

De Flereson County
Case Files - Civil

Circuit Court

Box

8 Folds, 68

May 1857, #25

Burren, Paschal H.

vs

Brooks, Archy

Brooks, Rosanna

Foreclosure

Debt \$71.52; 120 acres in

53739125E

I P. H. Burn hath this day Bought two Lots
of Land of Archy Brooks for Seventy
one Dollars and fifty cents Dated 18th
November 1844. Now it is agreed by
the parties that if the said Archy Brooks
shall within two years of this date tender to
P. H. Burn or his Legal representatives the
Sum of Seventy one Dollars and fifty cents
and Interest at the rate of Ten percent per
annum. and a deed then the said P. H.
Burn binds himself in the Sum of
Five Hundred Dollars to sign said deed
which shall convey all the title to said
Brooks that Burn has received by
said date above and if said Brooks
shall fail on his part the title to said
Land is to hold forever good given under
my hand this 18th November 1844

Chas. Dana

P. H. Burn

State of Missouri 3rd

County of Jefferson 3

John C. Mathews Clerk of the Circuit
Court and Ex Officio Recorder within and for the County aforesaid
do Certify that the foregoing deed was filed for Record on the
25th day of November 1844 and is truly Recorded in Book 4 page 138

Given under my hand and Official
Seal at Office in Hillsboro the 5th day of
December AD 1844

John C. Mathews Recorder

J. H. Burrows
Agreement with
J. H. Burrows

Dec 25th 1844

Wm. H. H. H. H.
H. H. H. H.

Received Dec 25th
1844.
paid 30

Receipt of Ashley Brooks Deane & Thomas Deane
in part of a claim of \$1000 against him & his
on record Nov. 1845

J. H. Brown

of the
Recd

17-20

Paschal H. Burren, Plaintiff
 Against
 Archy Brooks, &
 Rosanna Brooks, his wife } Dependents,
 In the Circuit
 Court, Jefferson
 County, Missouri

Plaintiff states that, on the 18th day of
 November 1844, the Defendants executed and
 delivered to the Plaintiff, a Deed in fee simple,
 whereby they conveyed to him the following
 described Tract of Land, situate in Jefferson
 County, Missouri, to wit, The East Half of the
 South West quarter, and the South West quar-
 ter of the South West quarter of Section No. Three,
 in Township No. Thirty nine, of Range No.
 Five East, for the sum of seventy one dollars
 and fifty cents, at that time paid by the Plain-
 tiff to the Defendants. - Plaintiff states that he
 on the same day, executed and delivered to
 the Defendant ^{Archy Brooks} an obligation in writing, whereby
 he bound himself, in the personal sum of \$300,
 to reconvey said Land to the Defendant Archy
 Brooks, provided he should pay Plaintiff
 the sum of seventy one dollars and fifty
 cents, in two years from the date of said
 Deed, with interest at the rate of ten per
 cent per annum from the date of said in-
 strument till paid, and should also, tender
 him a Deed for said purpose. - Certified
 copies of which Deed & written obligation
 are hereto annexed as parts of this Petition.

Plaintiff states that said Archy Brooks
 utterly failed to pay to Plaintiff said sum
 of \$71.30, & interest, or any part of it, within
 the time limited, or at any time since; but
 that said sum & the interest yet remain unpaid.

Plaintiff further states that the Defendants have remained in possession of ^{said} Land since the giving of the Deed aforesaid, without paying ^{although he has often promised to do so} any rent therefor, and although said Deed is absolute on its face, yet as Plaintiff gave his obligation to reconvey in the time limited, if the money & interest was paid him, the Defendants may perhaps insist upon the equity of redemption, Plaintiff states that he has paid Taxes on said Land ever since he received said Conveyance, Plaintiff avers that the Defendant, Archy Brooks, has failed to perform any of the conditions on his part, as set forth in said written Obligation.

In consideration of the premises, therefore, the Plaintiff prays that Judgment may be rendered for the debt aforesaid & all interest due thereon, together with the taxes paid on said Land, by Plaintiff, and that the equity of redemption of said Defendants to said Land, (if any they have,) may be foreclosed, and that the same may be sold to pay off and discharge the judgment rendered; or, if consistent with the facts of the case, that a decree be entered divesting the Defendants of any equitable claims to said Land and rendering the Plaintiff's title thereto firm and effectual, and to grant such other and further relief as may be consistent with the facts of the case.

Abner Green
} Attorney for Plaintiff

Paschal W. Brown, Plaintiff, makes oath, and says
the above Petition and the matters therein, stated, he believes to be true.

Sworn to and subscribed before me April 28th 1857
Elias J. Honey Clerk } P. W. Brown

Paschal H. Burerr, Plaintiff

against
Archy Brooks &
Rosanna Brooks his wife Defendants

In the Circuit
Court, Jefferson
County Missouri

Plaintiff states, that on the 18th day of November 1844, the defendants, executed and delivered to the plaintiff a Deed in fee-simple, where by they conveyed to him the following described tracts of land, Situate in Jefferson County Missouri, to wit: the east half of the South west quarter, and the South West quarter of the South West quarter of Section No three in Township No thirty nine of Range No five east, for the sum of seventy one dollars and fifty cents, at that time paid by the plaintiff to the defendants. Plaintiff states that he on the same day, executed and delivered to the Defendant Archy Brooks an obligation in writing whereby he bound himself in the penal sum of \$500.00, to reconvey said land to the defendant Archy Brooks, provided he should pay plaintiff the sum of seventy one dollar and fifty cents, in two years from the date of said Deed, with interest at the rate of ten per cent per annum from the date of said instrument till paid, and should also tender him a deed for said purpose. Plaintiff states that said Archy Brooks utterly failed to pay to plaintiff said sum of \$71.50 + interest or any part of it, within the time limited, or at any time since, but that said sum + the interest yet remain unpaid; Plaintiff further states, that the defendants have remained in possession of said land, since the giving of the deed aforesaid, without paying any rent therefor although he has often promised to do so, and although said Deed is absolute on its face, yet as plaintiff gave his obligation to reconvey in the time limited if the money and interest was paid him, the

Defendants may perhaps insist upon the equity of redemption. Plaintiff States that he has paid Taxes on said land ever since he received said Conveyance. Plaintiff avers, that the Defendant Archy Brooks has failed to perform any of the Conditions on his part set forth in said written obligation. In consideration of the premises, therefore the plaintiff prays that Judgment may be rendered for the debt aforesaid & all interest due thereon together with the taxes paid on said land by the plaintiff, and that the equity of redemption of said defendants to said land, (if any they have) may be foreclosed and that the same may be sold to pay off and discharge the judgment, rendered. or if consistent with the facts of the case, that a decree be entered divesting the defendants of any equitable claim to said land, and rendering the plaintiff title there to firm and effectual, and that plaintiff have judgment for the possession of the same and to grant such other and farther relief as may be consistent with the facts of the case.

Abner Green, Attorney for Plaintiff

Paschal H Buren, Plaintiff makes oath and says the above petition and the matters therein as stated he believes to be true

Sworn to and Subscribed before } P. H. Buren
me April 28th 1854

Elias J Honey Clerk

Endorsed. "Filed April 28th 1854 Elias J Honey clk"

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

Witness my hand and the Seal
of said Court at Office April
29th. A.D. 1854

Elias J. Honey Clerk

COUNTY OF JEFFERSON, SS.

The State of Missouri.

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

We command you, that you summon Archie Brooks
and Ranna Brooks his wife

----- 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 Parshal H. Buren

upon his original petition, a copy whereof is herunto annexed and
accompanies this writ—and have you then there this writ.

Elias J. Honey
Witness, ~~THO. C. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this 29th
day of April A. D. 1854

Elias J. Honey

CLERK CIRCUIT COURT.

I Served the within writ on Archy Brooks and Rosanna Brooks his wife at the County of Jefferson on the 4th day of May 1857 by delivering a copy of the writ and annexed petition as furnished by the clerk to said Archy Brooks and by Reading the same in the presence & hearing of the said Rosanna Brooks.

Augustine Wiley Sheriff
By J O Gish Deput

92-25

20 Jefferson Circuit Court

May Term 1857

1627

Samuel H. Devere

vs } Defendants

Archy. Brooks

Rosanna Brooks

Chd

A. Wiley Sheriff - fee \$2.00

Filed May 6. 1857

E. J. H. H. H.

Judge for

\$117.45

Shelburne

Paschal W. Brew, Plaintiff } In the Circuit
Against } Court Jefferson
Paschal Brooks, & } County,
his wife, — Defendants,

The Plaintiff moves the Court to strike out the parts of Defendants answer herein after described, for the following reasons,

- 1 - That part of the answer, which denies that Brooks failed to pay the \$71.50, is inconsistent with that part, which alleges that he made a tender of that amount. It is evasive, neither alleging said payment, nor admitting it.
- 2 - That part of the answer which sets up a tender is no defence to the action, - it is inconsistent with that part, which alleges that defendant complied with the conditions of said Bond.
- 3 - There is no allegation of a tender before the time stipulated for the payment of the money.

} Alben Green
} Attorney for Plaintiff

In Cheever's
Jefferson County

J. M. Brown

vs.

J. Brown

Prothon to
Strike out part of
Deferment Answer

Filed May 26. 1857
Geo. S. Honeywell

J. A. Buren Plaintiff

vs.

Pascal Brooks & wife Defendants

State of Missouri
In the Circuit Court
Jefferson County.

Defendants for answer to plaintiff's petition say that they admit the execution of the deed and the making by the plaintiff of the bond as stated in the petition.

They deny that said Brooks failed to pay the \$77.50 and the interest within the time limited by the terms of the bond.

They admit that they have been in possession of the land since the giving of the deed, without paying any rent therefor. They however deny plaintiff's right thereto or any promise by them to pay said rent. Defendants have no knowledge sufficient to form a belief in regard to the payment of the taxes on said land and require such proof. Defendants have also paid taxes on said land for a part of the time since the execution of said deed.

For further answer defendants say that said Archy Brooks paid the first year interest on said land, and before the expiration of the second year he sent an agent to plaintiff with the money and the interest then due and made a tender thereof but said Plaintiff refused to take the money or to execute a deed reconveying the land to the defendants. Defendants therefore say that they have complied with the conditions of said bond and that the plaintiff has not.

has not complied with the conditions of the bond on his part.

Defendants further say that they have always been ready, since the time at which said tender was made, to pay said \$71.50 and the interest that had then accrued and are now ready to do so, and here bring the said sum and interest into Court for the plaintiff.

Defendants therefore pray the Court to declare the said deed conveying the absolute fee simple title to said land to the plaintiff null and void and that the Court will direct the title thereof out of said plaintiff and reverse the same in these defendants and grant such other & further relief as may be equitable & just and that the defendants may be entitled to ~~an~~ judgment for costs.

J. P. Phipps atty.
for depts.

Archy Brooks on oath says that the foregoing answer and the matters therein as stated he believes to be true.

Sworn to & subscribed }
before me this 25th day } Archy ^{his} Brooks
of May 1857 } on ans
Elias F. Hovey

R. H. Brown

Sept 21st

Wheeler Brooks

Cotnam's Brooks

Sept 21st 1885

Attest May 26th 1885
Chas J. Henry
Clerk

State of Missouri, County of Jefferson
In the Jefferson Circuit Court

Paschal St. Buren

Plaintiff

Against

Archy Brooks & wife

Defendants.

Defendants for ^{amended} answer to the ~~petition~~
of the plaintiff state that they admit the
execution of the deed by them and the making
of the ~~bond~~ by the plaintiff as stated in the
petition - They also admit that they are in
possession of the land in petition described
and have ever since the date of said deed
and for a long time before held said property
without paying any rent therefor. Defendants
deny that they ever promised to pay rent
for said land also his right to claim the same.

They have no knowledge sufficient to form
a belief in regard to the payment of taxes as
stated and require strict proof. They say that
they paid taxes also on said land.

Defendants deny that they utterly failed
to pay the said sum of \$71⁰⁰/₁₀₀ and interest
within the time limited by said bond. They
also deny that said Brooks failed to perform
his part of the agreement as stated in the bond.

Defendants further state that if ~~the~~ plaintiff
ever had any cause of action against them ~~the~~
(~~which~~ they deny) the same is barred by lapse
of time; the same having accrued more than ten
years before the bringing of this suit.

Defendants therefore say that the plaintiff
is not entitled to a judgment for the said

said sum of \$71.50 and interest and the taxes
which the plaintiff may have paid if any,
nor is he entitled to a judgment of foreclosure
of the equity of redemption nor to a decree
divesting the defendants of title to said
land. And having fully answered may to
be discharged with their costs,

Pipkin atty
for defendants

Archy Brooks on oath states that the foregoing
petition and the matters therein as stated
he believes to be true

Sworn to & subscribed
before me this 25 day
of November 1857

Elias F. Honey clk

his
Archy + Brooks
mark

Ed. M. Brown
Chepauick
Shady Side
N. H.

Amherst, Mass.

Filed Nov 25th 1887
Clerk of Court
at

Paschal M. Burew } In Circuit Court
 Against } Jefferson County
 Archy Brooks & wife

The Plaintiff moves the Court
 to strike out ^{all} that portion of Defendants
 amended answer, which sets up the
 statute of limitation in bar of plain-
 tiff's demand, ^{& that portion of the answer following} for the following reasons,

- 1st - Because said portion of defendants answer is no defence to the action of plaintiff, - lapse of time is no bar, ~~against~~ plaintiff's lien on the land, secured by his mortgage.
- 2 - All that part of the answer which sets up ten years, since the accruing of plaintiff's cause of action, as a defence, is no legal bar to said action.
- 3 - The lien secured by the mortgage is not destroyed by the lapse of ten years, since said right of action accrued.

} Abner Green
 } Atty for pffs

In Circuit Court
Jefferson County

vs.
J. W. Brown
vs.
Shady Brooks

Motion
to strike out part
of Defts answer
Answer

Filed Feb 26 '1856
Geo J. Harney
Clerk

Burn & In the circuit court Nov. 1857.
Brooks }

Archy Brooks on oath states that he was not
in court at the time leave was given to file
his amended answer in the case of P. H. Burn
against himself at the last term of the court
that he never had any knowledge of the rule of
court and never received any letter from his
attorney on the subject that he has a good
cause of defence to said action which
in his amended answer, prepared to file
sworn to & subscribed
before me this 25th day } Archy ^{his} Brooks
of November 1857. } _{made}
Elias J. Honey Clerk

P. Pipkin on oath states that some time
after the last term of this court he sent
word to Mr. Brooks the above affair to
come in and make the amended
answer referred to and afterwards wrote
to him to the same effect and mailed
the letter at Hillsboro directed to him
at Selma in this State

sworn to & subscribed
before me this 25th } P. Pipkin
Nov. 1857. }
Elias J. Honey Clerk

Even
Brook

Affairs of
Brook ~~Delhi~~

Pascal H. Burren

vs

Archy Brooks

In the Jefferson Circuit Court
November Term 1857

Defendant for answer to the amended ^{exhib} petition, States that he the said the said plaintiff is not and was not at the Commencement of this suit or at any other time entitled to the possession of the premises mentioned in the petition or any part thereof. That neither the plaintiff his ancestors or predecessors are or have been in possession of said premises at any time within ten years next preceding the Commencement of this action and that Defendant has been in the quiet and peaceable possession of the said premises for more than ten years next preceding the Commencement of this action and that plaintiffs right of action if any he ever had is barred by limitation and lapse of time

Lipton & Wood for Defendant

Archy Brooks being duly sworn makes oath and says he believes the above answer and the matters therein as stated are true

Pascal ^{his} Brooks
mark

Bureau

vs

Brooks

Amended Answer

Filed Nov 28 '1857
Elias J. Honey, clerk

Paschal A Buren
Plaintiff
against

Archy Brooks
Defendant

Amended petition filed by leave
of court

Plaintiff states that he was
on the 18th day of November 1848 entitled
to the possession of the East half of the South
West quarter and the South West quarter of
the South West quarter of section No. three in
Township thirty nine of Range five East
situated in Jefferson County and being so en-
titled to the possession of said land the defend-
ant on the day and year aforesaid entered
into said premises and unlawfully withheld
from the plaintiff the possession thereof
to the damage of said plaintiff in the
sum of two hundred dollars.

He prays judgment for possession ~~and~~ also
for his damages and costs

Frederick & Green for
plaintiff

Plaintiff further oath and says that
the foregoing amended petition and the
matters therein as stated he believes to be
true

Sworn to & Subscribed
before me Nov 28th 1857
Elias B. Hovey Clerk

P H Buren

J H Brown

against

Shocking Brooks

Amended petition

Filed Nov 8th 1857
Clerk of Probate
CMA

Buren
by
Brooks }

Defendant comes and moves
the Court to strike out plaintiff's amended
petition because said amended
petition sets forth an entirely new
cause of action.

Saml. S. Piptain
for defendant

Bureau
by
Brooks

Motion to strike
out Amendment
Petition

Filed ~~Dec~~ 1st 1857
Oliver & Hornsey

Discharged

COUNTY OF JEFFERSON.

The State of Missouri,

To Coleman Wood, Sam. Wood, Michael P. Wood

Greeting:

You are hereby commanded, that seeing none of
 course and delay, you appear before me herein Court for the
 County aforesaid, on the 28th day of April next
 at 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
James H. Patten is Plaintiff and
Archy Barks is Defendant on the part
 of Pls and herein you are in no wise to fail.

Witness, ~~THOMAS C. MILLER~~, Clerk of our said Court

with the Dept thereof hereto affixed, at office this

16th day of March A. D. 1858

Geo. G. Howell Clerk.

I Executed the within writ at the county of Jefferson
on Coleman Alfred & Samuel Alfred on the 31st day
of March and on Pleasant post on the 12th day of
April 1858 by receding in their presence and
hearing
Augustine Wiley Sheriff

To Circuit Court
April Term 1858

J. H. Puren
vs J. Ma
Arch. Brooks

for Plff
Coleman Alfred 31
Sam Alfred 31
Pleasant Post 12th

Sheriff fees \$150

COUNTY OF JEFFERSON.

The State of Missouri,

To

Greeting:

John Harts, Plaintiff, Saml Wood

You are hereby commanded, that telling aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, on the 28th day of April next at St. Louis, then and there to testify, and the dole to say in a certain matter of controversy, now pending in our said Court, wherein

J. H. Harts is

Plaintiff and

Archy Woods is

Defendant in the said

of J. H.

and herein you are in no wise to fail.

Witness, THOMAS C. FLETCHER,

Shalt of our said Court

with the Stat thereof hereto affixed, at office this

29 day of March A. D. 1858

Chas J Honey

Clerk.

I executed the within write on
Samuel Alfred. ~~Plassey~~ ~~Post~~ by
reading in this hearing
April 24th Augustus Wiley Thrall
1858 By Wm. Steel
Sept 8th

To Lewis & Co

April 24th 1858

C. H. Jones

Per
Archy Barrio

for 30th

John Thrall

Account of

Samuel Thrall

Shall \$ 100

COUNTY OF JEFFERSON.

The State of Missouri,
To Jane Smith. John G. Duran. Mrs. Nell. Dr.

Greeting:

You are hereby commanded, that setting aside all manner of
excuse and delay, you appear before our Court at Court for the
County of Jackson, on the 28th day of April next
at St. Albans, then and there to testify and the truth to say in a
certain matter of controversy, now pending in our said Court, between
Jascat St. Duran vs. Plaintiff and
Archibald Smith vs. Defendant on the part
of Arch. and herein you are in no wise to fail.

Witness, THOMAS G. FLETCHER, Clerk of our said Court.

with the Seal thereof hereto affixed, at office this

27th day of March A. D. 1858

Edw. J. Honey

Clerk.

I Executed the within writ on John & Baron on
the 12th and on Jane Brooks on the 14th day of April
1858 by reading in their presence and hearing
Augustine Wiley Sheriff

do Lencuid Court

April Term 1858

Wm. Lencuid

Archy Brooks

for debt

Jane Brooks 14

John & Baron 12

Wm. Lencuid Jr. 23

Sherriff's fees \$1.00
& Wiley's fees 50 cts

I executed the within writ on William
Hall Jr on the 25th day of April 1858
by reading in his presence and hearing
George Wiley

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To

Wm. S. Wells Jr

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

Eighth day of June next.

at Hillsboro, then and there

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

P. H. Buren

Plaintiff and

Archy Buckner et al

Defendant on the

part of

defendants

and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court with the Seal thereof hereto affixed, at office this

28th

day of

April

A. D. 1859

Elias F. Honey

Clerk.

I Executed the within Supona in the
County of Jefferson on the 8th day of
June 1839 by adding the same
in the Presence and hearing of
Wm. Hull Jr

J. C. Power Deputy Sheriff

To Circuit Court
June Term 1839

P. M. Buren

vs.
Archy Brooks

for debt

Wm. Hull Jr. Sheriff
\$50.00

1 If the Court finds from the evidence that the ~~plaintiff~~ Defendant has been in the possession of the premises for more than ten years next preceding the Commencement of this suit then the Plaintiff's claim to foreclose the mortgage is barred by limitations unless the Plaintiff shows that Defendant has within ten years paid interest on the debt or rent for the premises

Refused

2 No verbal promise to pay rent or admission of the existence of the debt within ten years is sufficient to remove the bar afforded by the Statute of limitations. but such promise or admission to prevent the operation of the Statute must be in writing

Refused

3. If Brooks has during the whole time been in possession of the land. and Boren has paid taxes thereon without any request of Brooks so to do then he is not entitled to recover the amount of taxes so paid in this action

Refused

Deerson

Nov 10

Protestants refused

Julia June 9th 1859
Eliza Johnson Clerk