

Jefferson County Circuit Court

Case File - Civil

April - 1858

Williams, James L.
vs

Deer, William H.

Appeal

Defendant appealed from JP
William L. Lemaster on unlawful
detainer of 40 acres and dwelling
house in S10T39N24E; depositions
from Iowa; bill of exceptions;
Supreme Court

Box

10

Folder 14

May 30th 1857,

to William H. Davis, Sir - You are

kindly invited to give me a good up the
provisions to me, of the quantity or quality
thing you more occupy belonging to me,
situate on the South West quarter of
the 34th East 1/4 of section 34 of section
16 Town 34 Range 4 East.

in Jefferson County Missouri, within thirty
days from the time you receive this
notice,

Geo. Williams

11/11/11/11

on Wmth Service
3 executed the within articles by
resting the same in the presence
me hearing of Wmth Service and also
by hearing each for Wmth Service
on the 22 day of May 1857 in presence
Wmth Service
Sole
Shup
or Wmth Service

James L. Williams, Complainant, } Before William
Against } L. Lamaster, Jus=
William H. Devier, defendant, } tice of the Peace.

James L. Williams complains to Wil-
liam L. Lamaster, a Justice of the Peace within
and for the County of Jefferson, that on the 30th
day of July 1857, he had the legal rights
to the possession of the following premises,
situate in Jefferson County Missouri, to wit, a
Tract of Land containing forty acres, being
the North East quarter of the South East quar-
ter of Section No. ten, in Township No. thirty
nine, of Range No. four East, including the
Shanty or Dwelling House situate thereon and
now occupied by Defendant; and that Wil-
liam H. Devier, the defendant, willfully and
without force, holds the possession of the same
premises after the termination of the time for
which they were let to him, and after demand
made in writing for the delivery of the posses-
sion thereof. The complainant further states
that the said Defendant while in such pos-
session, unlawfully and without leave cut and
destroyed a large amount of timber & trees
standing & growing thereon of the value of
fifty dollars. The complainant therefore
states that he has sustained damages by
reason of the unlawful detainer aforesaid,
and of the wrongful cutting & destroying of
said trees and timber, in the sum of
fifty dollars. Wherefore the Complainant
asks judgment of restitution, and for the
damages he has sustained by reason of the

Timber cut and destroyed as aforesaid,
amounting to fifty dollars.
Severinto this 20 day } James L. Williams
of November 1857 } By Abner Green, his
Attorney.

Wm L. Lemaster }
Justice of the peace }

James Williams
vs.
Wm. H. Derran

Complaint

Henry M. Willem
John Williams
E. M. Boley
James P. Cape
Wm. Maen

[illegible]

Witness my Signature this 18th day of Decr

Wm L Semadeni Foster

1854

(Associates)
James & William This Sunday

As Meeting the same
Wednesday Decemr in the presence

Sacpomer

and having at
Osbond Williams
and also Em
Baboy and
~~John~~ both
and James
Lapham and
William
this day of
December 1837
B. Williams
constable

Of the State of Maryland. To the Court of the
County of the County of Jefferson Meeting you are hereby
commanded to summon William H. Doan of the County of
Jefferson & State of Maryland to appear before the
undersigned Justice of the Peace within & you Doan
specially at my office in the same County on this Day of
Decr 1857 at the hour of ten of the clock in the forenoon
at that day then and there to answer & defend against
the Complaint of James Williams of unlawful detainer
made by the said William H. Doan upon the lands of
the said James Williams as by the Complaint of the
said James Williams first annexed & set those fully
appearing and have you then & there this 1857 the return of
your proceedings thereon

This Day of November

1857

Wm. H. Doan

Justice of the Peace

James L Williams

No

William H Seaver

Sonnet

I executed this
^{commence} sent by sea
and the name
in the presence
and hearing of
Wm H Seaver
and he de
clared to have
the same
on the 25th day
~~of the month of~~
of 4th March 1857
J. L. Williams
Clerk

I executed this
by taking William
H Seaver a copy
of the name of
the Sonnet and comparison
and the within de
clared on the 25th day
of 4th March 1857 in
Wm H Seaver's
testimony
of 4th March 1857
J. L. Williams
Clerk

~~copy of the~~
copy of the

The State of Wisconsin & Ephraim Moore and
Stephen Dancer & R. R. Allen have each
commanded that all excesses & delays being left
aside; you personally be and appear before the
competent justice of the peace within & for the
jurisdiction of each in the County of Jefferson
on the Day of Decr 1857 at the house of Sen Oakes
in the Town at his office in said County
to testify on the trial of a case wherein James
S. Williams is plaintiff & Wm. H. Dancer Defendant
On the part of the ~~plaintiff~~ Defendant & of this
you are not to fail at your private
own under my hand

Wm. H. Dancer 1857

Wm. H. Dancer
Justice of the peace

I executed this

James M. Williams

would be reading

the same in

William H. Davis

presence and

Sadhaara

hearing of

Stephen Davis

Stephen Davis

Stephen Davis

and also Ephraim

He H. Allen

in their

this day of

Dec 1800

In March

Constance

As the

was not found

in the county

of which

be not to be

11) 2200
2100
100
3300

The State of New York vs John Williams
Henry Williams Wmth James D Capoe Esq of Soler
have are hereby commanded to be & appears before
the undersigned Justice within & for said Township
in the County of Jefferson & State aforesaid at my
office in the same Township on the 10 day of Feb 1858
at ten o'clock to testify on the trial of case between
James D Williams vs John Williams & Williams & Co
is Defendant & behalf of the Plaintiff and of this
I have are that to find at your service

Given under my hand this 14 day Jan 1858

Wm L Limestone
Justice

James L. Williams

As

Mr H. Dorian

Southam

John Williams

Henry Williams

Mr H. Dorian

James P. Cope

Edith Boley

I executed the
within with my

bearing the same

in the presence of

bearing Edith Boley

and also William

and accept for

James P. Cope

and also by leave

ing accept for

Henry Williams

and John

Williams

on the 2 day

of Feb 1855

at Williams

Constitution

The State of Missouri

To the Consulate of France

Courtesy in the County of Jefferson Declining
My Honor's Compliment in relating is that to the
Underorganic Justice of the Peace within 2 Year since
County of Jefferson a certain unlawful detour
made by Mr. H. Davis on the lands of James H. Weston
who in the County appeared there was therefore to
Commence Year have been to come before the
Said Justice at his office in the County appeared
on the day of Feb 1858 at the hour of ten of the
the clock in the forenoon of said day Justice
good and lawful man of the County to make a jury
To inquire into the unlawful entrance of James
Davis under my Honor's day of Mar 1858

Wm. H. Emerson
Justice

James Williams
As
Wm H Deane

Bermuda

~~James Williams~~ ~~James Williams~~
John Robertson
John Thompson
Salmon Sanders
~~Henry Williams~~
John Bellson
~~George Jackson~~
Benjamin Bunting
Charles Davis
Robert Savage
Thomas Gibbons
Henry Black
Joseph Smith
David Butler
George Williams

The State of Missouri: To Ephraim Harnes &
Stephen Dorem to Allen Gae are hereby Committed
that all excesses & delays being & it is so Gae prisoners
he & appears before the undersigned Justice within
& for the Township of Ball in the County of Jefferson
on the 10 day of Feb 1848 at his office in the same
Township to testify on the basis of a said return
James L Williams as plaintiff and Williams &
Dorem as Defendant on the part of the Defendant
and of the Gae on that to Gae at Gae Gae's
Green under my hand this 14 day January 1848

Wm L Dorem
Justice

I executed the
writ by selling
the same in the
presence and con-
sensus of ~~James~~
Ephraim Howard
on the 21 day of
Jan 1838
and also by sell-
ing & accepting for
Stephen Davis
on the 2 day of
Feb 1838
S. W. Whitman
constable

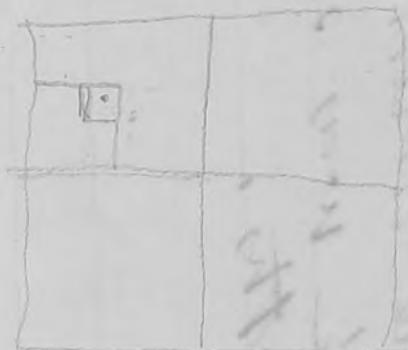
James L. Weston
do
Wm. H. Sever
Subpoena
Stephen Davis
to
R. A. Allen

115
Wee the Jury find the Defendant guilty
in November and from no change in
the Complaint, and do further find
that the value of the monthly rents
and profits of the said tenements
is one dollar since the time the
Notice was served that is for eight
months,

J R Nelson
foreman

Verdict of

Jury



W^m William H. Derris as principal & W^m J. Walker
Sincerely acknowledge ourselves indebted to
James L. Williams the Complainant in the Sum of
One Hundred Dollars upon this Condition: That
whereas the Said William H. Derris has appealed from
the Judgement of W^m L. Lamarter a Justice of the
peace in an action of unlawful detainer between
James L. Williams Complainant & William H. Derris
Defendant - Now If the Said defendant prosecute
his Suit with effect and without Delay neither
Committee nor suffer to be committed any cost or
Damages on the premises whereof Restitution is adju-
dged and pay all costs and profits Damages and
Costs that may be adjudged against him and
otherwise abide the Judgement of the Circuit Court
In Said Cause then this Recognisance to be void
Given under my hand this 8 Day of February 1858

Attest

W^m L. Lamarter
Justice

W^m H. Derris
W^m J. Walker

M. A. Davis -
Wm. E. Walker -
Bond

State of New Jersey's
County of Jefferson

the Day William H. Deaver

Came before the undersigned Justice of the Peace
and makes oath that he truly believes what he is
aggravated by the judgement of the Justice and that
he does not take the special Verdict as a duty
but that ^{any that the Jury was troubled with} Justice may be done

Sussex and Subscribed

before me this Day of Feb 1844

Wm L. Lemerter

Justice of the Peace

Wm H. Deaver

W. H. Dorian

affiliated

James L Williams }
vs } 32

William H Dorian James L Williams Filed a
Debt \$40.00 Complaint of unlawful Detainer
against Wm H Dorian the 20 Nov
annexed \$8.00 1857 on the lands of said James L

Justs Fees
1 Summons 75
& Subpoena 25
Veria 25
& Subpoena 25
Veria 25
& oaths 40
Deceit in Veria 25
entering Veria 25
Judgment 35
affidavit 50

3.50 0

Williams Situated in the County of
Jefferson & State of Missouri on a
tract of land containing 40 Acres being
the S E q^{rs} of the S E q^{rs} of Section 10 in
Township 35 39 R 4 E including the Shanty
occupied by Wm H Dorian Situated thereon
& after the termination of the time for which
they was let to him & after demand in writing
for which Plaintiff claims Damages
On the 20 Day November Summons issued
& put in the hands of R Washburn Const
Returnable the 5 Day of Dec 1857

on the same date plaintiff Cauts for a
Subpoena for John Williams Henry Williams
Court fees \$4.25 James P Cape Wm H Moon E M Bely

a precept for a Jury of 12 Men was
at the same time and given to R Washb-
urn Constable Returnable on the above
date Nov 30 Defendant Cauts
for a Subpoena for Stephen Dorian &
Ephraim Wood R R Allen the same
issued and given to R Washburn
Const Returnable on the above date
5 of December 1857 Wm L Lemaster Justs

Summons Returned
John Hapson 25 Served on the Defendant by Copy also the
J H Dorian 25 above named Subpoena returned Served
Harry Black 25 by Reading on all except R R Allen not
\$ 3.00 found in his Backbook

Witness

I William
Henry Williams 100 On the Sunday of December 1857
Wm H Maen 200 the venire returned with the following
Jas P Cape 200 names John Robertson Henry Black
E M Foley Henry Washburn Robert League James
Stephen Dixon 100 Haverstock Adam Piffey George Seblitt
E Wood 200 Garrison John Hapson Benjamin Bullen
R R Allen 200 R Washburn Court

of 500 On the 4 Day Dec 1857
the parties appeared The Defendant and
an agreement for the want of R. R
Allens Testimony The defendant made the
proper Affidavit The Justice closed the case
over until the 6 of Feb 1858

On the 14 Day of Jan 1858 Subpoena issued
for John Williams Henry Williams J P Cape
Wm H Maen E M Foley the defendant
cault for a Subpoena for Stephen Dixon
Ephraim Heard R. R Allen and put in
the hands of R. Washburn Court returned
the 6 of Feb 1858 also a venire for 12 men
on the 6 Feb 1858 the above named Subpoena
returned served on all except R. R Allen

not found My Bailiwick the venire
returned with the following names John Robertson
John Hapson Sallaman Sanders John H Wilson
Benjamin Bullington James Josier Robert League
Thomas Gibbins Henry Black Joseph Byatt Doyle
Butler George Fleming R Washburn

the case was cauld the Defendant and a continuance
for the want of R. R Allen the above named witness
the same was overruled by the Justice
The Jury being sworn & after hearing the Evidence
on both sides brings a verdict as follows

And the Jury find the Defendant Guilty in manner
and form as charged in the Complaint and do
Further find the ^{value} Monthly Rents and profits of the
Said tenements is One Dollar Since the time the
Notice was served that is for eight Months

J. K. Nelson

On the 8 Day of Feb 1858

For cause

The defendant comes forward and prays an appeal
the same was granted and takes the necessary oath &
enters in to a bond with Wm G Walker as security
the papers all sent up to the circuit Court &c

Wm L Lemaster
Justice of the peace

The within is a true transcript of the ~~entire~~ as remains
on my Docket in my possession Given under my
hand this 8 Day of Feb 1858

Wm L Lemaster
Justice

1835-

James D. Williams

no

Mr. Williams

Filed April 26th 1858

John H. Brown & Co

COUNTY OF JEFFERSON.

The State of Missouri,

To

Geo. J. Cape & Co. Secy. for William
H. Williams, Jr. Secy. for
you are hereby commanded, that setting aside all manner of

Greeting:

averse and delay, you appear before our Circuit Court for the

County aforesaid, on the 3rd day of July 1855

to show cause why you should not be required to pay in a

sum of money, more or less, as may be found, whereby

James S. Williams is Plaintiff and

Wm. S. Williams is Defendant on the said

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

21st day of April A. D. 1855

Geo. J. Cape
Clerk.

I do hereby certify that I executed the within writ, on
the within named witnesses, on John Williams, Henry
Williams, E. M. Boly on the 27th day of April 1858.
and James Cape, Rudolph Washburn on the 27th day of April
1858, and on William L. Lemasters on the 28th day of April
1858, and on William Moon on the 29th day of April
1858.

Wm Williams

John Cape

April 28th 1858

James L Williams

Wm Williams

Wm Williams. fees \$3.50

James Williams } In the Circuit Court of Jeff
vs }
William H. Devard } am. Court Master

To James Williams

You are hereby notified that before
turn of witnesses to be read in evidence in the above cause
on the part of the defendant will be taken at the office
of G. R. Miller Justice of the peace in Town
of Goodville, Adams Co. Ky, State of Iowa on the
11th day of October 1858 between the hours of 8 o'clock in
the forenoon and 6 o'clock in the afternoon and if not
satisfied on that day, they will be continued from day
to day at the same place between the same hours, till

Given
James Williams H. Devard

Witness
Oct 1858

I received the written notice by delivering a copy of the
same to James Williams at Jefferson County N.Y. on this
6 day of ~~July~~^{September} 1858

R Walden in Court

County of Jefferson, sct.

THE STATE OF MISSOURI,

To any Judge or Justice of the Peace or other Judicial Officer

of the State of Iowa, Greeting:

We, reposing special trust and confidence in your integrity and circumspection, do authorize and require you, that you cause to come before you, such person or persons as shall be named to you by, Wm H Deriar

Attorney or Agent, and him or them examine upon his, her or their corporal oath, (to be by you administered,) touching their knowledge of any thing that may relate to a certain matter of controversy, now pending in our Circuit Court, for the County of Jefferson, wherein James L. Williams is

plaintiff,

and William H Deriar

defendant,

on the part of the defendant. : and having so reduced the said depositions so taken by you, as aforesaid, in writing, you are required to send the same, together with this commission, enclosed under your seal, to our said Circuit Court, with all convenient speed.

Elias J. Honey

Witness, JOHN S. MATHEWS, Clerk of our said Circuit

Court, at Hillsboro

this 28th

day of August.

in the year of our Lord one thousand eight hundred and fifty eight

Elias J. Honey

Clerk C. C.

Do Circuit Court
Jefferson County Mo
Feb Term 1858
James L Williams
vs J Jackson
Jm W Davis

State of Georgia
Chancery Co 3d

Deponent R. R. Allen sworn
and subscribed to on the 11th day of Oct 1887
between 8 O'clock in the forenoon and 6 O'clock
in the afternoon at the Office of C. R. Miller a Justice
of the Peace for Jefferson Co. Alabama Co. there was
in a certain Cause now pending in the Circuit
Court of Jefferson County Missouri between Jas Williams
Plaintiff and R. H. Verrier Defendant.

R. R. Allen of lawful age
being produced sworn & examined on the part of the
Defendant deposed & says that, he knows the parties
in this Cause, was employed by R. H. Verrier in
the summer of '83 or '84. The aforesaid said Verrier to put
up a shanty or building for the purpose of a boarding
house. A. Office, supposed that it was on lands of
W. H. Harrison. When we first commenced building
but learned that it was not soon after we com-
menced. Jas A. Williams came where we were working
and told R. H. Verrier that he might go on and build
the shanty that he would pay him for all the lumber he
put in it at the rate of \$15.00 per thousand for all
the lumber and \$5.00 per thousand for the clap boards
on the roof. He also stated that Verrier should occupy
the shanty until the R. R. Lee paid him for
his work. Knows that Verrier forbade all his
hands from cutting any timber on the land
of said Williams R. R. Allen

James L Williams

no

William H. Davis

(Deportation)

(Suspended)

Received per mail to James
and filed Oct 20th 1875

Oliver J. Hooley
Clerk

Recd per mail June 6th
to file. J. J. Hooley Clerk

Subscribed & sworn to before me on the day at the
place and within the hours ~~of~~ ^{as} mentioned
Geo. H. Miller (Justice of the Peace)

Geo. H. Miller Justice of the Peace within and
for the Township of Jefferson Allamakee County
State of Iowa do certify that in pursuance of the
annexed notice came before me a Just. of the
Peace of Allamakee County Iowa R. H. Allen
who was by me sworn to testify the whole truth
of his knowledge touching the matter in controversy
aforesaid that he was examined & his examination
reduced to writing & subscribed by him in my
presence on the day between the hours and at
the place in that behalf aforesaid and his
deposition is hereunto ~~returned~~

Given at Des Moines in Allamakee Co
Iowa on this 11th day of Oct. 1888.

Geo. H. Miller

Justice of the Peace

J. H. R. Miller solemnly swear that on the 11th day October 1888
the above deposition was taken in accordance with a Uedimus
directed to any J. P. or other Judicial officer in the state of Iowa
that the first date was left out by my mistake which I have since
inserted and that I was an acting J. P. at the above
time and date mentioned above.

J. H. R. Miller

sworn and subscribed to before me this 11th day March
1889.

J. H. Miller Justice of the Peace
in Jefferson Township Allamakee Co Iowa

James L. Williams } In the Circuit
Against } Court, Jefferson
William H. Derian } County,

James L. Williams, Plaintiff
by his Attorney, moves the Court to
suppress the Deposition of R. R. Allen,
filed in the above cause, on 20th of Oc-
tober 1838, for the following reasons;

- 1st - It does not appear, from the caption,
or certificate or any other part of
said Deposition, that it ^{was} taken on
the 11th day of October 1838, the
day set for taking the same in the
Notice.
- 2 - It does not appear from said dep-
osition, on what day it was taken.
- 3 - The parties named in the deposition do
not appear to be same as those men-
tioned in the Notice.
- 4 - There is no Certificate of the official
Character of the Justice of the Peace
who took the same, by the Clerk of
Court of Record or any other of-
ficer authorized by law for said purpose.
- 5 - Said Deposition is not certified as
required by law.

} A. Green
Atty for plaintiff

James McKim

B,

Mr. H. S. S. S.

Proctor to

Exposition

Check for 2 or 1818
Also 2 No. 1818

Sustained

Depositions, of witnesses produced sworn, and examined at the Dwelling House of James L. Williams, (the plaintiff) in the County of Jefferson and State of Missouri, in a certain cause now pending in the Circuit Court, for the County of Jefferson and State of Missouri, before me, William L. Lamaster, a Justice of the peace within and for said County of Jefferson, between James L. Williams, plaintiff and William H. Devier, defendant, on the part of the plaintiff,

John Williams of lawful age being produced. Sworn & examined on the part of the plaintiff deposeseth and saith, witness states ~~that~~ ^{rather} ~~thinks~~ in July or August 1854, rather thinks in July Mrs Devier came to his father's house to get permission to build a house ^{or shanty} on his father's land. His father James L. Williams asked Devier how long he wanted it. Devier said that he wanted it until January 1856 to live in for an office. Father said he could go ahead & build his office ^{or shanty} if he wanted not but to destroy his timber. Mrs Devier ^{said} he did not want to use the timber, the timber that was hacked off the Railroad would be as much as he wanted ^{he} wanted same for stove wood.

(The defendant objected to the evidence about the timber & wood as being irrelevant)

Mrs Devier said he had taken a contract for grading the I R M Macintire Railroad the part running by his house. Said Williams. Mrs Devier said the Railroad was bound to be finished ~~by that time~~ ^{by the first of January} 1856, but as for his part he did not expect to be there that long in finishing his work. Devier said he did not want

to remain there longer than that of January 1856
(question by plaintiff) State the contract

(Defendant objected to this question and answer as there
was no contract proven or agreed to)

Witness says there was nothing said there was nothing
said about ^{paying} ~~paying~~ any thing for the land.

My Father asked Desires what he wants to do with
the lumber or Shanty when he left there
Desires said on other weeks he was in a habit
of charging a boat half price or fifteen Dollars
a shanty for the lumber. My Father ^{says} we will see
about it. Desires after the agreement went on and
built the House or Shanty on My Father's land near
the Railroad & moved in the house some time in
August 1854 and remained there ever since until
this winter 1859 ~~& 1859~~

(Question) State if you know whether Desires cut
and made use of any timber on the plaintiff
land while he lived on it. If so how much
(Answer) Witness states he thinks that Desires cut
and used off the land of the plaintiff about seventy
five or a hundred cords by ~~them~~ and the men
in his employ.

Defendant objected to the last question & the answer
because it ~~was~~ is irrelevant, & illegal and because nothing
to do with case

Witness states when Desires came to My Father's House
to get permission to build the Shanty there was no one
present except Myself & Brother Henry & My Father's
family a boat the ^{longer} Spoken of Father had a Sase log &
was unable to get about much.

Cross Examination

Witness states at the time too Desires first came first
above Spoken ^{Desires states that} of George W. Harrison told Desires to go
there & build a Shanty and that that he said & queried he

would not be interrupted (This question & Answer objected to by plaintiff, as being illegal and irrelevant)

Witness) questions by Defendant State if you knew if George W. Harrison was to have any land from your father on said Road,

(This question objected to, ~~by~~ plaintiff, as illegal) Answer I know from statements from my father that George W. Harrison was to have three acres & $\frac{48}{100}$ of father's land on said Road (This Answer objected by plaintiff as illegal & irrelevant) and understood from father that George W. Harrison paid father for said land, which was then run off. —

State what Denier told his father on the occasion of coming to his house about building the shanty on his land, in reference to paying punctual by the company, if the company will punctual Denier would finish sooner than than 1st of January. Answer witness says that his father expressed doubts as to whether Denier could finish his work by the first of January 1856. and Denier then said if the company would give him money enough he could finish the whole of the Road by that time. Witness states that he saw Denier cut one tree on the land of my father ordered which tree was for a gate or sleeper for said shanty don't remember of seeing him cut any other trees at any other time on said land Answer I don't know if I heard Denier ordering any person to cut timber on my father's land Except a while I was hired to Denier he told me to cut up some stove wood. on a tree a lying on said land about 30 yards from said shanty

Re Examination

Defendant objects to examination as being in matter in chief. — State if you saw any persons under Denier's employ cutting any timber

the said Land, while he has possession of ~~the~~
~~the~~ ~~shanty~~.

I saw different Men at different times a cutting
timber on said Land who were under Desias
employ ~~while~~ to work on the Road to wit Stephen
Desias Ephraim Masde James Robertson A. J. Murray
most of ~~them~~ This work was cut before Desias
had completed his work
Subscribed before me this 14th } John Williams
Day of March 1859

Wm L. Seemaster Justice

I Wm L. Seemaster a Justice of the peace Jefferson County
and State of Mississippi do hereby Certify that John Williams
the witness whose place of Residence is in Jefferson County
in the State of Mississippi was by me sworn to testify the
whole truth of his knowledge touching the matter in Controversy
now depending in the Circuit Court for the County of Jefferson
in State Mississippi whereas James S. Williams is plaintiff &
William H. Dorrean defendant the witness was examined
and his Examination Reduced to writing and Subscribed
by Said Witness in my presence on the fourteenth day
of March 1859 between the hours of eight O'clock in
the forenoon and six O'clock in the afternoon of said
day at the Dwelling House of James S. Williams
in the County of Jefferson and State of Mississippi

Taken at Jefferson County and State of Mississippi
on this 14th Day of March 1859

Justice fees \$1.25

Wm L. Seemaster
Justice of the peace

James L. Williams, plaintiff } In the Circuit Court
Against } for the County of
William H. Devriar, defendant } Jefferson State of Missouri,

To William H. Devriar, the above named defendant,
You are hereby notified, that depositions
of witnesses, to be read in evidence, in the above
cause, on the part of the Plaintiff, will be taken
at the Dwelling House of James L. Williams,
the plaintiff, in the County of Jefferson and
State of Missouri, on the fourteenth day of March
1859, between the hours of eight O'Clock in
the forenoon, and six O'Clock in the afternoon;
and that the taking of said depositions, if not
completed on that day, will be continued
from day to day, at the same place, and between
the same hours, until completed.

March 3rd 1859. } James L. Williams, plaintiff
By Abner Green, his Attorney,

This is to Certify that I ~~did~~^{have} served the within
Notice on William H. Derier ^{at the County}
of Jefferson, on the fourth day of March 1859, leaving true
copy of the within Notice at the usual place of abode
of William H. Derier with a free white person of the family
over the age of fifteen years
By Augustine Wiley Deputy
Osceola Dyer Sheriff

In Cir. Court
Jefferson County

Jas. L. Williams

vs.

Wm. H. Derier

Notice to take

Depositions

Sheriff fees 50cts

STATE OF IOWA, }

COUNTY OF ALAMAKEE,

ss.

I,

C. J. White

Clerk of the district Court in and for the County aforesaid, do certify that *G. R.*

Miller before whom the foregoing ^{*deposition*} ~~acknowledgement~~ was made and whose genuine signature appears thereto, ~~is, and~~ was at the time thereof an acting Justice of the Peace in and for the County aforesaid; duly commissioned and qualified, and that all his official acts, as such are entitled to full faith and record.

In testimony whereof, I have affixed the Seal of our said District Court and subscribed my name at my office in *Frankton* ~~Columbus~~, this

23 day of *April* A. D. 185 *9*

C. J. White

Clerk District Court.

STATE OF IOWA, }

COUNTY OF ALAMAKEE,

ss.

I,

C. J. White

Clerk of the district Court in and for the County aforesaid, do certify that *A.*

Miller before whom the foregoing ^{*affidavit*} ~~acknowledgement~~ was made and whose genuine signature appears thereto, is, and was at the time thereof an acting Justice of the Peace in and for the County aforesaid; duly commissioned and qualified, and that all his official acts, as such are entitled to full faith and record.

In testimony whereof, I have affixed the Seal of our said District Court and subscribed my name at my office in *Frankton* ~~Columbus~~, this

23 day of *April* A. D. 185 *9*

C. J. White

Clerk District Court.

James Williams
vs
Wm A Derran

In the Circuit Court
June Term 1859.

The plaintiff by his attorney comes
and moves the court to suppress the depositions of
G R Miller filed in this cause for the following reasons
1st there is no service of notice on the plaintiff of the
time or place of taking the same or any notice whatever
2nd said deposition does not state when or where the
same was taken

3^d The same is a mere voluntary affidavit without
notice to the plaintiff or authority from this court.
4th voluntary affidavit of G R Miller, does not state
between what hours the deposition of R R Allen was
taken which is attempted to be patched up by his
affidavit.

And the plaintiff moves the court to suppress
the deposition of R R Allen filed in this cause for
the reason

1st The certificate is not on the same sheet of paper
or attached by seal to the deposition

2nd The certificate of the clerk as to the official character
of the justice of the Peace is not on the same paper
nor attached by the seal of the clerk to the certificate
of the justice whose signature is ^{pretended to be} certified as genuine

3^d The certificate of the justice of the Peace does not show
that said deposition was taken at the place named
in the notice,

Green & Sketcher
for Plff

James Williams
as

W. A. Denard

motion to suppress subscriptions

Green & Melcher for Cell

July June 10th 1859
Oliver & Honey
Clerk

County of Jefferson, set.

THE STATE OF MISSOURI,

To any Judge or Justice of the Peace or other Judicial Officer
of the State of Iowa, Greeting:

We, reposing special trust and confidence in your integrity and circumspection,
do authorize and require you, that you cause to come before you, such person or per=
sons as shall be named to you by William H. Deriar his

Attorney or Agent, and him or them examine upon his, her or their corporal oath,
(to be by you administered,) touching their knowledge of any thing that may relate
to a certain matter of controversy, now pending in our Circuit Court, for the County
of Jefferson, wherein James L. Williams plaintiff,

and William H. Deriar is defendant,

on the part of the defendant; and having so reduced the said depositions
so taken by you, as aforesaid, in writing, you are required to send the same, together
with this commission, enclosed under your seal, to our said Circuit Court, with all
convenient speed.

Elias J. Honey
Witness, JOHN S. MATHEWS, Clerk of our said Circuit
Court, at Kennett this twenty seventh
day of June in the year of our Lord one
thousand eight hundred and fifty nine

Elias J. Honey

Clerk C. C.

To Henry David Hunt

December term 1859

James S. Williams

vs. J. Godwin

Wm. L. Davis

\$10.00

James L. Williams } In the Circuit Court
vs } of Jefferson County
William H. Devier } State of Missouri.

To James L. Williams

You are hereby notified
that Depositions of witnesses to be read in Evidence
in the Above Cause on the part of the Defendant
will be taken at the Dwelling House of George
R. Miller in the Town of Prossville, Alexander
County, State of Iowa on the 26 Day of September
1859 Between the hours of 8 O'clock in the forenoon
and 6 O'clock in the Afternoon and if not Completed
on that Day they will be Continued from Day
to Day at the Same place and Between the
Same hours till Completed
August 18th 1859

Yours

W. H. Devier

I executed the within Notice
By delivering a copy of the same to
James L. Williams in Jefferson County
State of Missouri on this 13th Day of August 1858
D. D. Goff
Constable

James S. Williams } In the Circuit
vs } Court for the County
William H. Verian } of Jefferson State of
Missouri

Depositions of witnesses produced
and sworn & examined on the 26th
day September 1857 between eight
O'clock A.M. and 6 O'clock P.M.
of that day at the dwelling house of
Geo R. Miller in the Town of
Naperville in the County of Allamakee
State of Iowa before me Abram
Miller a Justice of the peace in a
certain cause now depending in the
Circuit Court of the County of Jefferson
in the State of Missouri between
James S. Williams Plaintiff & William
H. Verian Defendant on the part of
the Defendant

Reuben R. Allen of
lawful age being produced & sworn
& examined on the part of the
defendant deposes and swears that
he knows the parties in this ~~case~~^{cause}
was employed by William H. Verian
to put up a shanty or building
it was in the summer of 1853 or
1854 said building was for a boarding
house or office supposed that we were
building it on the lands of N H
Harrison when we first commenced
building but learned afterward it was

on lands of James S Williams
soon after we commenced work on the
shanty James S Williams came where
we were at work and told Mr Denar
that he might go on and build
the shanty that he would pay him
for all the lumber he put in it
at the rate of Fifteen (\$15.00) per thousand
for all the plank and at the rate of
Five (\$5.00) per thousand for the clapboards
on the roof he also stated that Denar
should occupy the shanty until he
finished his work on the Rail
Road and the Rail Road Company
paid him for the work then the
same was to be divided up to
Williams. This was the contract
on his part. The deduction that Mr
Denar made in the price of the
shanty was in consideration for the
use of the land to build upon
and occupy till he got through
his work

Reuben R. Allen

Subscribed and sworn to before me
on the day at the place and within
the hours aforesaid

Abraham Miller Justice of the Peace

I, Abraham Miller Justice of the
Peace within and for the County
of Allamakee State of Iowa do
certify that in pursuance of the annexed
commission and notice came
before me at the dwelling house of
Geo. R. Miller in the Town of Repulse
in the County of Allamakee State of
Iowa Reuben R. Allen who was
sworn to testify the whole truth of
his knowledge touching the matter
in controversy between James S. Williams
and William H. Merriam aforesaid that
he was examined and his exam-
ination reduced to writing and
subscribed by him in my presence
on the day between the Thours and
at the place in that behalf first
aforesaid and that his said
deposition is now herewith returned
and I further certify that said Reuben
R. Allen is a resident of the said
Allamakee County - Iowa

Given under my hand
at the dwelling house of Geo. R. Miller
in the town of Repulse County of
Allamakee and State of Iowa this
26. day of September 1859

Abraham Miller Justice of the Peace

It is hereby certified that Abraham
Miller was on the 26 day of September

Eighteen hundred and fifty nine
and now is a Justice of the
Peace within and for the County
of Allamakee in the State of Iowa
duly commissioned and acting
as such and that full faith
and credit are due to his acts
as such In testimony whereof
I C. J. White clerk of the District
Court in and for the County
of Allamakee State of Iowa have
hereunto subscribed my name and
affixed the seal of office this 27 day
September 1859 C. J. White
Clerk of District Court

Received perill a/c. opened
and filed by me Oct 7th
1859 Elias J. Hooley
Clerk

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *Wm D. Donaster, Myr. L. Leary, Jas P. Leape, Redneckman*
John Williams

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
13th 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 *James D. Williams* is
Plaintiff and *Wm L. Leary* is Defendant on the
part of *Plaintiff* 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

14th day of *May* A. D. 18*80*

Elias F. Honey

Clerk.

Isbancourt Court
June Term 1860

James L Williams

Wm H Senior

for deft

Wm L Lemaster No 22

Wm H Moore No 14

Jas P Cape No 44

Rud^h Washburn No 13

John Williams No 11

Sheriff fee \$2.00

I executed the within Spa in the County of Jefferson
on Wm L Lemaster, Wm H Moore James P Cape
Rud^h Washburn John Williams

Refused

Unless the jury find that the defendant did willfully hold over, and keep possession of the Shanty, after the time he had ceased the same they must find for the defendant.

2

Refused

And if the jury should find that the defendant did hold over, keep possession of said Shanty, after the time had elapsed for which he had leave to keep the same, yet if the Notice to quit was before was served on the defendant before the right of action accrued then they must find for the defendant.

1 jury

3-

Refused

If the jury shall find from the evidence that the defendant, was to keep possession of the Shanty until his work was completed on the Rail Road and that plaintiff this suit before, said work was finished then they must find for the defendant.

William }
dearai }

Indira e Refuel

Siled June 13th 1865

Oliver & Henry
del

Refused

Although the jury may find (if the
verdict is for the plaintiff) for waste
and injury committed upon the premises
they cannot give for trespass or
disturbance in land, and should
the acting as tenant is not waste
but trespass, and on plaintiff's
proof adduce in the case of
action for trespass -

As the Tenancy of the doftment
~~was~~ allow'd by the Tenants we know
you it soon he was entitled to his money
not to quit. I

Refused because they
they had received the
other instructions &
had retired

Ad. the tenancy of the Appendants as shown by the
Deed, was a tenancy from year to year, he was
entitled to six months notice to quit

1 That by the Agreement between Plaintiff and Defendant for the use or occupancy of the land in controversy for a longer period than one year, the Defendant acquired no right to retain the possession for any definite period, the said Agreement not being in writing. And the Defendant ~~was~~ liable after one month's previous notice to quit the premises, ~~to this action~~ was liable to be turned out of the occupancy by a writ for forcible detainer,

2 And if they find that by the Agreement the right to occupy and use the land expired on the 1st January 1836, then he was then liable to be turned out without notice. In either Case the Jury will find for the Plaintiff and award his damages to any sum they may find the Plaintiff has sustained in consequence of any waste of timber &c and for being kept out of the premises after the Defendant became liable to surrender them as above.

MASS
The the Jury find for the
plaintiff and assess the damages
at Sixty one dollars, the faulting piece
the monthly value of the licenses to be \$1 per month
J, H, Dady Foreman
and the Plaintiff Eleven and an

Williams } In the Jefferson County Circuit
vs } Court June Term 1860
Seriah }

Now this day comes the defendant
and asks the Court, to set aside the
verdict of the jury, and grant a
new trial for the following
reasons - namely,

- 1st Because the verdict is for the
wrong party.
- 2nd Because the verdict is against
the evidence and the weight of
evidence.
- 3rd Because the verdict of the jury
is against law.
- 4th Because the Court gave improper
instructions, and refused proper
ones asked for by the defendant.
- 5th Because the Court permitted
improper testimony to go to the jury.

Beal S. Gale for
Defendant

W. H. own
an

Demals

Motion from
new trial

Filed June 13th 1860
Oliver & Honey
Clark

James L Williams

against

Mr H Denar

In the circuit Court of
Jefferson County Missouri

Be it remembered that on the trial
of the above Cause the plaintiff introduced
to sustain his cause the following evidence

1st The plaintiff offered to read in evidence a notice given by the plaintiff to the defendant dated May 22^d 1857 in words and figures following (here copy notice to deliver possession) to reading of which the defendant objected because it was insufficient, indefinite, illegal & not being for the same land and for and because the service was insufficient and not a demand as required by law, the court overruled the objection & permitted plaintiff to read the same to the jury to which opinion & decision of the Court, the defendant excepts. The plaintiff then introduced John Williams, a son of the plaintiff who testified that in the latter part of July or first of August 1854 defendant came to his father's house & stated to his father that he had commenced to build a shanty on a piece of Harisons land, ^{as he supposed} but understood that it belonged to plaintiff & wanted to build the shanty on the land, plaintiff asked Denar

How long he wanted the land. Denier said
~~he did not think that he would want it longer~~
~~until he finished his work on Rail Road, which work you know~~
~~then the 1st of January 1856 that he was a~~
~~according to Wm. Roberts contract with the Company, must be done~~
~~by 1st January 1856~~
that he was Contractor on the Iron Mountain Rail Road &

would finish his contract by that time. Plaintiff replied that defendant could not finish the contract by that time. Denier replied to him that he could finish the whole road by that time if they gave him enough money.

Plaintiff told Denier that he might build on the land & would not destroy the timber. Denier said he only wanted firewood for his house and shanty. ~~that Denier might use timber to build~~
~~if that was on the 100 feet of the road way already cut down~~
~~the shanty and for fire wood.~~

Plaintiff then asked Denier what would become of the lumber & shanty when he left. Denier told him that he was in the habit of charging half price for the lumber when he left. Williams then said we will see about it & Denier left. Denier afterwards built his shanty on his father's land near the rail road, of 20 by 24 feet. It could be put up for \$15. There was about 3000 feet of lumber put in the house. The only timber witness knows of Denier cutting was for a log to build the shanty, that several acres of land were cut off ^{around} for fire wood at Denier shanty. Believes to be 75 cords cut in all, that he don't know who cut it all.

saw Denier's lands cut some of it. wood at that time was not worth at that time much in the ground about 25^{cents} per cord in the trees, wood on the Railroad is worth \$2 per cord -

The shanty was about 300 yards from the dwelling of plaintiff that plaintiff visited the shanty around there nearly every day and saw Denier's lands. Witness & his brother worked for Denier & bonded for the plaintiff while Denier was engaged at the work on the Rail Road, never heard his father object to the timber that was cut, being cut. Denier moved away from the shanty in the month of November 1857 & ^{has} not lived in it since.

2 The plaintiff then introduced ^{Wm} L. Lemaster who testified that he saw the ground & place around the shanty built by Denier, that one acre or perhaps two ^{clear and about a acre chopped over} were cut off. Land all along there was worth about \$10 per acre.

3 Oscar Dover who testified that he knows the land & shanty that there is something about two acres of land cut off. Most of it is cut between shanty & road. Supposes that, ^{perhaps} ~~in all about~~ the acres, ^{more} are partly cut over in spots. Land worth there about \$5 ^{to \$10} per acre he supposes don't know its value.

The plaintiff then offered to read in evidence
a transcript of judgment of Just W H Denier
vs J L Williams, ^{the account sued on} and also the dismissal
of the appeal by Williams in words
& figures following (here copy 1st the trans-
cript of Denier vs Williams, ^{the account sued on} and ^{2^d} the dismiss-
al of the appeal by Williams on ~~agreed~~ word)

In the reading of the same defendant
objected but the Court permitted plaintiff
to read the same in evidence to which
ruling & decision of the Court the defend-
ant accepted

The ~~plaintiff~~ then introduced Henry
Williams who testified that his father
& the plaintiff had a conversation at the same
time his brother John testified to and spoke
of the conversation in same manner as
John, he also stated the lumber cut and the quantity of
lumber cut over the sand as testified to by his brother John
Williams

The defendant then read in evidence
the deposition of Allen in words & fig-
ures following (here copy Allen's deposi-
tion (last one of his)) to the reading of which
^{the plaintiff excepted}

The defendant then introduced Oram
Hoard who testified that after Denier
commenced to build his shanty he discovered

discovered that it was on plaintiffs land instead of Harrisons as he supposed, that he heard plaintiff ~~for~~ state that Denier was to have possession of the shanty until he finished all his work on the Rail Road & settled up with the Rail Road Company. Witness boarded with plaintiff & frequently heard him state this fact - that Williams was frequently at the shanty & around while it was building and afterwards while work on the Road was going on. That when Denier left the shanty would do for a school house, that Williams frequently told him that he had agreed with Denier to pay him \$15 or 16 per thousand for all lumber in the shanty when he left and to pay him half price for the Clap board that boards were, worth ~~\$4~~ per thousand.

The defendant did not finish his work on the Rail Road until in December 1857.

Mrs. Mandeville then testified that she was the agent of the Iron Mountain Rail Road and that Denier finished his work on the road in December 1857. His contract was an original contract & not changed in its terms but completed according to his agreement, he undertook some more jobs completing perhaps not more than two Outcrops, after finishing his original contract.

The foregoing was all the evidence on the part of the plaintiff and defendant.

The plaintiff then asked the Court for the following instructions viz (here copy plaintiffs instructions) to the giving of which defendant objected but the Court gave the plaintiffs instructions to which decision of the Court, defendant accepted.

The defendant then prayed the Court to give the following instructions viz (here copy all of instructions prayed by defendant)

The Court refused to give these instructions to which decision of the Court in refusing the defendants instructions, the defendant accepted.

The Court then gave ~~the~~ its own motion the following instructions viz

(here copy the instructions given by the Court in Judge Sturges hand writing)

In the giving of which instructions defendant accepted. after that the jury retired & brought in their ~~following~~ verdict (here copy) after the delivery of the verdict & judgment the defendant filed a motion for a new trial as follows (here copy) which being seen the Court overruled the motion for a new trial to which decision of the Court in overruling his motion for a new

trial the defendant excepted. The defendant
then moved the Court to arrest the
judgment as follows (here copy)
which being seen the Court over-
ruled, to which decision of the Court
the defendant excepted.

The defendant then tendered this
bill of exceptions & prays the Court to
sign, seal & make them a part of the
Record which is done accordingly.

John S. Stone

(Seal)

James Hillman

by

William H. Davis

Att of Executors

Attest June 26th 1860

Geo. J. Honey
Clerk

we W H Devier as principal and W G Walker
Jm J Harrison as security acknowledge ourselves
to me James L Williams the sum of one hun
dred & twenty dollars to be void upon these
conditions whereas William H Devier has app
ealed from the judgment of the Circuit Court
of Jefferson County Mo in Case of James L
Williams against W H Devier now if the
appellant will prosecute his appeal with
due diligence to a decision in the Supreme
Court & shall perform such judgment as
the Supreme Court may direct the Circuit
Court to give & if the judgment of such
Court or any part thereof be affirmed that
he will comply with & perform the same so
far as it may be affirmed & will pay all
damages & costs which may be awarded against
the appellant by the Supreme Court then this
obligation to be null & void otherwise to
remain in full force, witnesses our hands
& seals this 16th day of June 1860

W H Devier

W G Walker

William J. Harrison

Seal

Seal

Seal

James S Williams

vs
W H Deniar

} In the Jefferson Circuit
Court -

Wm H Deniar - makes oath
I say that his appeal in the above
Cause is not made for vexation or
delay, but because the affiant believes
that the appellant is aggrieved by the
judgment or decision of the Court

Shown to before me
June 16th 1860
Elias J Hoarey
Clerk

W. H. Deniar

J L Williams

vs

Wm L Denno

Pro & Affidavit

Filed June 20th 1860
Clerk & County
Clerk.

IN THE SUPREME COURT OF MISSOURI, HELD AT ST. LOUIS.

October Term, 1860.

James L. Williams. vs.

William H. Derian. ap.

Appeal from Jefferson

Circuit Court.

Now at this day come again the parties aforesaid, by their respective Attorneys, and the Court here being now sufficiently advised of and concerning the premises, do consider and adjudge that the judgment aforesaid, in form aforesaid, by the said Circuit Court rendered, be in all things affirmed, and stand in full force and effect. And it is further considered and adjudged by the Court that the said Respondent recover against the said Appellant his costs and charges herein expended, and have therefor execution.

STATE OF MISSOURI, } SCT.

I, WILLIAM S. GLANVILLE, Clerk of the Supreme Court of the State of Missouri, at St. Louis, certify that the foregoing is a full, true and complete transcript of the judgment of said Supreme Court, entered of record at the October Term thereof, 1860, in the above entitled cause.

Given under my hand and the Seal of said Court, at the City of Saint Louis, this 20th day of December

1860.

W. S. Glanville,

Clerk.

James L. Williams. no. reo.

William H. Davis. ap.

Judgment of the Supreme Court.
affirmed.