

Jefferson County Circuit Court
Case File - Civil

Box

11

Folds - 66

Northington, Benjamin J.
vs

Hinton, John

Set aside judgment

May 1858 judgment vesting title to
320 acres in defendant; plaintiff
in Baltimore

Benjamin J. Worthington

vs.

John Hinton

In the Circuit Court of
Jefferson County, Missouri

Jefferson County ss.

The Petition for Review of Benjamin J. Worthington
of Baltimore County in the State of Maryland against John Hinton,
in the Circuit Court of Jefferson County in the State of Missouri, Sheweth

That on or about the second day of September A.D. 1837 the said John Hinton
as plaintiff, filed in said Court his certain petition against the said Benjamin
J. Worthington, therein alleging that the said Hinton about the month of April
A.D. 1842, owned certain real estate lying in Missouri, which he agreed with
the said Worthington to exchange for his interest in certain real estate also
lying in Missouri, and particularly described in said petition, viz. one tenth
of the east half of the north east quarter of section 9 township 33 range 2
east, containing 80 acres, the north east quarter of section 6 Township 33 range 2
east, containing 160 acres, the west half of the north west quarter of section 27 T.
33 R. 5 East containing 80 acres, the southwest quarter of section 22 T.
33 R. 5 E. containing 160 acres, West half South E. quarter section 28
and E. half of South west quarter Sec. 28 T. 34 R. 4 E. containing
160 acres, fractional section 8 Township 41 range 5 E. containing $348\frac{6}{100}$
acres, the west half of north west quarter and west half South west
quarter section 13 Township 40 range 4 E. containing 160 (acres)
north half section 14 and W. half of South East quarter S. 14
Township 40 range 4 East containing 400 acres, the South half of section
3 township 39 range 4 east containing 320 acres, the west half of the
north east quarter and the north east quarter of the north east quarter
of section 9 township 33 R. 4 East containing 120 acres, the south east quarter
of section 12 township 39 Range 3 E containing 160 acres, the east half of the
north east quarter of section 13 township 39 range 3 east containing 80 acres,
the west half and the South east quarter of section 13 township 39 range
3 East containing 160 acres, the South west quarter of section 12 T. 39
range 3 E. containing 80 acres, the west half of section 18 township 39 Range 4 East
containing $393\frac{50}{100}$ acres, the west half of the South east quarter of section
13 township 39 range 3 east containing eighty acres, the west half of section

31 township 40 range 3 east containing 320 acres & the east half of section 36 township 40 range 4 east containing 320 acres; And in his said petition the said Hinton further alleged that he executed and delivered to the said Worthington a deed for said real estate so alleged to have been owned by said Hinton, in the State of Missouri, in exchange for the interest of the said Worthington in the lands particularly described in said petition as aforesaid; and also alleged that said Worthington duly executed a deed to said Hinton for his interest in said lands above described, and that it was mailed at Washington City, or Baltimore, to the recorder of deeds of Jefferson County aforesaid for record, but was never recorded, or received by said Hinton, and that he did not know what had become of it, so that he had nothing to evidence the said alleged transfer from said Worthington to him: And thereupon the said Hinton in his petition aforesaid prayed the said court to decree and vest in him title to the one tenth of the said described real estate, the interest of the said Worthington, and for such further and other relief as might be necessary and right.

And the said plaintiff further states that upon said petition of said Hinton such proceedings were had that an interlocutory judgment was made and entered against said Worthington on or about the third day of December 1837, and afterwards, on or about the fifth day of May A.D. 1838, a final judgment was thereon entered against him. As in and by the record of said proceedings reference being thereto had may more fully appear.

And the said Worthington, the now plaintiff, further states that he was never ~~summoned~~ summoned to appear in said court at the suit of the said Hinton, or to answer the said petition, as required by the Act of the General Assembly of the State of Missouri in such case made and provided, and that he never appeared to the said suit, and was never made a party thereto as the representative of one who had been summoned or had appeared; and that he the said Worthington in fact had no notice or knowledge whatsoever of said petition or of any of said proceedings until long after the entry of said final judgment, being all the time out of the said State of Missouri and a resident of the State of Maryland aforesaid.

And the said Worthington, plaintiff as aforesaid, further states and shews that the petition aforesaid of the said Hinton, whereupon the said judgment was obtained, was and is untrue in all the material matters therein alleged, and especially is false and untrue in this that no agreement was ever made between the said Hinton and the said Worthington for an exchange of lands, as by said Hinton is alleged as aforesaid; but on the contrary the said Worthington never hath had any business transaction whatever with the said Hinton: And also the said petition is untrue in this, that the said Hinton never executed and delivered to the said Worthington (as by said Hinton in his said petition is falsely alleged) any deed for said real estate alleged in said petition to have been owned by said Hinton, or for any other real estate; and also in this that the said Worthington never executed any deed to the said Hinton of or for the interest of the said Worthington in said lands particularly described in said petition, or any deed or conveyance of any land, interest in land, or other thing whatsoever. Nor was any transfer ever made by the said Worthington to the said Hinton as by the latter in his said petition is falsely alleged.

And the said Worthington further saith that the said Hinton hath not, and never had, any equity entitling him to the relief prayed by him in his said petition, or to the said judgment.

And therefore the said Benjamin J. Worthington (defendant in the former suit and now plaintiff) prays that the said judgment unjustly obtained against him by the said John Hinton, as aforesaid, may be set aside; and that he may have such further or other relief in the premises as may be equitable and right.

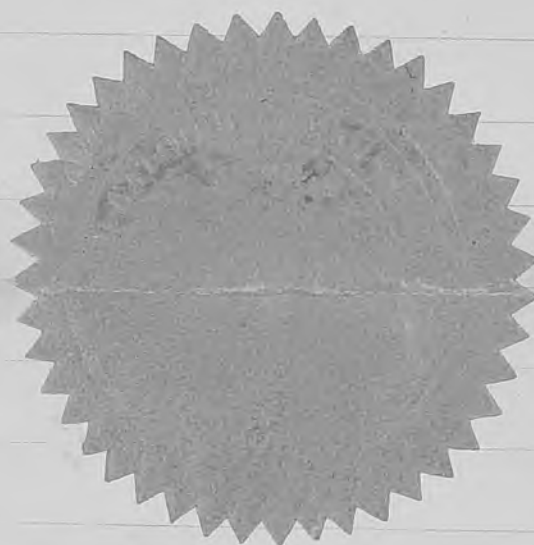
Benj J Worthington

State of Maryland, Baltimore City, Jct.

On this twenty eighth day of June in the year of our Lord eighteen hundred and fifty nine, before me James B. Latimer, a Commissioner appointed by the Governor of the State of Missouri, in and for the State of Maryland, to take acknowledgments of deeds and other writings and depositions, and to administer oaths lawfully required in the said State of Missouri, personally appeared the above named plaintiff, Benjamin J. Worthington of Baltimore County in the State of Maryland, and made oath in due form of law that the foregoing petition and all the matters therein stated are true to the best of his knowledge and belief.

In Testimony Whereof I have
hereby set my hand and
affixed my seal of office
at the City of Baltimore aforesaid
this 28th day of June A.D. 1859.

James B. Latimer
Commissioner for the
State of Missouri



In the Circuit Court. September 89

Bray. J. W. Huntington

vs

John Thurston

1662

Petition for Renewal

Filed July 30th 1859

Chas. J. Hooley

Clerk

Decar Term 1863

Receipt for \$14.00
and to order of said petition

In the Circuit Court
of Jefferson County Mo

John Hinton

vs
Benjamin J. Worthington.

The above named Plaintiff will please take notice that the Petition of which the annexed paper is a copy is this day filed in the Clerk's office of the Circuit Court of the County of Jefferson, in the State of Missouri, and that the same will be brought before the said Circuit Court, as soon as can be done under the laws of the State and the rules & practice of the said Court, with the view of having the judgment heretofore rendered in the above-entitled Cause, set aside, for the purpose of enabling the above named defendant to answer the original petition of the above named plaintiff.

Benjamin J. Worthington
by Attorney
Bates Woodson.