

Jefferson County Circuit Court
Case Files - Civil
November 1857, No. 28

Box 9 Folder 24

McCormack, Hardy, Jr,
McCormack, James W.

v.

McCormack, Susan M.,
England, James R.,
Bailey, James H.,
Bailey, Leander, et al

Partition

Heirs of James McCormack; 175 acres on
the waters of Platin Creek; Other Defendants:
Adeline McMullen, John McMullen, Margaret
McCormack, Sarah McCormack, James F. McCormack
and Eliza McCormack, Survey 857

Ward Mc Cormack, Jr. } Plaintiffs,
and James W. Mc Cormack }
against

Susan Mc Cormack by her } In the Circuit
Guardian, James R. England } Court of
James H. Bailey, Jr. his Guardian } Jefferson
Leander Bailey, Aline Mc } County
Mullin & John Mc Mullin, } Missouri
and Margaret, Sarah, and
~~James Jr.~~ Mc Cormack by their }
Guardian Eliza Mc Cormack, } Defendants,
~~and James A. Mc Cormack~~

Plaintiffs state that James
Mc Cormack died some time in the
year 1847, seized in fee simple of
the following described Land, sit-
uate in Jefferson County Missouri
To wit, a tract ^{of land} on the Waters of Patten
Creek, (being all that portion of
United States Survey No. 857, on the West
side of said Creek, and described
as follows, To wit, beginning at the
South West Corner of said Survey No.
857, (Confirmed to Thomas Herrod.)
Thence with the original line ^{thereof} ~~line~~
East to a Brook or creek called Mhu-
cum, and Thence down said creek
with the meanders of the same to the
Pattin Creek, and down said Pattin
to a bycamore, blazed, eighteen inches
in diameter, and a red oak ten inches
in diameter, blazed, on the West Bank,

thence th a North east course on a blazed
line to the intersection of the Northern
boundary line of the Original Survey,
thence with said line West to the
corner, thence South on the old line
to the beginning, containing about
one hundred & seventy five acres, more
or less. — Plaintiff states that said
James M^c Cormack at his death, left
surviving him, eleven children, to whom
said Land descended as his heirs, to wit
^{Wm^c M^c Cormack, plaintiff,}
Peter M^c Cormack, Sarah Berry, widow
of Willis Berry dec^d. Margaret, wife of James
R. England, Mary, wife of Thomas L. Don-
nell, Cynthia, wife of Samuel O. Donnell,
Catharine, wife of William West, & James
M^c Cormack, ^{plff.} and ^{three} the Dependents,
^{Wm^c M^c Cormack,} That plaintiff, has bought the interest
of Peter M^c Cormack, & wife, Sarah Berry,
Margaret England & her husband, Mary
Donnell & her husband, Catharine West
& her husband, and Cynthia Donnell
& her husband, by deed dated the
2nd day of February 1853, (which is hereto
annexed as part of this petition) He there-
fore states that he is entitled to the
and James M^c Cormack, plaintiff, is entitled to one eleventh part
seven eleventh part of said Land and
the defendant, Susan M^c Cormack, (of
unsound mind) is entitled to one ele-
venth part, James H. Bailey (a minor)
son of Eliza Bailey ^{dec^d} (daughter of said

James M^c Cormack dec^d ~~of said James~~ is entitled to one eleventh, and the heirs of Enoch M^c Cormack dec^d (to wit, James F. Margaret & Sarah M^c Cormack - and Adeline (wife of John M^c Kullen) are entitled collectively to the one eleventh part of the same; - which lands are undivided, & held by ^{the} Plaintiffs & the defendants as tenants in common. Plaintiffs therefore ask for a partition and division of said lands according to the respective rights of said Parties interested therein, and for a sale thereof, if it shall appear that partition cannot be made without great prejudice to the owners thereof.

Abner Green
} Atty for Plffs

Marcy M^c Cormack Jr, Plaintiff,
makes oath and says the above
petition and the matters therein
as stated he believes to be true,

Sworn to and Subscribed
before me Oct 20th 1857
Elias H. Honey Clerk

Hardy M^c Cormack, Jr

Dr. J. J. Vincent

Wm. Bond
St. Louis Mo. 11/18/62

22,

Andan W^o Hornack
and others

Definition for position

Let denunciations
be given for all.

Filed Oct 22 1857
Elihu J. Hoarey

20 pages 214 g 157

Hardy McCormack Jr and.
James W McCormack. Plaintiffs
Against

Susan M. McCormack by her Guardian
James R England, James H Bailey
by his Guardian Leander Bailey,
Adeline M. Mullen & John M.
Mullen, and Margaret, Sarah
and James J. McCormack by
their Guardian Eliza M. McCormack
Defendants

In the Circuit
Court of
Jefferson
County
Missouri

Plaintiffs State, that James McCormack
died some time in the year 1847. Seized in fee simple
of the following described Land, situate in Jefferson
County Missouri, to wit: A tract of land on the Waters
of Platten Creek, being all that portion of United States
Survey No 857, on the West side of said Creek and des-
cribed as follows, to wit: Beginning at the South west
corner of said Survey No 857. (Confirmed to Thomas
Herrod) thence with the original line there of due east
to a brook or creek called Glucum, and thence
down said Creek, with the meanders of the same, to
the Platten Creek, and down said Platten to a Syca-
more, blazed eighteen inches in diameter, and a red
Oak ten inches in diameter, on the west Bank, thence
in a North east Course on a blazed line to the inter-
section of the Northern boundary line of the original
Survey; thence with said line, west, to the corner,
thence South on the old line to the beginning, con-
taining about, One hundred & Seventy five Acres
more or less. Plaintiffs State, that said James M.
McCormack at his death left surviving him eleven
Children to whom said land descended as his
heirs, to wit: Hardy McCormack, Plaintiff. Peter
McCormack. Sarah Berry, widow of Miles Berry.

dec^d. Margaret wife of James B England, Mary
wife of Thomas L Donnell, Lyrnthia, wife of Samuel
O Donnell, Catharine, wife of William West, & James
W. McCormack plff. and the three defendants,
that plaintiff Hardy McCormack, has bought, the
interest of Peter McCormack & wife, Sarry Berry,
Margaret England & her husband, Mary Donnell
& her husband, Catharine West, & her husband and
Lyrnthia Donnell & her husband, by deed dated the
2nd day of February 1855. (which is hereto annexed as
part of this petition) He therefore states that he is
entitled to the seven eleventh part of said land
and James W. McCormack plaintiff is entitled to one
eleventh part; and the defendant Susan McCormack
(of unsound mind) is entitled to one eleventh part;
James H. Bailey (a minor) son of Eliza Bailey dec^d.
(daughter of said James McCormack dec^d) is entitled
to one eleventh, and the heirs of Enoch McCormack dec^d.
to wit: James D. Margaret, & Sarah McCormack, and
Adeline (wife of John McMullen) are entitled col-
lectively to the one eleventh part of the same, which
lands are undivided & held by the plaintiffs & the
defendants as tenants in common. Plaintiffs
therefore asks for a partition and division of said
lands according to the respective rights of said
parties interested therein, and for a sale thereof if
it shall appear that partition cannot be made
without great prejudice to the owners thereof.

Abner Green atty for Plffs

Hardy McCormack Jr. plaintiff makes oath, and says the
above petition, and the matters therein as stated he believes
to be true.

Hardy McCormack Jr.

Sworn to and Subscribed before me
Oct. 20th 1857. Elias J. Honey clerk

Enclosed

"Filed Oct. 21st 1857. Elias D. Honey clerk"

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 October
the 22nd 1857

Elias D. 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 Susan McCormack by her guardian James R. England, James R. Bailey by his guardian Leander Bailey, Adeline McCormack and John McCormack her husband, Margaret McCormack, Sarah McCormack & James McCormack by their guardian Eliza McCormack 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 November next, then and there to answer unto Hardy McCormack Jr and James R. McCormack

upon their original petition, a copy whereof is herewith 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 twenty second day of October A. D. 1857

Elias J. Honey

CLERK CIRCUIT COURT.

I Executed the within writ at the county of Jefferson on the 29th day of October 1857 by leaving a true copy, ^{of the within writ and the original petition} at the residence of James B. Englemels with a free white person of the family over the age of fifteen years and also on the same day on Leander Bailey and Eliza McCormack by reading the within writ in their presence and hearing and also on the third day of November 1857 by reading the within writ in the presence and hearing of John McMullin and Adeline McMullin

Augustine Wiley Sheriff

No. 28

Co. Jefferson, Circuit Court

November Term 1857.

1388

Hardy McCormack
James W McCormack

vs. } Defendants

Lewas McCormack by her
Guardian, Jas. R. England,
James H. Bailey by his guardian
Leander Bailey, Adeline
McMullen, John McMullen,
Margaret McCormack, Sarah
McCormack and James F.
McCormack by their guardian
-an. Eliza McCormack

2476 7520

Sheriff's fees \$5.00

Order of sale

State of Missouri }
County of Jefferson } In the Circuit Court
December 3^d 1857

Hardy. McCormack Jr &
James W. McCormack. } In Partition

^{vs}
Susan McCormack. James H.
Bailey et al. } Order of Sale.

Now at this day come
said Plaintiffs by their attorney, and present their
petition for partition, and said defendants being
three times solemnly called, come not, although
duly served with process. neither have they answer-
ed the petition of said plaintiffs: It is therefore
ordered that their default be entered, herein
and the Court being satisfied that partition
of said lands cannot be made without great
prejudice to the parties interested therein, doth
order adjudge and decree that the lands and
tenements in Plaintiffs petition, mentioned and
described as follows, to wit: A tract of Land
on the Waters of Platten Creek, being all that
portion of United States Survey No 857, on the
West Side of said Creek in Jefferson County Mis-
souri, to wit: Beginning at the South west
corner of said Survey No 857. (Conformed to
Thomas Herrold) - thence, with the original line
thereof, due east to a brook, called Flucum,
and thence, down said Creek with the me-

andlers, of the same, to the Platten Creek, and down said Platten Creek, to a Sycamore, blazed eighteen inches in diameter, and a Red Oak ten inches in diameter, blazed, on the west bank thence in a North East course on a blazed line to the intersection of the Northern boundary line of the original Survey thence with said line West to the corner, thence South on the old line to the beginning, containing about One hundred and Seventy five acres more or less. be sold, And the Court proceeding to settle and adjust the rights and interests of the parties in said land respectively, doth declare, the same as follows, to wit: The said Plaintiff Hardy McCormack, is the owner of and interested in Seven Elevenths, of said land, James W. and Susan McCormack and James H. Bailey are each the owner of and interested in one eleventh part thereof, and the said James F. Margaret and Susan McCormack and Adaline McCullen, and her husband John McCullen ~~are~~ collectively, are the owners of and interested in one Eleventh, part thereof, And it is further ordered by the Court, that the Sheriff of Jefferson County, proceed to sell said land at Public Auction to the highest bidder, for ten per cent of the purchase money in cash, and the residue in twelve months, and that he take from the purchaser a Bond or note with security for the deferred payment, bearing Six per cent in-

-terest from date: That said Sale take place
on some day during the sitting of the Circuit
Court of said County, and be governed by the
same regulations prescribed by law for the
Sale of Real estate under Executions. Notice
thereof being given by the Sheriff in the same
manner provided by law for such Sales,
and report his proceedings herein to the Court,

I Elias D. Honey Clerk of the Circuit Court in
and for said County hereby certify that the
foregoing is a true copy of the order of Sale
made by said Court in the matter of partition
between Hardy McCormack Jr and James H
McCormack plaintiffs and Susan McCormack
James H Bailey and others defendants. as
full as the same remains of record in my
office

In Testimony whereof I hereto
set my hand and affix the seal
of said Court at office in
Hillsboro this Fourth day of
February A D 1858
Elias D. Honey Clerk

Jefferson Lincoln Bond
April Term 1858

Hardy M. Cornsack Jr
James M. Cornsack
or } Under of Sale
Susan M. Cornsack
James M. Bailey & Co

Shelton & Spruce & Co
1st 1858
Geo. D. Honey & Co

Sale Thursday 29th April

Sheriff Sale In Partition

Hardy McCormack }
James W McCormack } In partition in the Circuit
as } Court of Jefferson County
Susan McCormack } Missouri
James H Bailey et al }

By authority of an order of Sale made by the Circuit Court of Jefferson County on the 3rd day of December 1857 in the above Suit the undersigned Sheriff of Jefferson County will on Thursday the 29th day of April next between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day at the Court House door in the town of Hillsboro in said county of Jefferson and during the sitting of the Circuit Court sell at public auction to the highest bidder on the terms stated below all the right title interest and property of the parties to said Suit of in and to the following described real Estate lying in the County of Jefferson and State of Missouri to wit a tract of land on the waters of the plattin Creek being all that portion of united States Survey No 857 on the west side of said Creek beginning at the South west corner of said Survey No 834 confirmed to Thomas Herrold thence with the original line there of due east to a brook called Flucum and thence down said Creek with the meanders of the same to the plattin Creek and down said plattin Creek to a Sycamore blazed eighteen inches in diameter and a Red Oak ten inches in diameter blazed on the west bank thence in a North East course on a blazed line to the intersection of the Northern boundary line of the original Survey thence with said line west to the corner thence South on the old line to the beginning containing about one hundred and seventy five acres more or less Terms of Sale ten per cent of the purchase money to be paid in cash at the time of sale the remainder in twelve month the purchaser giving Bond or Note with approved security bearing interest at the rate of six per cent per annum from date This the 3rd day of March ad 1858

Augustine Wiley Sheriff

Barthelme Schenck

is

born 1768 in the city of

St. Louis

Hardy McCormack Jr. &
James W. McCormack

vs.
Susan McCormack.
James B. Bailey, et al.

In the Circuit Court
In Partition

Sheriff's Report.

To the Honorable the Circuit Court of Jefferson
County Missouri,

The Undersigned Sheriff of Jefferson County would respectfully report, that in obedience to the annexed order of Sale issued from the office of the Clerk of said Court, that having previously given not less than twenty days notice of the time, terms and place of sale, and what real estate was to be sold, and where situate as the law directs, by at least six hand bills signed by me and put up in different parts of said County. a copy of which hand bills is herewith filed and made a part of this Report, I did on the 29th day of April A.D. 1858. at the Court House door in the Town of Killbuck, between the hours of nine O'Clock in the forenoon and five O'Clock in the afternoon of said day, and during the sitting of the Circuit Court at the April Term thereof for said year, agreeable to said advertisement, expose to sale publicly by auction the following described land &c. To wit: A tract of land on the Waters of the Platte Creek, being all that portion of United States Survey No. 857. on the West Side of said Creek beginning at the South West corner of said Survey No. 857 confirmed to Thomas Verro, thence with the original line thereof due East to a brook called Shocum, and thence down said Creek, with the meanders of the same to the Platte Creek,

and down said Flint Creek to a Sycamore blazer; Eight
teen inches in diameter, and a Red Oak ten inches in di-
ameter, blazer; on the West bank, thence in a North East
course on a blazer line to the intersection of the Northern bound-
ary line of the Original Survey, thence with said line West
to the corner, thence South in the old line to the beginning,
containing One Hundred and Seventy Five acres, more or less
and Hardy W. Cornack became the highest and last bid-
der at and for the sum and price of One Thousand dollars
the same was struck off and ~~struck~~ sold to him the said
Hardy W. Cornack for that sum, and he the said
Hardy W. Cornack having paid to me the sum of
Duty Six 70/100 dollars for costs and expenses, and
given his Note for the balance, as required by the terms
of sale, this Report is respectfully Submitted,

Augustine Wiley Sheriff

Hardy McCormack Jr
James H. McCormack

In the Circuit Court
of Jefferson County

vs
Susan McCormack et al.

In Partition

See Bill.

Money clerk. 2 copies per \$1.50. Butts & Huls 1 \$
print & copy 1.30 aff. 25. docket. 10%. default
defts 25%. Order sale 50%. Copy same & set
seal. 1 \$ report 25%. atty fee. 25%. make
up cts 25%. file 3 pro. 13%.

Wiley Sheriff 5 defts.

A. Green Atty fee.

\$16.70

3.00

15.00

\$26.70

Cons. on Amt of Sale \$1000

paid,

20.00

\$46.70

1000.00
46.70

\$953.30

Hardy M. Larnach
with wife
Susan M. Larnach