

Jefferson County Circuit Court
Case Files - Civil
October 1858, No. 36

Box 10 Folder 47

Spore, Adeline,
Spore, Andrew J,
McDaniel, William H.
McMillen, James, et al

v,

Bell, William H.

Partition

240 arpents in T42 R4E U.S. Survey No. 2005
and 40 acres in T42 R4E U.S. Survey No.
2009; Other plaintiffs: Mahala McMillen,
John Shulz, Mary Ann Shulz, Eliza Wright,
Mary Millsap, Catherine Martin, Elkin Craine,
Charles Craine, John Crain, John Moore, Caroline
A Van Arsdale, Roswell Van Arsdale, Charles Grubb
Sarah J. Grubb, William J Axler, Zachariah
Vories, F.M. Vories, A.W. Vories, and William
Vories.

Adaline Spore

Andrew J Spore

William H McDaniel by J E Cowan his next friend

James McMillen & Mahala McMillen his wife

Mary Ann Willson Plaintiffs

against

William H Bell & unknown parties Defendants

In the Circuit Court of Jefferson
County Missouri

Plaintiffs state that they and
defendants are tenants in common and owners
of the following real estate viz Lying in
Jefferson County Mo viz

United States Survey No 2005 confirmed
David Wise under
to Francis Lebarge in Township 42 Range 6
East containing 240 acres of land

Also forty acres of land being the South
East Corner of 640 acres confirmed to Wil-
liam Amiel Township 42 Range 6 United
Survey 2009. The interest of Adeline Spore
is the one sixteenth of said lands, the interest
of William H McDaniel and of Mahala
McMillen is each the one sixteenth in same.

The interests of Mary Ann Willson is the
one eighth of the same. The interest of Wil-
liam H Bell is the one eighth of the tract
confirmed to Francis Lebarge, and he claims
an interest in the forty acres but what
interest he owns and who are the owners
of the balance of said lands are unknown
to plaintiffs & for that reason are not
given nor set forth

Plaintiffs ask for partition & division
of the premises according to the respective rights

and for a sale thereof, if partition cannot be
made without great prejudice to the owners
and for such further orders as may be nec-
essary
J A Real for Plaintiffs

State of Missouri
County of Jefferson 3 ss

John E Cowan agent
for the plaintiffs states on oath that the
foregoing petition & the matters as
therein stated he believes to be true

Subscribed & sworn to } J. E. Cowan
before me this 1st day } Agent.
of October 1858 }
Elias D. Honeyclerk }

1619

Adaline Spore et al

vs

Wm H Bell

Filed Oct 17 1858

Chas J Honey et al

2 copies paid 110
2 cts 100
Wm H Bell 120
Spore et al 35
Total paid 155

ordered
copy 50
Paid 34 by P.H. apt

43 170, 206, 221, 232, 258, 313, 318, 319, 322, 323, 344
404, 411, 475, 477, 486, 497.

526, 537, 570, 638

Adeline Spore, Andrew J. Spore
William H. McDaniel by J. E. Cowan his next
friend, James M. Miller & Mahala M.
Miller his wife, Mary Ann Wilson,
Plaintiffs

Against

William H. Bell & unknown parties defendants
In the Circuit Court of
Jefferson County, Missouri

Plaintiffs state that they and defendants
are tenants in common and owners of the
following real estate lying in Jefferson County
Mo. viz United States Survey No 2005. Con-
firmed to Francis Le Barge in Township
42 Range 6 East, containing 240 acres of
land. Also forty acres of land being the
South East Corner of 640 acres confirmed
to William Smil Township 42 Range 6. Uni-
ted Survey 2009. The interest of Adeline
Spore is the one sixteenth of said lands, the
interest of William H. McDaniel and of Ma-
hala M. Miller is each one sixteenth in same.
The interest of Mary Ann Wilson is the one
eighth of the same. The interest of William
H. Bell is the one eighth of the tract confir-
med to Francis La Barge and he claims
an interest in the forty acres but what inter-
est he owns, and who the owners of the balance
of said lands, are unknown to plaintiffs
for that reason are not given nor set forth

Plaintiffs ask for partition & division of the
premises, according to their respective rights
and for a sale thereof if partition cannot be
had without great prejudice to the owners
and for such further orders as may be
necessary. J. A. Boul for Plaintiffs

State of Missouri }
County of Jefferson } & John E. Cowan agent
for the plaintiffs states on oath, that the fore-
going petition & the matters, as there in
stated he believes to be true.

Subscribed & sworn to
before me this 1st day of } J. Epes Cowan
October 1858 } agent.
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 Oct 1st
1858

Elias J. Honey clk

COUNTY OF JEFFERSON, SS.

The State of Missouri.

St Louis

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

We command you, that you summon William, H. Bell

----- if he be
found in your County, that he do 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 October
next, then and there to answer unto Adeline Spore And J.
Spore. Wm H. Daniel Jas McMillen + Mahala
his wife and Mary Ann Willson
upon their original petition, a copy whereof is herunto annexed and
accompanies this writ--and have you then there this writ.

Elias H. Honey

Witness, THO. R. FLETCHER, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this First
day of October A. D. 1858

Elias H. Honey

CLERK CIRCUIT COURT.

Executed this writ in the County of Harris
and State of Mo. Oct 4th 1838. by leaving a copy of
writ and petition as furnished by the Clerk for
William H Bell at his usual place of abode with
a white person of the family over the age of fifteen
years

Fee \$1.00 Paid

No Certificate
B. J. Martin copy

No 36 ✓

Jefferson Circuit Court

October Term 1838

1619

Adeline Spore et al

vs
J. Summons

William H. Bell

Adopted Oct. 13th 1838

Geo J. Hovey et al

Adeline Spore, J. Spore, William H. McDonald by
J. E. Cowan his next friend, Jas McMillan and
Mahala McMillan his wife and Mary Ann Wilson - Plaintiffs

vs

William H. Bell and unknown defendants

In the Circuit Court of Jefferson
County Missouri

The said defendant William H. Bell for answer
to the plaintiffs' petition denies that the plaintiffs
and himself are tenants in Common of the land
in said petition described or any part thereof. He de-
nies that the plaintiffs together with himself or other-
wise, are owners of said lands or any part thereof. He
denies that the plaintiffs or any of them are or were
at or before the filing of the said petition in posses-
sion of the said lands or any part thereof either as
tenants in Common or otherwise. On the contrary
he says he is and was at such time and long has
been in the sole and exclusive possession of the
same asserting an exclusive title thereto and the plain-
tiffs were out of possession thereof. He denies that
the plaintiffs ^{or any of them} ~~respectively~~ have such interests respect-
ly in said lands as is set forth in their said petition
or any interests therein whatever. He denies that
his interest in said lands is such as is set forth
in said petition and he avers that his interest therein
is the whole of said lands and that he is the sole and
exclusive owner thereof and for many years has

been solely and exclusively seized and possessed thereof in fee.

The said defendant for further answer says that heretofore to-wit: at the October Term of this Court A.D. 1848 he instituted suit in said Court by petition for partition of a portion of the same identical land in said plaintiffs' petition described to-wit: that part thereof which is the North half of the tract therein described as United States Survey Number 2015 Confirmed to Francis Sabage in Township 42 Range 6 East containing 240 arpents, against unknown defendants according to the provisions of the Statute in such case made and provided; That thereupon the said plaintiffs and all other parties interested in said premises as joint tenants tenants in Coparcenary and in common, were brought into Court as parties to said suit by publication duly made under the order of Court according to the provisions of the Statute in such case made and provided and such proceedings were thereupon afterward had therein that the rights and interests of the parties in and to the said premises were ascertained adjudged and determined by said Court; and further that said Court ascertained and determined that partition of said premises could not be made and ordered a sale thereof according to the provisions of the Statute in such case made and provided; and upon said order and in pursuance

Thereof the Sheriff of the said County did duly advertise and sell the same according to the provisions of the Statute in such case made and provided, at which sale the said defendant William H. Bell became the purchaser, whereupon the said Sheriff in Consideration ^{of the premises and} of the purchase money to him paid by said Bell. ~~He~~ duly executed acknowledged and delivered to the said Bell a deed for the said premises which bears date May 30th 1849 according to the provisions of the Statute in such case made and provided; All of which more fully ^{and at large} appears by the record and proceedings in said suit before said Court then remaining. and the judgement order and decree of said Court therein and the said Sheriff's deed, are in full force and unreversed and not set aside or made void. And the defendant sets up the same as a bar to this plaintiffs right to recover in this action so far as the same relates to the said North half of the said Survey No. 2005.

Blair & Colman
Attys for Deft Bell.

State of Missouri,
County of ~~Jefferson~~ ^{St. Louis} ~~Jefferson~~ - William H. Bell, defendant
Makes oath and says he believes the above answer and matters as therein stated are true.

Wm H Bell

Sworn to and subscribed

Circuit Court of Jefferson
County - Oct. 27, 1858

No. 36

Adeline Morehead

vs

Wm. H. Bell et al

Depts' Answer

Mand H. Colman
Atty for Depts

Filed Oct 30th 1858.

Elias J. H. Carey clk

= before me this 27th day of October 1858

Witness my hand and seal of
the St Louis County Court the
date last aforesaid.

Joseph Thompson
clk

Adaline Spore & others
against
Wm C Bell & unknown
parties

In the circuit
Court of Jefferson County
Mo

The plaintiffs state that they very
believe that there are persons interested in the sub-
ject matter of the petition in the above cause
whose names were not inserted because they
were unknown to plaintiffs. The interest of
the unknown parties to the land in con-
troversy they believe to be mine & sister's
denied as heirs & legal representatives of
David Wise deceased by descent from
said deceased so far as their knowledge
extends

Adaline Spore et al
by J A Seal Atty

Subscribed & sworn
to before me this 21st
Elias J. Honey

21st day of Feb 1859
J A Seal

Adeline Spooner

"

Wm. H. Beecher

affidavit of nonresi-
dence of unknown
parties

Filed July 21st 1859

Edw. Spooner

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *John D. Gatte, Elizabeth M. Melan*
Wm M. Daniel, Jonathan Rice

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Jessie* Court for the County aforesaid, on the

thirteenth 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 *Adelaide Spae et al* are

Plaintiff and *Wm M. Bell et al* Defendant on the

part of *Maatiff* 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

26th day of *May* A. D. 1859.

Elias F. Honey Clerk.

Served this writ by reading the
same to John B Pratt and
Elizabeth McMillan on this
the 1 day of June 1859

Martin Swaney
Constable

John Cecil Couch
June Term 1859

Adeline Sporeck

Mrs Pratt et al

for 248

John B. Pratt

Elizabeth McMillan

Wm. Daniels

Proctors Wife

Could I
Swaney

Chas

THE STATE OF MISSOURI,

COUNTY OF JEFFERSON.

To Mrs D. A. Talmer, Mrs L Waters, Mrs C E Mc
William, No 13 North Cannon Row. J. P. McKim
GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you
appear before our *Quorum* Court for the County aforesaid, on the
Eleventh day of June 1859 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 *Adeline Spore et al* is
Plaintiff and *Wm H Bell et al* is Defendant on the
part of *Defendant* 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

14 day of *June* A. D. 1859

Elias F. Honey
Clerk.

To Circuit Court

June Term 1859

Adeline Spore et al

vs

Wm H Bell et al

for debt

Mrs L A Palmer

" Letitia Waters

" McMillan

Mrs B. Pratt

Aaron Rore

Philip Pipkin

Shenoff & Co, Geo

et al Defendants

Plaintiffs

I Executed the within writ in the
County of Jefferson on the 4th day of
June 1859 by reading the same
in the presence and hearing
of S. Waters Geo Pratt also Geo
Philip Pipkins on the 6th of June
also Aaron Rore and Mrs Salzing
Not found J. C. Rore, deputy
Shenoff

I Executed the within writ in the County
of Jefferson on the 4th day of June 1859
by reading the same in the presence
and hearing of Elizabeth McMillan
William Fort and

Adeline Spore & Co
Plaintiffs

vs

William H. Bell & unknown
persons - Defendants

In the Jefferson County
Circuit Court -
June Term 1860

Be it remembered, that
on the 14th day of June
A.D. 1860, the same day on which said action
was set for trial, the manager of May Ann
Nelson one of the Plaintiffs & one Albert Schultzy
was suggested ^{by the Defendants} and thereupon the said Albert
Schultzy voluntarily appeared, and entered his
appearance, and thereupon the Defendant
William H. Bell, claimed and insisted, that
the Plaintiffs were obliged to answer their
petition and serve him with a copy thereof,
and give him the opportunity of answering
the same; and also that said action was
not properly triable at the present term of
the Court, on the ground of the change of the
parties Plaintiff, but the Court ruled and
decided, that no amendment was necessary
to the petition; and also decided that the action
was triable at the present term of the Court,
to which rulings and decisions of the Court,
the said Defendant William H. Bell on his own
behalf, then & there duly excepted -

And because the objections thus made &
the exceptions thus taken do not appear upon
the record of said action, therefore on the prayer
of the said Defendant William H. Bell the
Court hath signed this Bill of exceptions, in
conformity to the Statute in such case made
and provided on this 14th day of June A.D. 1860
in the June Term 1860.

John H. Stone Seal

Stephen Leicourt Esq
June Term 1860

Helene Shore

vs

by

William H. Bell Esq

Known Defendants -

Bill of Exceptions -

Wm. H. Bell
Attorney at Law

Dated June 14th 1860

Geo. J. Honey

Clerk

In the Jefferson Circuit Court,
June Term, 1860.

Adeline Spore, Andrew J. Spore, Wm. J.
McDaniel, James Mc. Mellen & Mahala,
his wife, John Shulz & Mary Ann, his wife,
Eliza Wright, Mary Millsap, Catharine
Martin, Elkin Craine, Charles Craine, John
Craine, John Moore, Caroline A. Van Arsdale,
Roswell Van Arsdale, Charles Grubb, Sarah J.
Grubb, William J. Ayley, Zashariah Vorles,
S. M. Vorles, A. W. Vorles and William Vorles,
Plaintiffs,

against
William H. Bell,

Amended petition, filed by leave of Court.

Plaintiffs state that they and the defendant, are
owners in fee simple of a tract of land in Jeffer-
son County, fronting on the Mississippi river, con-
firmed to David Wise, under Francis Lebarge,
containing two hundred and forty arpents, equal
to two hundred and four and sixteen-hundredths
acres, Survey No. 2005, and also forty acres, it being
a part of a tract of land containing six hundred
and forty acres, confirmed to William Smirl,
Survey No. 2009. Said forty acres is in the South
East corner of said confirmation, and adjoins the
two hundred and forty arpent tract on the South,
and fronts the Mississippi river on the East.

Plaintiffs state that William J. McDaniel, and
Adeline Spore, wife of Andrew J. Spore, are the children
of Melinda Wise, who intermarried with William
McDaniel, both now supposed to be dead, are enti-
tled to one-eighth part of the land above described.—
~~The said forty acre tract.~~

James McMillen and Mahala his wife, daughter of David Wise, are the owners in fee of one-eighth of the said land, excepting that the said defendant William H. Bell has an interest in the North half of the two hundred and forty acre tract, of one-eighth, for and during the life of the said McMillen.

Albert Shulz and Mary Ann, his wife, are entitled to one-eighth part of said ~~land~~ ^{tract} ~~of~~ ^{acres} Catharine Martin, a daughter of David Wise, widow of Martin, is entitled to one-eighth part of said land.

Mary Millsap, also a daughter of David Wise, is the owner of one-eighth part of said land.

Eliza Wright is also a daughter of said David Wise, is the owner of one-eighth of the South half of the Lebarge tract, and one-eighth of the forty acre tract above described.

Elkin Caine married Nancy Wise a daughter of said David who is now dead, and by the curtesy he is entitled to one-eighth of the ~~South half of the~~ Lebarge tract, and one-eighth of the forty acre tract, for his life, and after his death the said Charles Caine and John Caine are entitled to the said ~~South half of the~~ said land, in fee.

Elizabeth Wise, daughter of David Wise, now dead, married Zachariah Moore, and had four children, named John, one of the plaintiffs, Caroline Moore, married to Roswell Van Arsdale, both of whom are plaintiffs, the said John and Caroline, are each entitled to one thirty-second part of said tracts of land. Mary Moore, one of the children of Elizabeth Wise, wife of Zachariah Moore, was first married to Worries, by

whom she had four children, Zachariah J. Bell, ^(m.) A. W. and William Bories; and after her first husband's death she married Salbot Grubb, by whom she had two children, Charles and Sarah Jane Grubb. — Mary Moore is dead, and her children are the owners of her share, equal to one one hundred and ninety-second part, each.

William J. Peley is the only surviving child of the fourth child of the said Elizabeth's wife, and is entitled to the one thirty-second part of said land.

The said William H. Bell is entitled to one ~~fourth~~^{Eighty} of the North half of the Lebarge tract. —

Said tracts of land are unoccupied, except that a house and small enclosure is in the possession of Thomas Daly, who has been occupying the same for about ^{four or} five years, and still holds possession thereof by consent and permission of some of these plaintiffs.

Plaintiffs pray for a division and partition of the said premises, if the same can be made without great prejudice to the owners thereof, and for a sale thereof, if the same cannot be so done, and, &c.

Beal, Johnson & Brissell,
for plaintiffs.

J. Es. Bonar
Att.

State of Missouri
County of Jefferson

John Eber Cowan agent of Plaintiffs being
duly sworn states that the foregoing petition & the matters therein
or stated he believes to be true

Sworn & Subscribed before me this
15th day of June 1860
Elias J. Honey
Clerk

J. Eber Cowan

In Jefferson Co. Circuit Court.

Adeline Spore et al.

Petition for
against
partition.

William H. Bell

Real, Johnson & Friesell
Atty's p. g.

Filed June 15th 1860
Elias J. Honey
Clerk

Re. filed Decr 14th 1860
Elias J. Honey
Clerk

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To

*John B Pratt, Martha Murphy
vs John W. Turner, Elmer Guin*

GREETING:

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Justice* Court for the County aforesaid, on the

14th day of December 1860 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 *Adeline Anne Gathen* are Plaintiffs and *W. W. Bell* is Defendant on the part of *Plaintiffs* 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 *November* A. D. 18*60*

Elias F. Honey

Clerk.

Shore

Ball

Dec 1866

Sheriff Dec 1866

I executed the within writ in the County
of Jefferson on the 23rd day of November 1866
by Reading the same in the Presence and
hearing of Martha Huskey & John
D. Pratt & J. S. Johnston Esq. & in
that said in my County
also on the 14th day of Dec 1866 by
Reading

J. S. Pauer, Dep
Sheriff

Addine Spore & others -
Plaintiffs

vs
William H. Bell, & unknown
persons - Defendants

In the Circuit Court
of Jefferson County -
December Term 1860 -

And now at this
day comes the said

Defendant William H. Bell, and moves the Court
for an order requiring the Plaintiffs in this
action to file security for costs in this action,
(being an action for Partition) for the following
among other reasons, viz:

1st Because the Plaintiffs, or some of them
are non residents of this State, & there is no
responsible Plaintiff in this State, from
whom the costs in the action can be made
or collected -

2nd Because there is no responsible
person as plaintiff within the jurisdiction
of this Court, or in this State from whom
the costs in the action can be collected -

Which motion will be founded upon
such evidence as may be produced
on the hearing of the motion -

W. S. Coleman
Deft's Atty -

Ms
Buttins -
Melvin Spencer

24

William H. Ball
but known Boston
Boston for security
for cells -

Leitchman
after city

Filed Dec. 14th 1865
Also of the way etc

contained

J. H. Bear Esq

Dear Sir:

Some things of
Mrs Cornan presented
the same being in this
box yesterday.

Please, as atty for Mrs
Machata McMillan, & as
of the other being, if meeting,
witness an objection
against Ball & Beed
the numerous to me of
the boy William, which
I will have regard to
- Moore. At-William
off as early as you can.

J. H. Bear Esq
~~Atty~~ at Law,
Dunbar.
J. H. Co. No.

Don't fail to send it - today.

Be kind - yrs

J. S. Cornwell

Dr. S. Hunt -

My Dear friend please
to care of Mrs. Davis -
have not read any
undeposited yet. J. S. C.

Nov 23/60

Spore vs Bell Cts against Plffs.

1858

Oct 28	190.	Leave to answer Hunt	50	8 00
July 21	1859 221	Order Publication	50.	
		copy same	50	
		Cert to ad.	50	
June 7	1860 232	Leave to amend pet-		50
313	13	Motion to set aside sale		25
318	14	petition of shareholders admop		25
		~~re~~ appearance		15
		Leave to amend pet.		50
		Bill excepts.		25
319	14	Judgt on mdu set aside sale		50
322		Amend pet filed		25
344	18.	Leave to ans.		50
		order strike out Am pet		50
		Motion for cots Judgt		75
		Rule on Plffs to do		50
		Rule & reply on Pet.		75
		Judgt for cots		50
		Suggest deaths		15
		order other parties		50
		appoint Guao. ad litem		50
		Rule for cots		50
		Judgt on motion		50
		Motion for Cots		50
		1 Depa		50
		make cots		25
		File 10 pgs		50

11.05

R Hunt I. D for depts	1.85	
tho. Enort.	75	
Hall Parker depts	839	
Mrs L Walters	50	
J. Rayley depts 150. A Johnston 504	2 00	
W H Bell. depts	3 00	18 24
Over the 3 depts named 25	1.75	<u>29.29</u>

Paul Cook to
be paid by loan

3 Copies petition 50¢	1.50	
3 Certs Heals	1.50	
2 mts	2.00	
2 Copies	.40	
affidavit	.10	
depositions	.50	
Rule	.25	
Motion	.25	
Deputy	.50	
Affidavit	.10	
Answer of depts	.25	
Leant	.25	
Ans of Real torule	.25	
Motion to amend	.25	
Deputy	.50	
Amend petition	.25	
aff d	.10	
Leant	.25	
Order Change venue	.25	
affo copy	.20	
Bond for costs	.25	\$9.80
Q Dover sheff Len 1 deff.		1.00
J W Andrews & paid by Reff		1.00
		<u>11.80</u>
Transcript		6.71
		<u>\$18.51</u>