

Jefferson County Circuit Court
Case file - civil

June 1861, MD-22

Box 13 Folder 35

Huskey, Mary E.
Huskey, Frederick
Dixon, Solomon, by gdn.
Dixon, C.V.

vs.

Spalding, Vincent J.

Quiet title

255 acres in surveys 437, 1940 on
Sandy Creek

Mary E. Huskey and
Frederick Huskey in
their own proper persons,
& Solomon Dixon, by
C. V. Dixon, his Guardian
Against
~~Casper H. Hookaff~~
Vincent J. Spaulding.

In the Jefferson
Circuit Court—
June Term, 1861.

Plaintiffs state that heretofore to-wit
in the year 1840, B. Johnston Jr. instituted
suit in the Circuit Court of Jefferson County
against the heirs of B. Johnston Sr. for the
purpose of obtaining partition of the following
described real estate situate in Jefferson
County Mo. to-wit— Two hundred and four
& sixteen hundredths acres, and also one tract
containing fifty one acres and a fraction
over, which tracts of land lie on the
waters of Sandy Creek, the first tract
being in United States Survey No, 487,
and the other being in Survey No 1940;
that Caroline Dixon the ancestor of the said
Mary E. Huskey, formerly Mary E.
Dixon and Solomon Dixon, Plaintiffs here
in, was one of the heirs of the said B. Johnston
Sr; that the said Caroline at the time of
the commencement of said suit for partition

was made to C. V. Dixon, that said C. V. Dixon was made a party to said suit, but that the said Caroline, who was entitled to one ninth of the land above described, in her own right, was not made a party to said suit either by summons or notice; that at the July Term of said Circuit Court ¹⁸⁴¹ said lands under an order of said Court were sold by the Sheriff of said County, at which sale Henry Snowden became the purchaser: that by intermediate transfers from Snowden the defendant has obtained all the right which Snowden acquired to said tract of land above described as containing two hundred & four ¹⁶/₁₀₀ acres: that said sale was utterly void as to said Caroline, she never having been brought before said Court: that said Caroline has since the determination of said suit departed this life: & that the plaintiffs herein are her only surviving children and heirs, who are both under the age of twenty one years.

Plaintiffs further state that they are entitled to their mother, the said Caroline's share in said two hundred & four ¹⁶/₁₀₀ acres, which was one ninth thereof: & that the said defendant is in possession of said lost tract

claiming the whole as his own -
Plaintiffs therefore pray the Court by decree
to adjust the interests of said one ninth of
said Two hundred & four ¹⁶/₁₀₀ acres between
them & Defendant & to quiet the title thereto -

Thomas Hagon
Attys for Plaintiffs -

C. V. Dixon makes oath & says that he be-
lieves that the above petition & the matters
as therein stated are true &
sworn to & subscribed before me this 9th day of March
1861. C. V. Dixon
John L. Thomas
Not. Public,
Jeff. Co. Mo.

W. E. Hooper et al
Aggrieved
vs J. Spaulding

Petition to quit title
to land

Filed Dec. 9th 1861
Chas. J. Hooper

Filed by J. E. & J. Hooper

The State of Missouri, } ss.
COUNTY OF JEFFERSON.

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

We command you, that you summon *Vincent J. Spaulding*

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 after the fourth Monday of May
at, then and there to answer unto *Mary E. Hursey and*
Nederick Hursey and Solomon Dixon

upon *their* original petition, a copy whereof is hereunto annexed and
accompanies this writ, and have you then there this writ.

Witness, **ELIAS F. HONEY**, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at office
in Hillsboro, this *Eleventh*
day of *March* A. D. 1861

Elias F. Honey

Clerk Circuit Court.

No 2260

Jefferson Circuit Court

June Term 1861

Mary E. Huskey et al

vs J. Summers

Venue J. Spaulding

Sheriff fees \$ 1.00

I executed the within writ in the County of Jefferson
State of Missouri on the 11th day March 1861
by Delivering to Spaulding a copy of the
within writ and arrest partition as furnished
to me by the clerk as said Dower Sheriff
by J. C. Power Deputy

Mary E. Huskey, and
Frederick Huskey in
their own proper persons,
& Solomon Dixon, by
C. V. Dixon, his Guardian, - plaintiffs
Against
Vincent J. Spaulding, - defendant,

In the Circuit Court
of Jefferson County,

Defendant for Answer to plaintiffs
petition admits that B. Johnson Jr. in the year
1840, brought suit of partition against the heirs
of Benjamin Johnson Sr. to divide the Lands de-
scribed in plaintiffs petition, and that Caroline
Dixon, wife of C. V. Dixon, was one of the heirs of
said B. Johnson, Sr. and entitled to one ninth
of said premises. But, Defendant denies that
the said Caroline was not made a party to
said partition suit. Defendant states that the
petition for partition by said B. Johnson Jr.
made said Caroline as well as her husband, C. V.
Dixon, and all the other heirs of B. Johnson Sr.
sums in number, Defendants therein, - and that
a Notice to all of said Defendants was drawn
up & attached to said petition, and signed by
all the Defendants, except said Caroline, acknowl-
edging service of the same. But, Defendant states
that the said C. V. Dixon, husband of said Caroline,
signed the said Notice, and thereby waived No-
tice, & rather acknowledged service, for his wife,
as well as himself. Defendant therefore avers
that the interest of said Caroline to the Lands
aforesaid was fully represented by her said
husband in said partition suit, and that the

decree of the Circuit Court of said Jefferson County, made December the 9th 1840, fixed her interest in said Lands at one ninth, - all she was entitled to. Defendant further states that afterwards, to wit, at the March Term 1841 of said Court, the Lands aforesaid were ordered by the Court to be sold, and at the July Term 1841, they were sold by the Sheriff of said County, & his Report of the same approved by the Court, That afterwards the one ninth of the proceeds of such sale, (after deducting the costs of said) was paid over to the ^{said} Caroline then husband, - so, that Defendant avers the said Caroline then husband, received in her lifetime the full amount of her interest in said Lands, - and that she thereby fully sanctioned & confirmed the proceeds, ^{and that her heirs are therefore estopped from claiming any interest in said partition suit.} And Defendant therefore denies that said sale was utterly void as to the said Caroline, but avers that her interest, was fully represented in said Court, by her said husband, & that his waiver of notice was sufficient for his wife as well as himself. And Defendant therefore says it would be contrary to every principle of Equity, to permit the Plaintiffs, as heirs of the said Caroline, to claim any interest in said Lands, when their ancestor, the said Caroline, received in her lifetime all the interest she was entitled to in the same.

Defendant therefore denies that the plaintiffs have any interests to the one ninth of said \$04 ¹⁶/₁₀₀ acres to be adjusted, or any title thereto to be quieted, - Defendant states that at said partition sale, Henry Snowdon became the

Purchaser of the Lands aforesaid, & thereby ac-
quired all the rights of the heirs of B. Johnson &c,
to ^{the} same, - and that he afterwards conveyed
one hundred acres of said $204\frac{16}{100}$ acre tract
to the Defendant, who is therefore the legal
owner of the same, and rightly in possession
thereof, - and Defendant denies that he is in
possession of the residue of said tract of $204\frac{16}{100}$
acres. Defendant denies that plaintiffs have any
right to the possession of said one ninth of said
premises, and denies that they have any title
legal or equitable to the one ninth of said
premises, or any interest whatever in the same.

A Green
Attorney for Defendant
Vincet S. Spalding

makes oath and says the above Answer
and the matters therein as stated he believes
to be true.

Sworn to before me
June 8th 1863

Elias F. Honey c. N. }
V. J. Spalding

In Circuit Court

Jefferson County

Mary E. Hensley
vs.
Hathens

Oricent Hensley

Answer

Filed June 10th 1863
Clerk & Hensley
Clerk

Mary E. Huskey, and
Frederick Huskey, in
their own proper persons,
& Solomon Dixon, By
C. V. Dixon, his Guardian, - Plaintiffs
Against
Vincent J. Spaulding, - Defendant,
In the Circuit Court
for the County of Jefferson
State of Missouri,

To Mary E. Huskey, Frederick Huskey
and Solomon Dixon, by C. V. Dixon his
Guardian, the above named Plaintiffs,
or James A. Y. Beal, their Attorneys,
You are hereby notified that Depo-
sitions of witnesses, to be read in evidence
in the above Cause, on the part of the
Defendant, will be taken at the Court
House, in the Town of Bowling Green
in the County of Pike in the State
of Missouri, on the twenty eighth day of ~~June~~ May
1864, between the hours of eight o'clock
in the forenoon, and six o'clock in the after-
noon; 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,
Vincent J. Spaulding
May 30th 1864 By Abner Green his
Attorney

Sh Circuit Court
Jefferson County

Henry E. Wheeler
vs
Thos

vs.

vs. J. J. Hunt
vs.

vs. J. J. Hunt
vs. J. J. Hunt
vs. J. J. Hunt

vs. J. J. Hunt
vs. J. J. Hunt
vs. J. J. Hunt

I executed this writ by leaving a true
copy of the same at his usual place of abode
with a white person of his family over the
age of 15 years this 26th day of May 1864

Jerome B. Sawyer Sheriff

Deposition of Witness produced
sworn and examined on the
28th day of May in the year
of our Lord 1864 between the
hours of eight o'clock in the
forenoon and six o'clock
the afternoon of that day
at the office of the clerk of
the County Court at Bowling
Green the County seat of Pike
County Missouri before me
William B Cox a Justice of the
Peace in and for said County
to be read as evidence in
a certain cause now depen-
ding in the Circuit Court
for the County of Jefferson
in the State of Missouri
between Mary E Huskey
and Frederick Huskey in
their own ~~right~~ proper
persons & Solomon Dixon
by C V Dixon his guardian
as plaintiffs and Vincent
Spaulding as defendant
on the part of the defendant
Henry Snudden of law
full age being produced & sworn
and examined on the part

of the defendant deposes
and says -

That he was present at a sale of the real estate of Benjamin Johnson deceased late of Jefferson County Missouri, made at the Court House door in said county some time about the year 1841 or 1842 and during the session of the Circuit Court for said County of Jefferson - That said land was sold under an order of said Circuit Court made in the matter of the petition of Benjamin Johnson for Plaintiff vs Thomas Bolton & others defendants in a suit for partition of the lands of the said Benjamin Johnson senior deceased late of said County of Jefferson that said land was sold at Public auction to the highest & best bidder by Marc. Mop then Sheriff of said County of Jefferson and that defendant bought a part of said lands at the sale aforesaid - That

defendant paid to Christo-
pher V Dixon at his
residence in said county
of Jefferson in the presence
of his wife her distributive
share of the money that
the land sold for which
was purchased by defendant
and took a receipt therefor
that on the payment of the
money in full to all the
distributives under the order
made by said court in said
cause the sheriff aforesaid
made him a deed which
was duly acknowledged and
recorded - That defendant
took receipts in full from
all the other distributives
for their shares under
said order and felt sat-
isfied ~~at~~ the time that
all the parties were in
court on said proceeding
that the judgment of the
court was regular and
that the sheriff's deed
after full payment of the
shares of all the other

hears of Benjamin Johnson
or add as well as of Chris-
topher & Dixon and his wife
as aforesaid gave him
a letter to said land which
was indisputable

Henry Snowden
subscribed and sworn to before
me on the day at the place and
within the hours first afore-
said

William B Cox J P

I William B Cox a Justice
of the Peace within & for the County
of Pike in the State of Missouri
do certify that in pursuance of
docket & annexed notice came
before me at the office of the Clerk of the
County Court in Bowling Green the County Seat
for said County of Pike ⁱⁿ State of Missouri
~~the County Court being destroyed by fire the~~
~~County Office is closed & the office of the~~
Henry Snowden who was by me
sworn to testify the truth the whole
truth & nothing but the truth as his
knowledge touching the matter in
controversy aforesaid, that he was
examined during his examination he
advised to writing and subscribed
being in my presence on the day & at
the place & between the hours in that
behalf first aforesaid and his exam-
ination is now herewith returned
Given under my hand at Bowling
Green in said County of Pike in said State
the 28th day of May A D 1864 J P
William B Cox J P



Henry & Wheeler
27th Nov 1865

Wm
Mistakenly placed
in it - check

Before
Henry Wheeler
for check -

opened & filed
Nov 24th 1865
Edw. J. Hooley
Albany

May E. Huskey, Fredrick
Huskey & Solomon Dixon

Plaintiffs

Against

Vincent J. Spalding,

Defendant

Ejectment.

In the Jefferson
Circuit Court.

Plaintiffs state that on the 9th day of March
1861 they were entitled to the possession of the following
described real estate to wit: One undivided ninth
of 204 acres & ~~16~~ hundredths in N. S. Survey no
437 and one ninth of 51 acres in N. S. Survey no
1940 situate in Jefferson County and being so entitled
Defendant on the 10th day of March 1861, wrongfully
entered into said one ninth of said two tracts of
land and wrongfully withholds the possession
thereof from Plaintiffs to their damage in the sum
of Five hundred dollars. Wherefore Plaintiffs demand
judgment for the rendition of possession of said one
ninth of said premises so wrongfully withheld
from them by Defendant and for \$500. damages
for other proper relief.

Done to & subscribed before
me the 13th 1865.

Samuel H. Coffey Clerk

John L. Thomas,

Mary E. Housley et al

vs.

R. J. Spalding

Answered Petition.

~~~~~

Filed May 12 1865

Saml. W. R. Myers  
clerk

Mary E. Huskey, Greasnick }

Huskey & Solomon Dixon, - Plaintiffs }

Against

Vincent J. Spalding, - Defendant, }

} In the Circuit Court  
} of Jefferson County Missouri

The Defendant for Answer to the amended  
petition of Plaintiffs, denies that he on the 10<sup>th</sup> day  
of March 1861, or at any other time, unlawfully  
entered into the one ninth part of the  $304 \frac{16}{100}$   
acres of Land, in U. S. Survey 437, or the one ninth  
of 51 acres, in U. S. Survey 1940, situate in Jeffers-  
on County Missouri, as described in Plaintiffs pe-  
tition. And Defendant denies, that the above  
Plaintiffs were on the 9<sup>th</sup> day of March 1861, - or at  
any time since July 1841, entitled to the possession  
of <sup>the one ninth of</sup> the above described two tracts of Land, or any  
part of either, - and denies that Plaintiffs have  
had any right, title, or interest whatever in said  
Lands since July 1841. Defendant denies, that  
he wrongfully withholds the possession of said  
Lands, or the one ninth part, or any part whatever  
of either of said tracts of Land from the Plaintiffs,  
and denies, that Plaintiffs are entitled to the pos-  
session of the one ninth, or of any part of said Lands,

and denies that Plaintiffs are entitled to judgment for one ninth of said premises, or for any part whatever, and denies that Plaintiffs have been damaged 500 dollars, or any sum whatever, by any wrongful act of Defendant, or that Plaintiff is entitled to any relief.

In further Answer Defendant states that in 1840, B. Johnson Jr. brought suit against the heirs of Benjamin Johnson Sr. (nine in number) for a partition and division of the Lands described in Plaintiffs Petition, (and which belonged to the Estate of said Benjamin Johnson, Sr.) in the Circuit Court of Jefferson County, Missouri, and that at the December Term 1840, of said Court, it appearing to the satisfaction of said Court, that all of the heirs of said Benjamin Johnson Sr. deceased, had been duly served with Notice of said proceeding, the Court made a decree, ascertaining & fixing the rights of the Parties, at one ninth of said premises, and appointing Commissioners to divide said Lands, who at the March Term 1841, reported that said Lands were not susceptible of division, and the Court thereupon ordered a sale of said Lands at the next Term, and at the July Term 1841, said Lands were sold, by the Sheriff of said County, at public sale, in pursuance of said order, and Henry Snowden became

the purchaser of both of the Tracts aforesaid, and  
thereby acquired all the right, title, & interest of all the  
Heirs of said B. Johnson, Sr. dec'd, in and to said Lands,  
said sale having been approved by the Court, and Henry  
Snowden, having obtained the sheriff's deed for said Lands,  
did on the 6<sup>th</sup> day of January 1848, convey one hun-  
dred acres, out of the 204  $\frac{16}{100}$  acre Tract to Vincent J.  
Spalding, the Defendant, who is rightfully in possession  
of the same. Defendant therefore states he is the legal  
owner in fee of said one hundred acres of Land, and  
he denies, that Plaintiffs have any right, title, or interest  
whatever in any portion of the same, And Defen-  
dant denies, that he is now, or was at the Commence-  
ment of this suit, in possession of the residue of said  
204  $\frac{16}{100}$  acre Tract, or any part of the said Tract, - and  
denies that Plaintiffs have any right to recover judgment  
against him for the possession of said Lands, or any frag-  
ment whatever, And Defendant states that the rec-  
ord and proceedings in the Circuit Court aforesaid, in said  
partition suit, are binding and conclusive upon the Plaintiffs,  
and they are therefore estopped from denying the title  
of Defendant, <sup>to said 100 acres</sup> acquired by virtue of said record & proceed-  
ings.

And Defendant further states that he,  
and his grantor, predecessor & persons under whom he claims,  
have been seized, and <sup>have</sup> held the continued uninterrupted  
adverse possession of the said one hundred acres of Land

under a claim of title for twenty years, & upwards,  
next before the commencement of this suit.

And Defendant further states that neither the Plaintiffs,  
their ancestor, predecessor, grantor, or other person under  
whom they claim the aforesaid one hundred acres of Land,  
were seized or possessed of said premises within ten  
years before the commencement of this suit, nor with-

in twenty years before the commencement of this suit.  
A copy of said Record & proceedings in partition, the Sheriff's deed, and  
deed of Morden to Defendant are here  
to the Court shown.

A. Green

} Attorney for Defendant.

Vincent J. Spalding, Defendant, makes oath and says  
the above Answer, and the matters therein, as stated  
he believes to be true.

Sworn to and subscribed V. J. Spalding  
before me, this 15<sup>th</sup>  
day of May A.D. 1865.  
Emmett W. Sperry  
Clerk

In Circuit Court  
Jefferson County

Mary E. Walker et al,  
vs.

Vincent J. Spalding

Answer of said, to  
Companion Petition

Filed May 15-1865  
Samuel H. May  
clerk