

Jefferson County Circuit Court
Case Files - Civil

Box No.

15 Folder No. 35

JUNE 1864

Walsh, Thomas, Jr

vs

Walsh, Thomas, Sr

McCormack, John

Ejectment

40 acres; S13-T42-R3E

Damages \$50

Thomas Walsh, Junr. - Plaintiff
Against
Thomas Walsh, Senr. -
and John McCormack, - Defendants }
In the Circuit Court of
Jefferson County, Missouri,

The Plaintiff states that on the 31st day of March 1860, he was entitled to the possession of the following premises, situate in the County of Jefferson and State of Missouri, to wit, the South East quarter of the North East quarter of Section, Thirteen, in Township, Forty Two, of Range, Three East, containing Forty acres, and being so entitled to the possession thereof, that the Defendants afterwards, on the 28th day of March 1860, entered into such premises, and unlawfully withholds from the Plaintiff the possession thereof, to his damage in the sum of fifty dollars. Wherefore Plaintiff demands judgment for the recovery of said premises, and fifty dollars damages for the unlawfully withholding of the same from Plaintiff, and two dollars for the monthly rents and profits from the rendition of the judgment until possession of the premises is delivered to Plaintiff, and for other proper relief.

Abner Green
Attorney for Plaintiff

Abner Green, Attorney for the Plaintiff,
makes oath and says the above petition
and the matters therein, as stated, he
believes to be true.

Sworn to before me

March 7th 1864

Abner Green
Atty. for plaintiff

Elias F. Hooney, Clerk

In Circuit Court
Jefferson County

Thomas Watak, Juror

vs,

Wm. Watak, Sen.
vs John McCormack

Petition
in Exigent
for Ammonio
issue. W. Green
for W. W. W.

Filed March 3rd 1864

Chas. J. Morrey.

Clerk.

3d paid by W. W. W.

affd 10
copy paid 30
and to copy 140
Stump 50
washed 5-
dirt paid 5-

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

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

We command you, that you summon *Thomas Walsh*
Jr. *John McCormack*

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 *May* next, then and there to answer unto
Thomas Walsh Jr.

upon *his* original petition, a copy whereof is herunto annexed and ac-
companies this writ, and have you then there this writ.

Witness, ELIAS F. HONEY, Clerk of our said Circuit
Court, with the seal thereof herunto affixed, at office
in Hillsboro, this *Ninth*
day of *March* A. D. 18 *64*



Elias F. Honey

Clerk Circuit Court.

TO JEFFERSON CIRCUIT COURT

Filed June 1, 1864

2412

Thomas Walsh Junr

vs } Exonerated

Thomas Walsh Senr

John McCormack

W.D. Bonded \$2,000

I executed this writ in the County of Jefferson
State of Missouri on the 1st day of May 1864 in Thomas
Walsh Senr by Delivering to him a true copy of this
writ and annexed petition as furnished me by the
Clerk he being the first served also on the same
day on John McCormack by Delivering to him a
true copy of this writ

James Bond Sheriff

Thomas Walsh Jr

vs

Thomas Walsh Sr

John M^c Cormack

John M^c Cormack states that for many years before commencement of this suit Thomas Walsh the defendant owned the land in controversy, which has been in the quiet possession for many years, that in 1863, Thomas Walsh the defendant was unable to do any thing for support of himself or to work the farm on said land, that he got this defendant in 1863 to move on said farm for the purpose of working & cultivating it and to take care of the said Thomas Walsh Sr. that this defendant has no claim to the land but is simply living on it with Thomas Walsh Sr and supporting & taking care of him & paying out to him which goes to the support of Thomas Walsh the defendant. Defendant further states that he is informed and believes that in March 1860, the plaintiff by fraudulent representations made to his father the defendant, induced his father Thomas Walsh Sr to convey the land in controversy to plaintiff on express written conditions to take good care of his father & to support him during life, that if he complied with the conditions of said terms on which the conveyance was made, then at the death of Thomas Walsh Sr, and not before the absolute title should said land should belong to plaintiff.

Defendant states that plaintiff has totally failed to fulfill and comply with the defence and condition on which

Said conveyance for said land was made to plaintiff, in consequence of which he has lost all right to the title of said land and has forfeited it in consequence of failing to fulfil the said conditions.

Defendant therefore denies that he entered on said lands on the 28 day of March 1860 & denies that he wrongfully withheld the possession from the plaintiff and further denies that plaintiff was on the 24 day of March 1860 or at any other time entitled to the possession of said lands and denies that the plaintiff has sustained any damage.

~~Subscribed before me~~
before me this day
of June 1864

John Mc Cormack states on oath that the foregoing answers the matters therein as stated he believes to be true
Subscribed before me
June 4 1864

John Mc Cormack
mark

Sworn to and subscribed
before me this 6th day of June
1864
E F Honey Clerk
per J. Ed. Walker D.L.



Thomas Muesch Jr
vs
Thomas MacLeod & Co

Deceased of and to the same

July 11 1884
D. St. Mowry & Co

Thomas Walsh Jr

vs

Thomas Walsh Sr

& John McCormack

In the Jefferson Circuit
Court, Mo

The defendant ^{Thomas Walsh Sen} denies that the plaintiff was on the 24th day of March 1860 or at any other time entitled to the possession of the S E $\frac{1}{4}$ of the North East gn of Section 13 Township 22 of Range 3 East. Defendant denies that he on the 28 day of March 1860 or at any time unlawfully withheld from the plaintiff the possession of said land. He denies that he has damaged the plaintiff fifty dollars or any sum for unlawfully withholding the premises & denies that the monthly rents & profits are two dollars.

The plaintiff states that in the year 1860 he owned said land and that he was quite old and helpless, so much so that on the suggestion & at the instance of the plaintiff ^{the son of deft} it was agreed between plaintiff and defendant that defendant should convey said land to plaintiff in consideration of plaintiff supporting and taking care of defendant during his life time & at the death of defendant, the land should be absolutely the property of plaintiff in case plaintiff supported & took care of defendant. And it was further agreed that defendant should remain on the land during his life time ^{& that plaintiff should not have possession}. The parties executed an instrument of writing at the time of the conveyance and attached it to the deed stating the terms & conditions of said conveyance, a copy of which deed & the condition & defeasance is hereto annexed. The plaintiff paid defendant no consideration for said land, it was agreed before & at the time of the execution of the deed ~~that~~ ^{that} a copy

endant, ^{who} was then in possession of the land & had been for many years, might remain in possession of said land during life. And after execution of the conveyance plaintiff renewed the agreement for defendant to remain on the land during life. That plaintiff was not living on the land in controversy & has never been in possession, that from the time of the execution of the conveyance to plaintiff, he has taken no care of defendant, and has wholly failed and neglected to support defendant or furnish any provisions or necessities.

But on the contrary, without furnishing any support for defendant or taking care of him, plaintiff sued defendant before a justice of the peace for the possession of said land and carried on a vexatious litigation several years, harassing defendant & impoverishing him in order to deprive him of the land.

Defendant further states that plaintiff is totally insolvent & has no means to furnish for the support of defendant, that defendant has made several demands upon plaintiff in 1861 and 1862, at different times, to support defendant & furnish him provisions & necessities of groceries, provisions & clothing but that plaintiff utterly refused and neglected to take care of defendant and did not furnish one cent worth of provisions, or clothing and still suggests to furnish to defendant the same or any part thereof.

Defendant therefore charges that the condition on which said conveyance was made, has not

been complied with by plaintiff and the estate is defeated and is the absolute property of defendant and plaintiff has ^{not} in equity and good conscience any right to the possession of the land in controversy.

Defendant charges that plaintiff is insolvent & has no means to support defendant, that his object to get said land is to sell it to one Obrian or some other person & put the proceeds in his pocket, and then leave the defendant upon the cold charities of the world for a support.

Defendant prays the Court to set aside the conveyance from him to plaintiff and declare it perfected for failure of plaintiff to comply with the defeasance and condition on which it was granted & to grant all other proper relief to protect defendant in his equitable trust upon said land for his support and for all other proper orders.

Thomas ^W Welsh
mark

Subscribed & Sworn to before me this 28th day of May

1864

Elias J. Honey Clerk



Thomas Wright to
as
Thomas Wright dec

Answer of Thomas
Wright dr.

Chas. Anne 11 1844
E. Ch. Honey Bell,

Thomas Walsh, Junior
vs.
Thomas Walsh, Senior
& John McCormack

In the Circuit Court of
Jefferson County Missouri,

The Plaintiff in reply to that part of
John Mc Cormack's Answer, which savours somewhat
of a counter claim in favor of Thomas Walsh, Senior, denies
that he used any fraudulent means to induce his
Father, (Thomas Walsh, Sen,) to convey the land in question
to him, - and denies that the land was conveyed to
him on the condition that he would take care of & sup-
port his Father, during life, - and denies that he exe-
cuted a valid defeasance by which the title to
said Land should remain in his Father until his
death. And Plaintiff denies that he at any time
refused to take care of & support his Father. But
says, his Father refused to live with him, & accept
of his care & attention. He further says his Father
had at all times abundant means with which to
support himself. Plaintiff denies that his
title, ^{to said Land} has become forfeited, by reason of his not
complying with any agreement he made with
said Thomas Walsh, Sen, - and denies that Thomas
Walsh, Senior, has any right or title, legal or equitable,
to the land in question, or the possession of it, -
and denies that said John McCormack has any
right, by virtue of any agreement with Thomas Walsh
Sen, to the possession of said Land. And Plaintiff there-
fore ask Judgment as in his original petition prayed,

Attest
Thomas Walsh, Junior, Plaintiff
makes oath & says the above Replication and the mat-
ters therein are stated he believes to be true,
and subscribed & sworn to before me
this 21 day of September 1864
Attorney for Plaintiff
The Plaintiff
James Wells

Thomas, Nathl. Jr.

28,

Thomas, Nathl. Sen,
4 South Main Street,
Boston

Application to
Prothonotary
Dunbar

Filed Dec 27th 1864
Clerk of Court
Dunbar

Thomas Walsh, Junior,	}	In the Circuit Court Jefferson County Missouri,
Against		
Thomas Walsh, Senior, & John M. Cornacks,		

The Plaintiff for replication to the Answer of Thomas Walsh, Senior, states that it is not true as stated in said Answer, that Plaintiff was to have the land sued for, absolutely, only in case he took care of said Defendant and supported him during his life, And Plaintiff denies that the conveyance of said Thomas Walsh, Senr. to Thomas Walsh, Junior, of the land in question, was a conditional conveyance, - and denies that any valid defeasance was annexed to said Deed, as a part of it, and by which ^{said} Deed was to be defeated in case Plaintiff failed to support said Defendant, - Plaintiff says said Deed was made for a valid consideration to wit, the sum of two hundred dollars, as stated therein, and that Defendant is estopped from denying the recitals of his own deed, that said Deed conveys the absolute fee simple title to said Land to the Plaintiff, - and that this, gives him the right to the possession of the land, - And Plaintiff denies that any valid deed or defeasance was executed by him at the time, which had the legal effect to divest him of the title to said land, acquired by the said Deed from Thomas Walsh, senior, And Plaintiff denies that any instrument of writing was executed by him at the time

giving to said Defendant the right to hold
possession of the land his life time - and de-
nies that any verbal agreement to that ef-
fect was made, - and denies that such
verbal agreement would have been valid in
law, if such had been made, - and denies
that any agreement was made by him, either
before, or after he got the Deed for the land,
to allow said Thomas Walsh, Senior to hold
possession of the land during his life, -
And although Plaintiff did agree in writing
to take care of and support the said Thomas
Walsh, Senior, if it became necessary, and was
required by him; Yet, Plaintiff says it never
has been necessary to furnish means of sup-
port to said Defendant, since said deed was
made, On the contrary, said Thomas Walsh,
^{senior} has had all that time ^{with} abundant means
to support himself, - has had Land and
other property, and several hundreds of
dollars, - perhaps thousands, - loaned at in-
terest all the time, That he has been all
the time, and is now, worth ~~five~~ times
as much as the Plaintiff, - so, that said
Defendant, has at no time, stood in need
of support, And that he only gave no-
tice, in 1861, & 1862, to Plaintiff, to fur-
nish him groceries & other things for his
support, in order to manufacture evi-
dence, (as he thought) with which to
carry on his law suit then pending with
Plaintiff for the possession of said Land,
For immediately after such Notice, the

Plaintiff notified said Thomas Walsh senior to come and live with him, Plaintiff, - and offered to take him to Plaintiff's house, & take good care of him, & furnish him with the necessaries, & comforts of life but the said Thomas Walsh senior, absolutely refused to come & live with Plaintiff or to accept any thing at his hands,

Plaintiff denies that said Thomas Walsh senior, has any right, legal or equitable, to the land in question, - and denies he has any lien on it for his support, and denies that said Defendant has any just right legal or equitable to ask the Court to declare said Deed of Conveyance forfeited or to vacate it, or in any manner disturb Plaintiff's title to the land. And Plaintiff denies that he has forfeited his title to said land, by any thing he has done, or any thing he has omitted to do, - and denies that he executed any instrument whereby his title to said land could become forfeited. Plaintiff therefore asks Judgment for the recovery of said land, as in his original petition prayed.

A Green

Attorney for Plaintiff

Thomas Walsh, Junior, the Plaintiff, makes oath and says the above Replication and the matter therein as stated he believes to be true.

Subscribed and sworn to
before me this 20 day
of November 1864
Patrick Byrne J.P.

Thomas Walsh

the Circuit Court
Jefferson County

Thomas Black, Jr.

vs.

Wm. Black, Jr.

John W. Bonwick

Defendants

to answer of the

Black den't

Filed Dec 27th 1864

Chas J. Hooley
Clerk

Thos Walsh Jr.

^{is}
Thomas Walsh Sen.



Now at this day comes the Defendant Move,
the rule th Plaintiff to give security for the Costs
because he is insolvent.

Thomas
Atty for Defendant.

A. Patel Jr.

21

J. Patel Sr.

Brother to the above
to give security for the
Certs.

Died May 17 1865
Samuel A. M. M. M.

Thomas Walsh Jr.

v

Thomas Walsh Sr.

} In the Superior Circuit Court,
May Term 1865.

The Defendant for a supplemental answer to the petition of the Plaintiff states that he has bought all the interest in the lands sued for by Plaintiff owned by Plaintiff, under an execution in favor of John Homers vs Thomas Walsh Jr. & others, that he has received the Sheriff's due therefor. Wherefore Defendant asks to be discharged with his costs.

Done & subscribed before } Thomas Walsh Sr.

my May 17th 1865.

Samuel A. Reppych

Thomas Mott Jr.

3

Thomas Mott Sr.

Supplemental Underer.

St. Louis May 17 1865.

Samuel Mott Jr. Esq.