

Jefferson County Circuit Court
Case Files - Civil
December 1859, No. 11

Box 11 Folder 74

Hinson, Isom

vs.

Winer, John

McCreery, A. B.

Appeal bond

Defendants failed to successfully
prosecute appeal from JP James A.
Beal, \$108 damages

Isom Hinson Plaintiff

against

John Wimer & A B McCreary
Defendants

} In the Circuit
Court of Jefferson
County Missouri

The plaintiff states that defendants on the 2^d day of December 1842, made and entered into a recognizance in favor of plaintiff before a justice of the peace of said County by which they acknowledged themselves indebted to plaintiff in the sum of one hundred & eight dollars as follows viz

We the undersigned John Wimer & A B McCreary acknowledge ourselves indebted to Isom Hinson in the sum of one hundred and eight dollars to be void upon these conditions: Whence John Wimer has appealed from the judgment of James A Beall a justice of the peace, in an action between Isom Hinson plaintiff and John Wimer Defendant; Now if on such appeal, the judgment of the justice be affirmed, or if on the trial awarded in the Circuit Court judgment be given against the appellant and he shall satisfy such judgment or if or if his appeal shall be dismissed and he shall pay the judgment of the justice together with the costs of the appeal, the recognizance shall be void
Hillsboro Dec 2^d 1842.

Signed, John Wimer
A. B. McCreary

Plaintiff states that defendants forfeited said recognizance by not complying with its conditions by which plaintiff is entitled

to the sum of \$108. the amt of said recd
revenue wherefore plaintiff asks judg-
ment for \$108 and other proper relief
Adm Union

State of Missouri
County of Jefferson

The atty for plaintiff
states on oath that the
foregoing petition & the matters therein
stated he believes to be true. J. A. Dial
Subscribed & sworn to before me this 2^d day
of August 1859

Elias J. Horney clerk

John W. Winer
vs
John W. Winer

Filed Aug 28 1859
Elias J. Horney
Clerk

(1 copy)

COUNTY OF JEFFERSON, SS.

The State of Missouri.

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

We command you, that you summon John Wier &
A. B. McCreery

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 second Monday after} the fourth Monday of November
next, then and there to answer unto John Hinson

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

Elias J. Honey
Witness, ~~THE C. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this second
day of August A. D. 1859

Elias J. Honey

CLERK CIRCUIT COURT.

I executed this writ in the County of Jefferson
State of Missouri on A. B. McCreary^{sr} by Delivering him
A copy of this writ and annexed petition as furnished
me by the Clerk, he being the first served on the 5th day of
July 1859 and on John Winer by reading on the 15th day
of September 1859
Oscar Doved Sheriff

No. 11.

J. Vincent Deane

December Term 1859

1734

John Winer

vs. A. B. McCreary

John Winer

A. B. McCreary.

Sheriff's fee \$2.00

Order Sept. 15th 1859

Clara J. McCreary

Clerk

Examined at City of
St. Louis, Mo. and
found true and
correct 1860. Book No 4
Page.

C. H. Hume, Clerk

Isom Winsor, Plaintiff } In the Circuit
Against } Court Jefferson
John Winer, and } County, Missouri,
A. B. McGreevy, - defendants,

The Defendants by their Attorney, Come and demur, to the Petition of Plaintiff in the above entitled Cause, and state the following as cause for such demur,

- 1st Said Petition does not state facts sufficient to constitute a cause of action.
- 2 - It does not specify any breaches of the condition of said appeal bond, or recognizance.
- 3 - There is no breach of the recognizance set forth or claim for any damages arising on any breach thereof.
- 4 - Said Petition shows on its face that ~~the~~ action, if any ever existed on said recognizance, is barred by limitation - that it has been more than ten years since said recognizance was executed, or since any breach thereof was made, if any ever was made.

{ A. Green
Attorney for defendants }

In Circuit Court
of Jefferson County

John H. Wilson

v.

John H. Wilson

vs. J. H. Wilson

Deceased

Filed Jan 11th 1860

Chas. J. Honeywell

Isom Hinson

vs

John Winer & A B McCreary

Amended petition by leave of
the Court

The plaintiff states that defendants on the 24 day of December 1842 made and entered into a recognizance in favor of plaintiff before a justice of the peace of said County by which they acknowledged themselves indebted to plaintiff in the sum of one hundred and eight dollars viz we the undersigned John Winer and Allen B McCreary acknowledge ourselves indebted to Isom Hinson in the sum of one hundred and eight dollars to be void upon these conditions whereas John Winer has appeared from the judgment of James A Beall a justice of the peace in an action between Isom Hinson plaintiff and John Winer defendant. Now if on such appeal, the judgment of the justice be affirmed or if on the trial a new in the Circuit Court judgment be given against the appellant and he shall satisfy such judgment or if his appeal shall be dismissed and he shall pay the judgment of the justice together with the costs of the appeal, the recognizance shall be void

(signed, John Winer (Seal)

Billsboro Dec 2 1842

A B McCreary (Seal)

The plaintiff states that the appeal taken in the case of Hinson vs Winer to the Circuit Court of Jefferson County, Mo, was dismissed by the Circuit Court at its May Term 1843 and that the appellant did not pay the judgment of the justice appealed from together with the costs of

appeal and that said judgment appealed from & referred
to in the recognizance is still unpaid & also the
costs of the appeal, By term of which said
recognizance was & is forfeited to plaintiff

The proper judgment for \$108 the amount
of said recognizance and for all other & further
relief as may be proper

J A Beal atty for
Hinson

J A Beal atty for Loom Hinson makes
oath & says that the foregoing petition & the matters
as therein stated he believes to be true

Sworn to before me this

16th day of June 1860

Elias J Hooney Clerk

J A Beal

John H. Wilson

As

John Miller 2013 Albany

Answered petition

Filed June 15th 1866

Chas. J. H. Jones

Chas

Isom Winson, plaintiff } In the Circuit
Against } Court, Jefferson
John Winer, and } County,
A. B. McCreery, - defendants,

Defendants, in answer to Plaintiff's amended Petition, state that, at the time said Judgment against John Winer was rendered by James A. Beal, a Justice of the Peace, said Winer had an Account against Isom Winson for about \$100.⁰⁰, which he desired to file as an offset, and asked a continuance for that purpose, but the Justice refused a continuance, & gave Judgment against Winer. Afterwards, John Winer made out his Account against Isom Winson, giving credit for the amount of said Judgment, and leaving a balance of some \$30.⁰⁰ against Winson, - which he filed with James A. Beal, to bring out on. But Beal told him it was not worth while to sue Winson, as he had run away, and that nothing further would be done with his Judgment against Winer. And afterwards, the said appeal was dismissed, with the understanding that Winer's Account should operate as a payment of the Judgment, so, that Defendants aver that there is nothing due to plaintiff on said Judgment.

And for further plea, Defendants say that the cause of action mentioned in the plaintiff's Petition, on said

(if any ever existed)
recognizance or appeal Bond did not
accede within ten years before the
commencement of this suit.

Defendants therefore deny Plaintiff's
right to recover on said recognizance or
appeal Bond \$108, or that ^{Plaintiff is} ~~they are~~ en-
titled to any relief or claim against
these Defendants, } Abner Green
Attorney for Defendants

John Miner, one of the Defendants, makes
oath, & says the above Answer, & the matters
therein as stated, he believes to be true
Sworn to and Subscribed

John Miner
before me Aug 22^o 1860

Elias B. Honey Clerk

In Circuit Court
Jefferson County

John Miner

vs.

John Miner &
A. B. McCauley

Answer of
Defendants

Dated Aug 22^o 1860

Elias B. Honey Clerk