

Jefferson County Circuit Court
Case Files - Civil
December 1859, No. 15

Box No. 11 Folder No. 76

Hinton, John

vs

Worthington, Benj. J.

Title

Dispute of ownership of
about 1299 acres in
various locations in
Jefferson County.

John Hinton

vs

Benjamin Worthington

} In the Circuit Court of Jefferson
County Missouri

The plaintiff states that about the month of April 1842, he owned certain real estate lying in Missouri, which he agreed with defendant to exchange for his interest in the following real estate also lying in Missouri. That is, the one tenth of the East half of the North East $\frac{1}{4}$ of Section 9 Township 33, Range 2 East containing 80 acres. The North East $\frac{1}{4}$ of Section 6 Township 33, Range 2 East containing 160 acres. The West $\frac{1}{2}$ of the North West quarter of Section 27 T 33, R 5 East containing 80 acres. The South West $\frac{1}{4}$ of Section 22, T 33 R 5 E containing 160 acres. West $\frac{1}{2}$ South East $\frac{1}{4}$ Section 28, and East $\frac{1}{2}$ of South West $\frac{1}{4}$ Sec 28 T 34 R 4 E containing 160 acres. fractional Section 8 Township 41, R 5 E containing 398 $\frac{1}{2}$ acres. The West $\frac{1}{2}$ of North West $\frac{1}{4}$ and West $\frac{1}{2}$, South West $\frac{1}{4}$ Section 13, Township 40 R 4 E containing 160 acres. North $\frac{1}{2}$ Section 14 T 40 R 4 E containing 400 acres. The South half of Section 3 Township 39, Range 4 East containing 320 acres. The West $\frac{1}{2}$ of North East $\frac{1}{4}$ and the North East $\frac{1}{4}$ of North East $\frac{1}{4}$ Section 9 Township 33 R 4 East containing 120 acres. The South East $\frac{1}{4}$ of Section 12 Township 39 Range 3 East containing 160 acres. The East $\frac{1}{2}$ of the North East $\frac{1}{4}$ of Section 13 Township 39 Range 3 East containing 80 acres. The West $\frac{1}{2}$ & the South East $\frac{1}{4}$ of Section 13, Township 39 Range 3 East containing 160 acres. The S W $\frac{1}{4}$ of Section 12, T 39 Range 3 East containing 80 acres. The West $\frac{1}{2}$ of Section 18, Township 39, Range 4 East containing 393 $\frac{1}{2}$ acres. The West $\frac{1}{2}$ of South East quarter Section 13 Township 39, Range 3 East containing

eighty acres. The west $\frac{1}{2}$ of Section 31, Township 40
Range 5 East containing 320 acres; the East $\frac{1}{2}$ of
Section 36 Township 40 Range 4 East containing 320
acres. The plaintiff states that ^{he} executed and
delivered to the defendant a deed ^{for} said Real
of ~~Est~~ ^{Real} Estate that he thus owned in exchange
for the interests of defendant in the lands describ-
ed in this petition. Defendant likewise
duly executed a deed to plaintiff for his inter-
est in said lands above described & it was
mailed at Washington City or Baltimore Md. to
the Recorder of deeds in Jefferson County and
per Record But the deed was never recorded or
received by plaintiff nor does he know what
has become of it so that he has nothing
to evidence the transfer from said Wash-
ington to him. He therefore prays this court
to decree and vest in him title to the one
tenth of the above real estate the interest of
said defendant and for such other & further
relief as may be necessary & right &
J A Deal P. D.)

State of Missouri }
County of Jefferson } ss This 2nd day of September
1857 J A Deal city for the
plaintiff makes oath & says that he believes
the foregoing petition and the matters as there-
in stated are true & further states that Ben-
jamin J Wordington is a non resident
of Missouri J A Deal
Sworn and subscribed to
before me. Sept 2nd 1857 }
Elias J Honey Clerk }

1665

John Hinton
against
Benjamin J Worthington

April Term 1858

Filed Sept 2^d 1854
Elias J Hooney
Clerk

chd

se crec. as prayed

John Hinton

^{vs}
Benjamin J Worthington

In the Circuit Court
of Jefferson County
Missouri

The plaintiff states that about the month of April 1842, he owned certain real estate lying in Missouri which he agreed with defendant, to exchange for his Interest in the following real estate, also lying in Missouri: that is the one tenth of the East half of the North East $\frac{1}{4}$ of Section 9 Township 33 range 2 East, containing 80 acres, the North East $\frac{1}{4}$ of Section 6, Township 33 range 2 East, containing 160 acres, the west $\frac{1}{2}$ of the North west quarter of Section 27 T. 33 R. 3 E containing 80 acres, the South West $\frac{1}{4}$ of Section 22 T. 33. R. 3 E containing 160 acres, West $\frac{1}{2}$ South E $\frac{1}{4}$ Section 28, and E $\frac{1}{2}$ of South West $\frac{1}{4}$ Sec. 28 T. 34 R. 4 E containing 160 acres, fractional Section 8, Township 41, range 3 E, containing 348 $\frac{1}{2}$ acres, the west $\frac{1}{2}$ of North West $\frac{1}{4}$ and West $\frac{1}{2}$, South West $\frac{1}{4}$, Section 13 Township 40 range 4 E, containing 160, North $\frac{1}{2}$ Section 14 + W $\frac{1}{2}$ of South East $\frac{1}{4}$ 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 $\frac{1}{2}$ of North East $\frac{1}{4}$ and the North East $\frac{1}{4}$ of North East $\frac{1}{4}$ Section 9, Township 33, R. 4 East, containing 120 acres, The South East $\frac{1}{4}$ of Section 12 Township 39 Range. 3 E containing 160-

acres: the East $\frac{1}{2}$ of the North East $\frac{1}{4}$ of Section
13 Township 39 range 3 East, containing 80
acres. the west $\frac{1}{2}$ + the South East $\frac{1}{4}$ of Section
13 Township 39 range 3 East, containing 160
acres. the S. W. $\frac{1}{4}$ of Section 12 239. range. 3
E. containing 80 acres. the west $\frac{1}{2}$ of Section 18
Township 39 Range 4 East, containing 393 $\frac{50}{100}$
acres. the west $\frac{1}{2}$ of South East, quarter Section
13. Township 39. range 3 East, containing eighty
acres. the west $\frac{1}{2}$ of Section 31. Township 40. range
5 East, containing 320 acres.; the East $\frac{1}{2}$ of Se-
ction 36. Township 40 Range 4 East containing
320 acres.: The plaintiff states that he executed
and delivered to the defendant, a deed for said
real estate that he then owned in exchange for
the interest of defendant in the lands described
in this petition. Defendant likewise duly execu-
ted a deed to plaintiff for his interest in said
lands above described & it was mailed at
Washington City or Baltimore Md. to the
Recorder of deeds in Jefferson County Mo. for
record. But the deed was never recorded or re-
ceived by plaintiff nor does he know what has
become of it, so that he has nothing to evidence
the transfer from said Worthington to him
He therefore prays this Court, to decree and vest
in him title to the one tenth of the above real
estate, the interest of said defendant, and for
such other & further relief as may be necessary &
right. &

J. A. Beal J. L.

State of Missouri }
County of Jefferson } This 2nd day of September
1857 J. A. Boal atty for the plaintiff makes oath
says that he believes the foregoing petition and
the matters as therein stated are true & further
states that Benjamin J. Worthington is a
nonresident of Missouri
Sworn and subscribed to J. A. Boal
before me Sept 2nd 1857
Elias J. Hooney Clerk.

Endorsed.

"Filed Sept 2nd 1857. Elias J. Hooney Clerk

Upon which petition the following order was en-
tered of record. to wit

John Hinton Plaintiff } In action Sept 2nd 1857
against } Order of
Benjamin J. Worthington defendant } Publication

The plaintiff herein having on the second
day of September A D Eighteen hundred and
fifty seven, filed in the office of the Clerk of the
Circuit Court of said County his petition verified
by affidavit, stating that said defendant is a
nonresident of the State of Missouri; It is there-
fore ordered by the undersigned Clerk of said Court
that said defendant be notified, by publication
of the commencement of this suit, the object
and general nature of which is to obtain a
decree, divesting said defendant of all title
to one-tenth of the following described real

Estate, to wit (See description in petition) and
to vest the same in the plaintiff. The said defend-
ant, having heretofore executed a deed therefor to
said plaintiff which was mailed at the City of
Washington or the City of Baltimore, to the Re-
corder of Jefferson County Missouri, which said
deed has never been recorded or delivered to the
plaintiff; and unless he be and appear at the
next term of said Court to be begun and held
in the Town of Hillsboro, in said County on the
Fourth Monday of November next, and on or be-
fore the sixth day thereof answer the petition of
said plaintiff the same will be taken as con-
fessed against him. And it is further ordered
that a copy hereof be published according to law
in the Missouri Republican newspaper
Test: Elias D. Honey Clerk

Again afterwards to wit on the 3d. day of
December A. D. 1857 the following entry
appears of record in said Cause; to wit:

John Henton.

Benjamin J. Worthington } Now at this day comes
said Plaintiff by his attorney, and proves to the
satisfaction of the Court, the due publication
of the Notice herein required by the order of
the Court, and said defendant, being three
times solemnly called, comes not, neither

has he answered the petition of said Plaintiff. Ordered that his default be entered, and this cause is continued

And again afterwards to wit. on the 3th day of May. A D Eighteen hundred and fifty Eight the following proceedings were had. in said cause in said Court, to wit:

John Hinton } Decree for title to land
Benjamin J. Worthington }

Now again at this day comes said plaintiff by his attorney, and the said Defendant being three times solemnly called comes not, and his default having here to fore been entered, and the Court proceeding to hear this cause, upon the petition and evidence submitted by the plaintiff, and after hearing the proofs and allegations on part of the Plaintiff doth find that the defendant, heretofore executed a deed to plaintiff for one undivided tenth of the lands in plaintiffs petition mentioned, that said deed was mailed to the Recorder of Deeds of Jefferson County Missouri at the City of Washington or Baltimore, but was never received, and has been lost, mislaid or destroyed and has never come to the hands of the Plaintiff. It is therefore ordered, adjudged and decreed by the Court, that said defendant be divested of all title to the one

undivided tenth part of the following described lands in plaintiffs petition mentioned to wit (See description in petition) and that the same be vested in the plaintiff and it is further ordered that said plaintiff pay the costs herein.

State of Missouri }
County of Jefferson } I, the undersigned
Clerk of the Circuit Court within and for
said County hereby certify that the foregoing
is a true copy of the proceeding and petition
in the case of John Hinton against Benjamin
J. Worthington, in said Court, as
fully as the same appear of record and
on file in my office.

In Testimony whereof I here to
set my hand and affix the
Seal of said Court at my
office May 13th 1858
Elias D. Honey clerk

To Benjamin J. Worthington

You hereby are notified that I
have commenced an action against you in
the Circuit Court of Jefferson County & State
of Missouri in which action you were summoned
to appear by publication & a judgment was there-
upon rendered in my favor against you as defendant
which judgment is now in full force & a certified
copy of which judgment is hereto annexed
together with a copy of the record & proceedings
in said suit. and you are further notified that
if within one year from the service of said notice
upon you you do not bring your petition for review
in said court sitting at ~~the~~ term in said County
& thereupon show good cause for setting aside
said judgment. the said court will make its
order & judgment that the same stand absolute.

John Hulton

State of Maryland

County of Baltimore

Francis J. Wheeler
being duly sworn on his oath states that he did
deliver to Benjamin J. Worthington at said
County a true copy of the above transcript of
the judgment & proceedings in the case of John
Hulton against said Worthington together with a
true copy of the above notice as is above set forth.
on the 18th day of August eighteen
hundred & fifty eight

Sworn to & subscribed F. J. Wheeler

before me this 16th day of August eighteen hundred
and fifty eight.

In Testimony whereof I
Geo. H. Carman Clerk of the Circuit

Court within & for said County
of the said County, my name
& affixed the seal of said Court at office in
said County, the day & year aforesaid

Geo. H. Carman
Clerk of the Circuit Court for Baltimore County

John Winston

vs

Benj. J. Worthington

Copy of Proceeding &c
for

Jos. R. Shepley Esqr

Copy of H. & party's return
at W. H. H. H.

Filed June 8th 1859
Elias F. H. H.
fees \$2.50 Clerk

John Hunter

In the Circuit Court
of Jefferson County Mo

^v
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 Clerks 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

A true copy of the original petition

and notice on file in my office
In Testimony whereof I
hereto sign my name
and affix the seal of said
Court at office in Keosauqua
July 30th 1859
Elias D. Hooney

Wm Eugene Allen Jr

Att'y

Charles H. Allen

the same on parchment to the Clerk

23rd day of August 1859 by delivery a copy of

decree this notice in Affirmation of the

Aug 1. 59

COUNTY OF JEFFERSON, SS.

The State of Missouri.

Saint Louis

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

We command you, that you summon John Heritors

----- if - he - be
found in your County, that he 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} ~~fourth~~ Monday of November
next, then and there to answer unto Benjamin J. North-
ington

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

Oliver J. Hovey
Witness, ~~THO. G. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this Fourth
day of August A. D. 1859

Oliver J. Hovey

CLERK CIRCUIT COURT.

14 No 15 ✓

Jefferson Circuit Court
December Term 1859

Benj. J. Worthington
vs. J. Summons

John + Hinton²³

Filed Aug 23rd 1859
Chas. S. Hensley Clerk

Entered this writ in St Louis County on the
23rd day of August 1859 & delivering a copy of the
writ & petition as furnished to John Hinton

\$1.00

Michael Hensley
J. Hensley
of Eugene Allen & Co

Benjamin J Worthington

vs

John Hinton

} In the Jefferson Circuit
Court Mo

The defendant for answer states that about the month of September 1842 John Hinton executed his power of attorney to John E Cowan authorizing him as his attorney in fact to sell ^{a part of} the North West qr of Section 36 Township 29 Range 4 W containing 160 acres also the West half of the South West qr and Lot one of the North West qr of Section 5 Township 39 R 3 West containing 160 acres of land; That afterwards said Cowan under the power given him in said power of attorney sold to Benjamin J Worthington for John Hinton, on the 16th day of December 1842, the one fifth of the West half of the South West qr and Lot one of the North West qr of Section 5 Township 39 R 3 West and then executed a deed to Worthington for one fifth thereof but through mistake executed the conveyance in his

own name instead in the name of John Hinton and as his attorney in fact, that afterwards said Hinton ratified the sale by executing a deed to said Worthington for the same land as will appear by the same herewith filed

The defendant further states that the actual consideration of the conveyance of September 16 1842 to Worthington was an exchange of ^{that} one fifth for the one tenth of the lands in controversy, being the tenth of the lands for which Hinton sued for a decree of title & now suit is brought to set aside the decree

The defendant charges here as in his original petition in this Court that at the time of the execution of the deed from Cowan as attorney in fact of Hinton & which Hinton afterwards ratified, said Worthington did execute a conveyance to John Hinton for the one tenth of said lands now in controversy that said deed, duly acknowledged & was delivered to said Cowan for John Hinton by Worthington at Washington City or Balt-

more to be forwarded to the recorder of deeds
of Jefferson County Mo but that said Cowan
mailed said deed at one of those cities but it
never came to hand or was recorded by
said recorder & defendant charges that
it is lost or destroyed in consequence of
which loss or destruction said Hinton has with-
ing to evidence his title to said one tenth

This defendant further states he presented
his petition verified by affidavit to the
clerk of this Court, upon which there was
an order of publication made notifying the
said Worthington of the commencement of
the suit and its object, that publication
& notice to said Worthington was made
in the Missouri Republican newspaper pub-
lished in St Louis Mo in the case of a
non resident that this publication was
daily made according to law by four weeks
insertion before the November Term of this Court
for 1858 that such proceedings were had
that this Court at its November Term 1858
rendered a decree in favor of John Hinton
against Worthington vesting one tenth of said land
in Hinton which decree is ~~now~~ sought by

the petition of Worthington to be set aside Defend
ant wants on the Court not to disturb said
decree but that it may remain in full
force & defend asks for all orders & decrees
as may be necessary &c J A Beal Atty
for Hinton

J A Beal atty for John Hinton states on oath
that the foregoing answer & the matters or therein
stated he believes to be true J A Beal
Shown to before me

Aug. 10th 1860 Elias J. Honey Clerk

B. J. Worthington
vs
John Hinton

Answer of deft

Filed Aug 10th 1860

Elias J. Honey Clerk

John Henton Def. } In the Circuit Court of
vs } Jefferson County
Benjamin J. Worthington Def. } State of Missouri

The defendant for an answer to the petition of the plaintiff, now filed by special leave and judgment of the Court states as follows

1. He denies that he ever agreed with the plaintiff, to exchange his interest in the lands mentioned in the petition, for the lands alleged in the petition to have belonged to the plaintiff, as in the petition is alleged

2^d He denies that the plaintiff ever executed ~~delivered~~ to him any deed, for the real estate, alleged to have been owned by the plaintiff in Missouri, in exchange for the interest of that defendant in the lands described in the petition, as is alleged in the petition

3^d He denies that he ever executed to plaintiff or mailed or sent to him any deed for his interest in the lands mentioned in the petition, as is alleged in the petition

4. He says that he has never had any business transaction with the plaintiff whatever, that the plaintiff has no equity against him whatever, and he insists that plaintiff, has not stated facts in his petition sufficient to entitle him to the relief he asks

Benj. J. Worthington

State of Maryland, Baltimore City Feb.

On this eighteenth day of February in the year of our Lord eighteen hundred and sixty one, 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 required to be used in the said State of Missouri, personally appeared Benjamin J. Worthington of Baltimore County in the State of Maryland, the defendant above named, and made oath in due form of law that he believes and knows the foregoing answer and all the matters therein, as stated, to be true. In Testimony whereof I have hereto

set my hand and
affixed my seal of Office
at the City of Baltimore
aforesaid this eighteenth
day of February A.D. 1861.

James B. Latimer
for the State of Missouri



John Norton
as
Beni of Washington

Answered

1665

Filed July 25th 1861
Geo H. Hovey
Clerk

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To

John C. Bennett

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

12th day of June 1862

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 *Benj. H. Worthington* is

Plaintiff and

John Bennett 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

15th

day of

May

A.D. 1862

Elias F. Honey

Clerk.

TO JEFFERSON CIRCUIT COURT.

June Term, 1862

B. J. Northington

vs
John Hentons

for debt

John E Cowan

Sheriff fees 50 cts

Received the within debt by receiving
the same in the presence and hearing of
John E Cowan on the 20th day of
May 1862 J. E. Cowan
clerk

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To

John C. Berman

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

15th day of January

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

Benj. Horthung vs

Plaintiff and

John Houtz 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 thereto hereto affixed, at office, this

9th day of *Decr* A.D. 186 *2*

Elias F. Honey

Clerk.

TO JEFFERSON CIRCUIT COURT.

January Term, 1863

B. J. Worthington
vs. Geo
Geo Keintor

for debt
Geo E. Carver

Sheriff's Fees 50

I received the within ^{above} ^{order} to answer by
reading the same in his presence & stating
this the 1 day of January 1863

J. H. David Clerk
by J. A. Moss Deputy

Newspaper, Book and Job Office and Binding,
 100 N. SECOND ST. ST. LOUIS.

GEORGE KNAPP & CO., *Editors and Proprietors.*

GEORGE KNAPP,
N. PASCHALL,
JOHN KNAPP. }

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TO CLUBS OF 6 TRI-WEEKLIES.....	20 00
TO CLUBS OF 14 WEEKLIES.....	20 00

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"	six times, " " " "	"	1 50
"	two weeks, " " " "	"	3 50
"	three weeks, " " " "	"	4 00
"	one month, " " " "	"	6 00
"	two months, " " " "	"	8 00
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