

Jefferson County Circuit Court
Case Files - Civil
May 1856, No. 4

Box

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Folder 47

Callum, Tilman

v.

Cundiff, James
Cundiff, Richard

Set aside Deed

82 $\frac{48}{100}$ acres in S24T41R4E, property
includes one yoke of oxen, 2 cows +
calves, and 2 horses conveyed
between defendants to defraud
plaintiff of \$350 debt

Filman Bullom plff
against
Richard Candiff and
James Candiff Defts

In the Circuit Court of
Jefferson County Mo
May term 1886

Plaintiff states that the Defendant James Candiff on or about the ~~21st~~ 21st day of February in the year eighteen hundred & fifty three being largely indebted to plaintiff to wit in the sum of about three hundred & fifty Dollars for the purpose of defrauding plaintiff of his said debt and to hinder and delay him in the collection thereof fraudulently combined and confederated with the Defendant Richard Candiff who was his brother and who resided in Franklin County to convey to him all the property which he said James Candiff then owned subject to execution and in conformity to said fraudulent combination and agreement he the said James Candiff did convey to the said Richard Candiff for the purpose of defrauding hindering and delaying the plaintiff as aforesaid the following described real estate and personal property to wit "The South west quarter of the North west quarter of section 24. in Township 41. Range 4 East in Jefferson County Missouri containing forty one $\frac{2}{100}$ ths also N.W. $\frac{1}{4}$ of S.W. $\frac{1}{4}$ section 24 in T. 41 Range 4 East 41 $\frac{2}{100}$ ths acres. Also one yoke of Oxen two cows and calves and two horses this being all the property then owned by said James Candiff out of which the plaintiff could make his said debt. And the said Defendant caused said conveyance to be placed on record and a certified copy thereof is herewith filed. Plaintiff further

further states that said Richard Cundiff left
the said James in the possession of all said
property real and personal and continues to
permit him to use and Control and to dis-
pose of the same as his own property as if no
such Conveyance had ever been made
And plaintiff expressly Charges that said Con-
veyance was without any valuable Con-
sideration and that said Richard never
paid any ~~the~~ valuable Consideration for said land
and personal property. Plaintiff further States
that ~~afterward~~ On or about the 12 day
of May, A.D. 1853 he instituted suit
against said James Cundiff for the debt due
to him from said James as above stated
and that such proceedings have since been
had in the said suit in the Jefferson Circuit
Court where said Suit was instituted that
afterward to wit on the 29th day of November
A.D. 1854 said plaintiff recovered judgment
therein against said James Cundiff for three
hundred & forty eight dollars fifty four cents
together with Costs of suit. That an execu-
tion was afterward issued on said Judgement
and delivered to the Sheriff of Jefferson County
and by said Sheriff levied on all the right
title and interest of said James Cundiff
in and to the above described tract of
land. and the said Sheriff having ad-
vertised the same as the Law directs
offered the same for sale at the Court
house Door in said County of Jefferson
on the 30th day of May 1855 when and

where plaintiff became the purchaser thereof for
the sum of Twenty Dollars and the
said Sheriff executed his deed to plaintiff as
the law directs, ^{for said land} which is herewith filed. Plaintiff
further states that said James Bondiff is
utterly insolvent and that all the property
which could be found by said Sheriff of which
to make the debt and costs of said execution
sold for the sum of twenty Dollars only in-
cluding the above land and that said judge-
ment still remains unpaid and unsatisfied
and plaintiff knows of no other property of
Defendant out of which to make the same
or any part thereof. He prays the Court
that said Defendants may be required to
answer herein and that the said fraudulent
deed from the said James Bondiff to the
said Richard Bondiff may be set aside
and decreed by this Court to be void. plain-
tiff further states that said James Bondiff is
in possession of said lands and wrongfully with-
holds the possession thereof from plaintiff.
Plaintiff asks judgement of possession of
said lands and damages for with holding
the same

Well Beal & Fessell
attys for plff

State of Missouri } The plaintiff makes
County of Jefferson } oath & says that he
believes the foregoing petition & the matters
as therein stated are true

Sworn to and subscribed before Tilman Cullom
on Nov. 28th 1855. Tho C Fletcher clk
Mr Honey Sept

3
William Bullum
no } Petition
1208
Rich. Sundt
Jas. Sundt

Stated Nov. 28th 1853
Jas. McLehner
ALL

2 M feet 4 65
Shaft 1 50
2 corks feet
4 seats 40
1 unit & cork.
\$6.15

Timothy Williams Reff
against
Richard Bundiff and
James Bundiff deft.

In the Circuit Court of
Jefferson County Mo.
May Term 1856.

Plaintiff states that the Defendant James Bundiff on or about the 21st day of February in the year eighteen hundred & fifty three being largely indebted to plaintiff to wit, in the sum of about three hundred & fifty dollars for the purpose of defrauding plaintiff of his said debt and to hinder and delay him in the collection thereof fraudulently combined and confederated with the defendant Richard Bundiff who was his brother and who resided in Franklin County to convey to him all the property which he said James Bundiff then owned subject to execution and in conformity to said fraudulent combination and agreement he the said James Bundiff did convey to said Richard Bundiff for the purpose of defrauding hindering and delaying the plaintiff as aforesaid the following described real estate and personal property. To wit, the South west quarter of the North West quarter of Section 24 in Township 41 Range 4 East in Jefferson County Missouri containing forty one $\frac{21}{100}$ acres. also N W q^r of N W q^r Section 24 in T 41 Range 4 East 41 $\frac{21}{100}$ acres. Also one yoke of oxen two Cows & calves and two horses. This being all the property then owned by said James Bundiff out of which the plaintiff could make his said debt. and the said defendant caused said conveyance to be placed on record and a certified copy thereof is herewith filed. Plaintiff further states that said Richard Bundiff left the said James in the possession of all said property real and personal and continued to permit him to use and control and to dispose of the same as his own property as if no such conveyance had ever been made. And plaintiff expressly charges that said conveyance was without any valuable

consideration and that said Richard never paid any valuable consideration for said land and personal property. Plaintiff further states that on or about the 12 day of May A.D. 1853 he instituted suit against said James bundiff for the debt due to him from said James as above stated and that such proceedings have since been had in the said suit in the Jefferson circuit court where said suit was instituted, that afterwards, to wit, on the 29 day of November A.D. 1854, said plaintiff recovered judgment therein against said James bundiff for three hundred and forty eight dollars fifty four cents together with costs of suit, that an execution was afterwards issued on said judgment and delivered to the Sheriff of Jefferson County and by said Sheriff levied on all the right, title and interest of said James bundiff in and to the above described tract of land, and the said Sheriff having advertised the same as the law directs offered the same for sale at the Court House door in said County of Jefferson on the 30th day of May, 1855, when and where plaintiff became the purchaser thereof for the sum of twenty dollars, and the said Sheriff executed his deed to the plaintiff as the law directs, for said land which is herewith filed, plaintiff further states that said James bundiff is utterly insolvent and that all the property which could be found by said Sheriff of which to make the debt and costs of said execution sold for the sum of twenty dollars only including the above lands and that said judgment still remains unpaid and unsatisfied and plaintiff knows of no other property of defendant out of which to make the same or any part thereof. He prays the court that said defendants may be required to answer herein and that the said fraudulent deed from the said James bundiff to the said Richard bundiff may be set aside and decreed by this court to be void, plaintiff

further states that said Curdiss is in possession of said
lands and wrongfully withholdg the possession thereof
from plaintiff, plaintiff asks judgment of possession
of said lands and damages for withholding the same
Noel Beal & Tripett attys for Pff

State of Missouri

County of Jefferson } The plaintiff makes oath and
says that he believes the foregoing petition & the
matters as therein stated are true

Sworn to & subscribed before me Silman Bullum
Nov 28th 1855 This to Hetcher Clerk for Money Dept.
endorsed "Filed Nov 28th 1855. This to Hetcher Clerk.

a true copy of the original petition and
affidavit on file in my office in said cause.

In Testimony whereof I hereto
set my hand and affix the
Seal of said Court at office
Mar 1st 1856.

This to Hetcher
Clerk

I Executed the within writ at the County of Jefferson
on James Cundiff by Delivering to him a true copy
of the within writ and the annex petition this the 19th
Day of March at 1856 Richard Cundiff is not found
in my County Augustus Wiley Sheriff

No 4
to the Circuit Court
May Term 1856.

Tilman Bullens
vs & summons
James Cundiff
Richard Cundiff

Sheriff's fees
Deer summons - \$1.00
John Est - 50
\$1.50

COUNTY OF JEFFERSON, SS.

The State of Missouri.

To the Sheriff of the County of Jefferson--Greeting:

We command you, that you summon Richard Bundiff and
James Bundiff

----- if they be
found in your County, that they be and appear before the Hon.
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 May
next, then and there to answer unto Silman Cullom

upon his original petition, a copy whereof is herunto annexed and
accompanies this writ--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, in Hillsboro, this 7th
day of March A. D. 1856

Thos C Fletcher

CLERK CIRCUIT COURT.

Tillman Cullum

vs

James Cundiff Proctor

In the Circuit Court
of Jefferson County
Missouri

The Clerk will please dismiss
the above suit at the costs of the pla
intiff

Aug 30 1856

J. A. Neal attorney
for the plaintiff

W. H. H. H.
W. H. H. H.

W. H. H. H.

W. H. H. H. 30 1856
W. H. H. H.
W. H. H. H.