tion of this court and deny any right to  
enquire into intentions objects & aims such  
as charged in petition.

Not having any knowledge of the  
charges in petition sufficient to form  
a belief, all charges not denied are here  
denied & proof require thereof. & having  
answered all that they know on the sub-  
ject in relation to the petition and its  
charges, defendants pray to be dismissed  
of a Béal Guardian  
ad litem

J. A. Béal guardian ad litem of  
Matilda & Robert Richardson makes oath  
says that he believes the foregoing ans-  
wer & the matters as therein stated are  
true

Sworn to & Subscribed

before me Dec 28 1833

Thos C Fletcher

CK

J A Béal

19 King

As

Smithwaterstal

Geo of Matteson & Co  
at Richardsonby Sum

Filed Dec 28<sup>th</sup> 1833

Wm D McLeherry

CCN

COUNTY OF JEFFERSON.

The State of Missouri,

To

George W. Harrison

Greeting:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 25th day of May next at Stillmore, then and there to testify, and the truth to say in a certain matter of controversy, now pending in our said Court, wherein David Macey Plaintiff and William Mackey et al Defendant on the part of Plaintiff and herein you are in no wise to fail.

Witness, Thomas C. Fletcher, Clerk of our said

Court, with the Seal thereof hereto affixed,  
at office this 8th day of May  
A. D. 1854

Thos. Fletcher  
Clerk.

Mr. G. W. Harrison

I Executed the within writ on George W  
Harrison by reading the same in his presence  
and hearing this May the 17<sup>th</sup> day 1854

James Mc Colloch Sheriff  
By Augustine Wiley Deft Sheriff

St. Circuit Court.

May term 1854

Basil. Wiley  
vs } Spec  
Jas. Mc Colloch

for Debt

Geo. W. Harrison

Sheriff's fees 50 cts

11th day

Bazal Hiney

vs

William Husky et al

} In the circuit Court of Jefferson  
County Missouri

Answer of William Husky & his wife  
Letitia. In answer they say that they know  
nothing personally of the charges in the pla  
intiffs petition. William Husky married  
Letitia a minor child of Andy Richardson  
& neither of these defendants had any thing  
to do with the business or alleged sales  
as made by Johnathan Smith admr of the  
Estate of Andy Richardson or with the  
transactions of the admr of the Estate of  
J & E Alford &c'd. The defendants deny any know  
ledge sufficient to form a belief on the charges  
of mistake in the description and in the num  
ber of the land sold or intended to be sold.

In the absence of any knowledge on the sub  
ject, defendants deny that there was any  
mistake in the land sold also deny all  
the charges in relation to what may have  
been intended to be sold, & require strict proof.

Defendants here charge that there  
is no equity or right to equitable interference  
in the case as presented by the petition  
of plaintiff; the plaintiff stands in the posi  
tion of all purchasers at judicial and official  
sales such as Sheriff's, executors & adminis  
trators sales; that is, in such cases no warn  
ing is implied, nor can it be called a  
mistake such as are remediable by courts

of equity but is such as the party must stand by the description of sale

The defendants are minor children and as such ask this court for protection in consequence of their ignorance of the subject they think that this court ought not to enquire into the intentions, objects & aims of the parties to the sale, other than the description of the land as set forth in the advertisement of sale

If it were right for an administrator to sell by a different description, lands it would lead to irreparable injury to minors and there would of necessity be sacrifice of their interest. These are all that the defendants can say in answer to the charges of the petition in the absence of any participation or knowledge sufficient to form a belief for which reasons they deny all the charges of the petition & require proof. ~~That said said person~~

~~-----~~ The defendants deny that any lawful sale from Johnathan Smith administrator to B King plaintiff, they deny that they have been made in accordance with the administration laws. Defendants require strict proof of anything charged & having answered fully as their knowledge extends, they pray to be dismissed with costs

William Husky  
Leticia Husky

William Husky being sworn says

that he believes the foregoing answer & the mat-  
ters as therein stated are true his  
 sworn to & subscribed before } William H. Husky  
 me Jan 12<sup>th</sup> 1854. } mark  
 Jho L. Stetson CK }

13 Quincy  
or  
to study et al }

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Answer of Study et al

Filed Jan 12<sup>th</sup> 1854  
Chas. E. Fletcher  
Per