

Jefferson County Circuit Court
Case File - Civil
May 1865

Box 16 Folder 13

Harris, Oliver Dudley

VS

Vineyard, John

Ejectment

60 acres in S23T40R4E; \$100
damages; bill of exceptions;
Supreme Court

Oliver D. Harris, Plaintiff

Against

John Venigard, Defendant

} In the Jefferson Circuit Court
May Term 1865.

Now at this day Comes said Defendant and for answer to the Petition of Plaintiff heretofore filed in this behalf states that he is in possession of the S E $\frac{1}{4}$ of the N W $\frac{1}{4}$ & the N E $\frac{1}{4}$ of the S E $\frac{1}{4}$ (North of the creek) of Section No 23, in Township 40, Range 4 East, containing fifty acres, which is included in the land described in the Plaintiff's petition. He denies that he is now or was on the 1st day of January 1859, or at any other time in possession of any other portion of the land sued for herein except the fifty acres above described. Defendant denies that Plaintiff was on the 1st day of January 1859, or at any other time entitled to the possession of the fifty acres of land above described or any portion thereof. He denies that he on the 2nd day of January 1859 or at any other time unlawfully entered into said fifty acres, or now wrongfully withhold, the possession of the same from Plaintiff and that Plaintiff has sustained damages in the sum of five hundred dollars, or any other sum by reason of any acts of Defendant.

Defendant for further answer states that on and long prior to the 23rd day of August 1855 he was the owner of and resided upon a farm adjoining the land above described and had improvements ~~thereon~~ consisting of about 7 or 8 acres cleared fenced and in cultivation, situated on the aforesaid fifty acres which at that time was unenclosed but belonged to the United States. That by the laws of the United States then in force he was entitled as the owner of an adjoining farm to enter said land; that he went to St. Louis for that purpose

but found that the land above described and also the land described in plaintiff's petition had been entered by Oliver D. Harris the father of Plaintiff; that he called upon said Harris and informed him that he would contest the validity of his entry, grant, Conced and claim the right given him by law to enter the same; that said Oliver D. Harris who entered said land, proposed to Defendant to let Defendant have ⁹⁰ ~~much~~ ^{of} the foresaid land as would cover his improvements and answer his convenience and purposes at the same price per acre paid by said Harris to the government and in consideration of that price and for the further consideration that Defendant would not take any steps to set aside his entry, which proposition Defendant accepted and that accordingly said Oliver D. Harris executed and delivered to Defendant his bond under seal, dated the 22nd day of August 1855, in the sum of Two hundred dollars - The condition of said bond is as follows: "The condition of the above obligation is such, that whereas I did at the City of St Louis enter the $\frac{1}{4}$ of the NW $\frac{1}{4}$, $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ $\frac{1}{2}$ of the creek) of Sec. 23, T. 40, R. 4, and whereas the patent of the United States has not issued for the same, Now- Therefore when the said Harris shall receive said patent from the Government of the United States, he shall well and truly make a deed of the said above described land unto the said John Vinograd, binding himself, ^{his} his Executors and administrators faith fully to perform the same, then the above obligation shall be void, otherwise to remain in full force and effect," which bond is herewith filed and prayed to be taken as a part of this answer.

Defendant avers that after the execution of said bond

by Plaintiff's father as aforesaid, he ^{has} remained upon said land (said sixty acres) until the present time.

Defendant states that Oliver D. Harris departed this life ~~two or three~~ years since leaving this Plaintiff and Dabney E. Harris, Louisa B. Harris & James A. Harris as his only surviving children and heirs and that in order to a full and complete determination, this suit said other children above named should be made parties to this action as they have the same interest in said lands as heirs of said Oliver D. Harris that said Plaintiff has.

Defendant here in open Court tenders to Plaintiff and the other heirs of said Oliver D. Harris the sum of Seven and $\frac{50}{100}$ dollars being in full of the principal and interest of what he was to pay said Harris for said sixty acres of land.

Defendant therefore asks the Court to make an order to bring ⁱⁿ the said Dabney E. Harris, Louisa B. Harris and James A. Harris make them either parties Plaintiff, or Defendants, in this action and to direct them of any title they may have to said sixty acres of land either in law or equity and to vest the same absolutely, in Defendant, ^{a patent having been issued to said Harris for said land} & for other proper relief.

Green & Thomas

Attys for Defendant.

John Vineyard Defendant, makes oath and says the above Answer and the matters therein as stated he believes to be true,

Sworn and Subscribed John Vineyard
before me April 28th 1865
Elihu B. Hooney Clerk

D. D. Harris

John Vinograd

Shower of Vinograd.

Filed May 8 1865
Samuel H. P. Jones
Clerk

D Harris plff
vs
John Wingard deft } Ejectment —
Sci fa

— Answer —

Dabney E Harris for answer to the Sci fa comes
and say, that he ought not to be made party de-
fendant in the above entitled action pending in the
Jefferson County Circuit Court for the reason that
he is not interested directly or indirectly in the lands
described in the petition of plaintiff, nor is he in
anyway interested in the termination of the suit. Where-
fore he asks not to be made party as prayed for.
John Watkins atty
for D E Harris —

Dabney E Harris makes oath and say that the
foregoing answers and the matters therein as stated he
believes to be true —

Dabney Ellis Harris

Sworn to and Subscribed
before me this 9th day of
October 1865 —

John L Bogy
Clk Cir Court
St Genevieve Co Mo

D D Harris
by
Geo Wingand

Care of D D Harris

Recd Nov 14 1865
Wm. A. Wingand
Wm

State of Missouri
To the Sheriff of the County of
St. Genevieve; Greeting;

Whereas an order was
made at the May Term of the Jefferson Circuit
Court for 1865, that a *Cere Facias* issue to
Dabney E. Harris, requiring him to show
cause if any he has why he should not
be made a party Defendant, in a cer-
tain cause now depending in said
circuit court, wherein D. E. Harris, is
Plaintiff, and John Vinyard is Defendant.

You are therefore commanded to
notify the said Dabney E. Harris, to
be and appear before our said Circuit
court, to be begun and held at the court-
house in Hillsboro, in the county of
Jefferson on the Second Monday of
November next to show cause if
any he has why he should not be
a party Defendant in said cause,
and have you then there this writ.

Witness, Samuel A. Reppy, Clerk
of our said Circuit Court, with the
Seal thereof hereto affixed, at office
in Hillsboro, this 26th day of
September 1865.

Samuel A. Reppy.
Clerk Circuit Court

• Serve the within by leaving a true and
attested copy of the same in the hands
of the within named Debnay & Harris, at
St Genevieve in the County of St Genevieve & State of Missouri
this 4th day of October 1865

fee \$1⁵⁰ paid by Plaintiff Anderson

Sheriff of St Genevieve Co.

State of Missouri

W. J. Anderson
Debnay & Harris's bond
forwarded 1865

2283

D. J. Harris, et al

vs J. Lewis & Co

Debnay & Harris

Filed Oct 26 1865
Saml. A. McJeyck

The State of Missouri
County of Jefferson

The State of Missouri;
To the Sheriff of Ste Genevieve County
Greeting:

Whereas the Circuit Court of
Jefferson County at the November Term
1865 thereof, on motion of John Vinyard
Defendant, in the cause of Oliver D.
Harris against him. Ordered that a
Scirefacias issue to Louisa B Harris, and
James A Harris (heirs of Oliver D Harris
Deceased) of said Ste Genevieve County,
to be and appear at the next Term of
the Jefferson County Circuit Court to be
begun and held at the Court house in
Hillsboro on the second Monday in
May next and to show cause (if any
they have) why they should not be made
parties Plaintiffs in said cause of
action.

These are therefore to command
you to notify the said Louisa B Harris
and James A Harris of said order, and
that they be and appear at the next term
of the Court aforesaid, at the place, and
on the day aforesaid, and be made par-
ties Plaintiff in said cause or show cause

To the contrary. And have given them
there this writ

Witness Samuel A. Peppy clerk
of said Circuit Court with the
seal thereof hereto affixed in
Hillsboro, this 22nd day of
March A.D. 1866.

Samuel A. Peppy Clerk



Jefferson Circuit Court
May Term AD 1866.

Oliver D. Harris

or

John Vinyard

Filed April 4th 1866
Samuel A. Peepers Clerk

Executed the within by leaving a true & attested
copy of the same in the hands of the within named
James D Harris in the City of St Genevieve on the
2nd day of March 1866 and by leaving a true
and attested copy of the same at the usual
place of abode of the within named Louisa
B Harris ^{in the City & County of St Genevieve State of Missouri} in the hands of Mrs Harris, mother
of the said Louisa B Harris and a free white
person in which the said Louisa B Harris
usually resides over the age of fifteen years
This 30th of March AD 1866

See spec^l by A Green & J L Thomas } Attorneys Sheriff
Atty for Deft } St Genevieve County Mo

Oliver D. Harris, Plaintiff
vs
John Vineyard et al, Defts } In the Jefferson
Circuit Court.

To Oliver D. Harris, the above named Plaintiff-

You are hereby notified that I shall on the first day of the next term of the Jefferson Circuit Court to be held on the 2nd Monday in May next, or so soon thereafter as a hearing can be had, apply to said Circuit Court for an order to examine you on interrogatories in relation to facts material in the trial of the issues made in the above entitled cause - your answers to which interrogatories I shall read in evidence on the trial of said cause on the part of the defendant.

John Vineyard
By Helen & Thomas his steps-

Served the within by leaving a true copy thereof
at the usual place of abode of the within named
O D Harris at St Genevieve, in the hands of a free
white person of the family over the age of
fifteen years, this 16th of April 1866
free copy of
At Green & L Thomas
Attys for Deft

Attest
St Genevieve County Mo

Notice -

O D Harris
by
John Maynard Esq

COUNTY OF JEFFERSON.

THE STATE OF MISSOURI,

To *Carroll and George Wiley*

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 *18th day of May next* 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 *O & Heave is*

Plaintiff and *John Dwyant Jr* is

Defendant on the part of *Stondan's* and herein you are in no wise to fail.

WITNESS, *St. H. Dwy* ~~CLERK~~, Clerk of our said Court,

with the Seal thereof hereto affixed, at office, this *28* day of *April* A. D. 186*6*

Samuel St. H. Dwy
Clerk.

SUBPOENA

TO JEFFERSON CIRCUIT COURT.

May Term, 1866

Oliver D. Harris

vs
John Vinyard

Witnesses for Defendant

Oscar Dover and
George Wiley

Fletcher Sheriff 100

I do declare the within I see in the County
of Jefferson in the State of Missouri on or about
the 27th day of March 1866 on or about
noon & George Wiley by reading the same in
their presence & hearing

W. H. Fletcher
Sheriff

Oliver D Harris

vs

3/ Ejectment, In the

John Vinyard

Jefferson Co Circuit Ct.

Louisa B Harris and James A Harris
against whom a Scire facias issued from
the Office of the Clerk of the Circuit Court
for said County of Jefferson to show cause
why they should not be made parties plain-
tiff herein for joint and separate answer
thereto, state, that they are not interested in
anyway in the result of said suit, nor
have they any interest whatever by inheri-
tance, purchase or otherwise in the real
estate described in the petition of plaintiff
and which is the subject matter in contro-
versy - And they further answering say, that
they are not heirs of Oliver D Harris, but
are children and heirs of Oliver Harris
who departed this life in the County of St
Genevieve Mo, in the month of August 1863
and that the above plaintiff is their brother,
Having answered they ask to be discharged
with their costs

Beal & Watkins for

parties Answering -

John C Watkins One of the Attorneys
for Louisa B Harris and James A
Harris makes oath and says, that the
foregoing answer and the matters therein

as stated he believes to be true

John C. Watkins

Subscribed and sworn

to before me this 31st day

of March A.D. 1866

Sam. H. Guthrie

— Clerk ^{County} ~~County~~ of St. Genevieve County

O. D. Harris

vs
J. Vinyard

Answer of
Louisa B. Harris &
James A. Harris

Filed May 14th 1866
Sam. A. Rippey Clerk

Oliver D Harris }

John Vineyard }

deft states for amended answer to plffs pet states
that some time prior to the 22nd day of Aug 1855 he was the
owner of and living upon a tract of land in Jefferson Co Mo
which was adjoining the land sued
for in plffs pet & which farm included some 7 or 8 acres
of land cleared upon the S E $\frac{1}{4}$ of the N $\frac{1}{4}$, N $\frac{1}{2}$ of the
N E $\frac{1}{4}$ of the S R $\frac{1}{4}$ (N of the creek) of sec 23 T. 40 R. 4
East, that he went to St Louis for the purpose of
entering said land for the use and benefit of an
adjoining farm, that he learned at the Land Office
that one Oliver D. Harris had entered said land
that he inquired of the Register where he could
be found and was shown where he kept his
office he being a Land Agent: that they ^{deft} went
to his office and inquired for Oliver D Harris and
informed him that deft intended to apply to
the Land Office to have said Harris entry of the
Land which embraced the land above described set
aside and that deft intended to apply to enter the
same for the use and benefit of an adjoining farm
that Harris then and there agreed with the deft
that if he ~~made~~ would not apply to set aside his ~~plffs~~
entry he would when he got his patent convey to deft
the above described land & accordingly drew up signed
and delivered to deft a bond to that effect which is
herewith filed & is made a part of this answer It is further

stipulated at the time of said that deft was to pay to Harris such an amount for the land above described as the same (about 60 acs) would amount to at the government price, a price paid to Harris this sum and the further consideration that deft would not interfere to set aside the entry was the consideration of the Bond referred to, that after the execution of this Bond ~~of~~ defendant in good faith went on and made large improvements on said land and has a large farm thereon and has remained in the possession of the same up to the present time and was never distributed in his possession & never heard of any claim set up by anyone to this land until after the death of said Oliver D Harris, the father of the Pltff, Deft for further answer to Pltff's pet states that if the land above described was entered by a in the name of the Pltff it was done with the money of Pltff's father, the man who claimed to have entered the land & who signed & executed the above bond, that said Harris was insolvent & entered the said land in his son's name for the purpose of defrauding his said Harris's creditors

Def't further avers that if said land was really entered by the elder Harris for his son, the Pltff he was acting as his said son's agent that in fact the said elder Harris did the whole business that his son was then a mere boy under 21 years of age had no means of his own & no knowledge whatever what was done & never asserted his claim to the land until after his father's death

the defendant here brings into Court \$750 being in full of principal and interest of which

he was to pay for said above described sixty
acres of land

Plff therefore denies that he is now or was
on the 1st day of January 1859 or at any other time
in possession of any other portion of the land sued
for except the land above described. Deft denies that
the plff was on the day & year last of said a at any
other time entitled to the possession of the said 60
acres or ~~any~~ ^{any} part thereof. denies that he on the 2nd
day of January 1859 or at any other time unlawfully en-
tered into said 60 acres or now wrongfully withholds
the possession of the same from the plff & denies
that plff has sustained damages in \$500 or any
other sum. Deft states that the said Harris
decd leaving as his heirs at law the plff &
Dobney E Harris, Susan B Harris & James A,
Harris, and that they are his only surviving heirs.

Deft therefore prays Court to divest the
said plff & the said Dobney E, Susan B & James
A Harris of all title they may have to said
60 acres of land either in law or equity and
vest the same absolutely in deft & for other ~~proper~~
proper relief

Green Thomas & Popkin

John Vinjard deft

for deft

notes with & says that the foregoing answer & the
matters herein as stated he believes to be true
sworn to & subscribed

before me May 17th 1866

Saml A Repply clk

John Vinjard

Oliver & Thomas
Charles & Virginia

Merckel Avenue
to
R.R. Station

Feb 17th / 66

Frank & R.M.
Clark

C. D. Harris

¹⁷
John Vinson

It is agreed by the
plaintiff that the above entitled
cause shall be continued until next
term, at cost of the plaintiff.

John M. Fallon
atty for deft

D. G. Morris

2

John Virginia

Agreement to court,
case at court of
1844

Decd May 19th 1844
Saml. A. D. & J. D. Bell

O. D. Harris plaintiff } In the Circuit
against } Court for the County
John Vineyard defendant } of Jefferson State
} of Missouri

Depositions of witnesses produced sworn and examined on the 12th day of May in the year of our Lord 1866 between the hours of six o'clock in the forenoon and five o'clock in the afternoon of that day at the office of Messrs Thornton & Coleman No 48 North Court Street in the City of Memphis County of Shelby and State of Tennessee before me James B. Thornton Jr. a Commissioner of the State of Missouri to reside in the County of Shelby and State of Tennessee in a certain cause now depending in the Circuit Court of the County of Jefferson in the State of Missouri between O. D. Harris plaintiff and John Vineyard defendant on the part of the defendant.

David C. Tuttle of lawful age being produced sworn and examined on the part of the defendant deposes and saith that in 1854 and 1855 he was Register of the Land Office at St. Louis Missouri and that about that time there was a large amount entered at that Office under what was called the Graduation Act, that in nearly all the entries made under that act

the business was done at the Office by Agents such as filling up the papers, paying the money to the Receiver, receiving the duplicate receipts &c, that about that time for two or three years Oliver Harris was acting as a land Agent and did the mechanical part of making hundreds of entries for as many different persons, that about that time O. S. Harris entered a tract of land in Jefferson County (neither the Numbers or discription of the land nor the date of the entry is now recollected) that in making that entry Oliver Harris attended to the business and I think it probable paid the money to the Receiver though of this I am not certain as I had nothing to do with that part of the business, the money being paid to the Receiver, while I was Register.

O. S. Harris in making that entry made the Affidavit required by that Act himself. O. S. Harris was at that time a Minor. Some time subsequent to the time of that entry instructions were received by the St. Louis Office from the General Land Office prohibiting minors from entering land under the graduation act. The entry above spoken

J. B. Thornton Jr

Commissioner for Missouri
in Tennessee

by me was made under the
graduation act. Oliver Harris at
that time was largely in debt and in
fact his property was encumbered to an
amount that he was unable to pay -
and further this deponent saith not.

Subscribed and sworn to
before me on the day at the
place and within the hours
first above said

D. C. Tuttle

James B. Thornton

Commissioner for Missouri at Memphis
in Tennessee,

I James B. Thornton Commissioner of Deeds for
the State of Missouri residing in the City of Memphis
in the County of Shelby and State of Tennessee do
hereby Certify that in pursuance of the annexed Notice
came before me at the Office of Thornton &
Leolerman No. 48 North Court Street in the
City of Memphis County of Shelby State
of Tennessee David C. Tuttle who was by
me sworn to testify the whole truth of his
knowledge touching the matter aforesaid,
that his deposition was reduced to writing by
himself and subscribed by him in my presence
on the day and between the hours at at the place
in that behalf first above aforesaid and his

deposition is now herewith returned.

Given at the City of Memphis in the County
of Shelby and State of Tennessee this 12th day of
May 1866

J. B. Thornton Jr.
Commissioner for Missouri

at Memphis in Tennessee



O. D. Harris, Plaintiff

vs
John Vinyard, ~~et al~~
Def.

} In the Jefferson Circuit
Court. May Term 1866.

To O. D. Harris, the above named
Defendant.

You are hereby notified that depositions of witnesses, to be read on the trial of the above entitled cause on the part of the Defendants will be taken at the office of Thornton Coleman, No 48 North Front Street in the City of Memphis County of Shelby and State of Tennessee, on the 12th day of May 1866, between the hours of 9 o'clock in the forenoon & five o'clock in the afternoon of that day.

Green & Thomas,
Attys for John Vinyard.

Served the within by leaving a true & attested copy in
the hands of the within named O. D. Harris at County
of St Genevieve State of Missouri This 4th day of
May 1866
fee \$92⁵
fee paid by Green & Thomas

Anderson Sheriff
St Genevieve County Mo

A. D. Harris

John Greig and et al

(Original)

fee \$ 5⁰⁰

paid by O. D. Harris -

for O. D. Harris
Thomas

Filed June 19th 1866
J. D. Harris

Oliver D. Harris Plaintiff

vs
John Vineyard Deft.

} Jefferson Circuit Court
} May Term 1866

Defendant for amended answer to plaintiff's petition states, that some time prior to the 22^d day of August 1853, he was the owner of and living upon a tract of land in Jefferson County Missouri, and had a farm thereon which was adjoining the land sued for in plaintiff's petition, and which farm included some 7 or 8 acres of land situated upon the S.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ N. $\frac{1}{2}$ of the N.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ (N. of the Creek) of Sec. 23 T. 40 R. 4 East. that he went to St. Louis for the purpose of entering said land for the use and benefit of an adjoining farm, that he learned at the Land office that one Oliver D. Harris had entered said land, that he inquired of the Register where he could be found and was shown where he kept his office he being a Land Agent; that the defendant went to his office and inquired for Oliver D. Harris, ~~that~~ and informed him that, ~~plaintiff~~ ^{defendant} intended to apply to the land office to have said Harris entry of the land which embraced the land above described set aside & that ~~plaintiff~~ ^{defendant}

intended to apply, to enter the same for the
use and benefit of an adjoining farm.
That Morris then and there agreed with
the defendant, that if he would not
apply to set aside his ~~patent~~ entry,
he would when he got his patent
convey to defendant the above described
land, and accordingly, drew up signed
and delivered to defendant a bond to
that effect, which is herewith filed
and is made a part of this answer.
It is further stipulated ^{at the time aforesaid} ~~in the bond~~
that defendant was to pay to Morris such
an amount for the land above described
as the same (about 60 acres) would amount
to at the government price, or price paid
by Morris. This sum and the further con-
sideration that defendant would not interfere
to set aside the entry was the consideration
of the Bond referred to. That after the execution
of this Bond defendant in good faith
went on and made large improvements on
said land and has a large farm thereon,
and has remained in the possession of
the same up to the present time and
has never disturbed in his possession &
never heard of any claim set up by any one
to this land until after the death of said

Olive D. Harris, the father of the plaintiff
~~Defendant~~ ^{Defendant} for further answer to plaintiff's
petition states that if the land above described
was entered by, or in the name of, the plaintiff
it was done with the money of plaintiff's
father, the man who claimed to have
entered the land and who signed
and executed the above bond, that
said Harris was insolvent and entered the
said land in his son's name for the purpose
of defrauding his said Harris creditors.

Defendant further avers that if said
land was really entered by the elder Harris
for his son, the plaintiff, he was acting as
his said son's agent, that in fact, the said
elder Harris did the whole business, that
his son was then a mere boy under twenty
one years of age, had no means of his own,
and no knowledge whatever of what was done,
and never asserted his claim to the land until
after his father's death.

Defendant here brings into Court seven ⁵⁰ dollars,
being in full of principal and interest of what
he now to pay for said above described sixty
acres of land.

Plaintiff thereupon denies that he is now
or was on the 1st day of January 1859, or at any
other time in possession of any other portion of
the land and for except the land above

described. Defendant denies that the plaintiff was on the day and year last aforesaid, or at any other time entitled to the possession of the said sixty acres, or any part thereof. Denies that he on the 2nd day of January 1859, or at any other time unlawfully entered into said sixty acres, or now wrongfully withholds the possession of the same from the plaintiff, and denies that plaintiff has sustained damages in five hundred dollars, or any other sum.

Defendant states that the said Harris died leaving as his heirs at law the plaintiff and Dabney E. Harris, Louisa B. Harris and James A. Harris, and that they are his only surviving heirs.

Defendant therefore prays the court to divest the said plaintiff and the said Dabney E. Louisa B. and James A. Harris of all title they may have to said sixty acres of land either in law or equity, and to vest the same absolutely in defendant and for other proper relief.

Grew, Thomas & Piptin
for Defendant

John Vineyard, defendant makes oath and

says that the foregoing answer and the
matters therein as stated he believes to be
true.

Sworn to & subscribed } John Vinyard
before me May 17th 1866 }
Saml. H. Pease CLK

Jefferson Circuit
Court May Term
1866

Oliver P. Harris

vs

John Vineyard


Defendant, answered

Verdict — —

Attest May 19th 1866

David Appleby Clerk

Oliver D Harris }
 vs } In the circuit Court
 John Vineyard } of Jefferson County

The plaintiff moves the Court
 to set aside the verdict of the Court setting
 as a jury & judgment of the Court & grant
 the plaintiff a new trial for the fol-
 lowing Reasons

1 Because the Court refused to let plaintiff
 introduce proper evidence

2 Because the Court improperly allowed
 defendant to prove the consideration of the
 bond by parol evidence

3 Because the Court improperly
 allowed defendant to read the bond in evi-
 dence

4 Because the Court allowed defendant
 to give improper & incompetent evidence

5 Because the Court refused plaintiff's
 instructions

6 Because the Court ~~improperly~~ gave
 defendant instructions

7 Because plaintiff was taken by surp-
 rise in defendant proving that the father
 of plaintiff was named & called Oliver D
 Harris

8 Because plaintiff has new evidence

9 Because the Court improperly allowed

defendant after closing his evidence to introduce
Peppin. Morse & Henry as original witnesses

10 Because the court improperly refused
to allow the deposition of D C Tuttle as
an evidence on plaintiffs withdrawing
objection to the Reading of them

11 Because plaintiff can prove by
the Register of lands that the Entry of
the land was made by Oliver Harris
the father or, ^{land} agent ~~in~~ Oliver D Harris
name & that the name of Oliver D Harris
was signed to the bond by Oliver
Harris & that Oliver D Harris did
not sign this name

12 Because the finding of the court
is against the evidence

13 Because the verdict & finding of the
court is against the law

14 Because the finding of the court
is against the law & evidence & weight of evi-
dence

15 Because the judgment of the court
is illegal, & not warranted

~~Deal & Robinson~~

~~Attys for Plaintiff~~

Because the Court allowed Defendants
to set up a defense not contained in their answer

Deal & Robinson

Attorneys for Plaintiffs

Olive & Hans
as
John (young and)

motion for new trial

Filed Nov 9 1886,
Samuel M. De Haven
clerk

Oliver D Harris
vs
John Vinyard

}

In the Jefferson Circuit
Court November Term
1866

~~John~~ A Beal being
sworn states that the plaintiff was taken
by surprise in the introduction of the
evidence of Philip Pipkin the atty for
defendant. E F Henry & John H Nurse
Then after the defendant had closed
his evidence, & the Beal was sworn for
the plaintiff in rebuttal, the counsel
for plaintiff only gave way for defen-
dant to read the deposition of D C
Tuttle that it was offered in evidence
& objected to by plff on account of
want of a deed in evidence, that the defen-
dants counsel then said nothing more
about the deposition & introduced
Philip Pipkin atty for deft. Nurse
& Henry against the consent of
plaintiff not as witnesses overlooked
but as original witnesses thought
of after closing of the case

That after the introduction of Pipkin
Henry & Nurse it was necessary to prove
the entry of the land was ~~made~~ ^{per} by Oliver
D Harris was made by Oliver Harris
the father of plaintiff as land agent
& that the fathers name was Oliver Harris

and that Oliver Harris the father signed
his sons name to the bond that then
plaintiff withdrew his objection to the depo-
sition of D.C. Tuttle so as to prove by
these facts but that the court refused
to allow it in evidence that thereby plain-
tiff was taken by surprise, that the
plaintiff was not informed by the de-
fendants answer that defendant assumed
that old man Harris was Oliver D Harris
but was misled by the answer sitting
up that the entry was made by the father
of Oliver D Harris ^{in Oliver D Harris name} with his money to
defraud his creditors. That if he
had not been so misled, plaintiff could
prove beyond a doubt by writings &
documents in St Louis & by D.C. Tuttle the

Register of the land office at the time
of entry, that the entry of the land
was made in the name of the plaintiff Oliver
D Harris by Oliver Harris as land agent
& that Oliver Harris signed the name of
Oliver D Harris to the bond without
any authority of Oliver D Harris.

That plaintiff did ^{not} bring the written docu-
ments to prove these facts of the entry
& signing of the bond because plaintiff
was misled by the answer in sitting up
that the entry was made by the father

of plaintiff to defend the creditors of
Oliver Harris & that the witnesses who
testified as to old Harris name are his
taken that the plaintiff can prove
by the papers in Louis & the S Genevieve
plantation & by the wife & family, & of Harris
that the father was always called
& signed his name as Oliver Harris
& that the plaintiff his son was Oliver
S Harris. That if a new trial is allowed
plaintiff can prove all these facts
Jr A Seal

Subscribed & sworn to before this 9th day of
November 1866 Samuel A. R. Pryor Clerk

Oliver D Harris

as

John Briggs

affidavit of deponee

Filed Nov 9 1866

Daniel A. Phelps Clerk

Oliver Dudley Harris
vs
John Vineyard

3

Now come the parties
by their respective attorneys and this
cause coming on to be tried by the Court
sitting as a jury, and the Court after
hearing the allegations and proofs and
the argument of Counsel, doth find
that one Oliver D. Harris of St. Louis
County, Missouri entered with the Register
and Receiver of the Land office in
Saint Louis, prior to the 22nd day of August
1855 the following described land to
wit (here copy in the record a full descrip-
-tion of the land set forth in the patent)
that on the day and year aforesaid the
said Oliver D. Harris entered into a
writing obligatory upon a good consideration
to convey, upon receiving from the United
States a patent for said land, so much
of said land as is embraced in the
following description to wit, The
South East Quarter of the North West
Quarter, the North half of the North
East Quarter of the South West Quarter
^{South of the creek} of Section twenty three Township forty
Range 4 East in Jefferson County, in
^{that said afo. took possession of said land & still holds the same}
the State aforesaid, that said Patent was
issued to said Oliver D. Harris, bearing

June
date the 10th day of ~~September~~ 1857, that
said Harris departed this life some
time in 1863, without having conveyed
the said last above described land to
said defendant, that he left as his
sole surviving heirs the said plaintiff
Dabney E. Harris, Louisa B. Harris and
James A. Harris, who have been made
parties to this suit,

It is therefore ordered adjudged and decreed
that the said Oliver Dudley Harris and
the said Dabney E. Harris Louisa B.
Harris and James A. Harris children
and heirs of said Oliver D. Harris
be divested of all right title interest
claim and estate in law or equity of
in and to the last above described land
and that the same be vested in the
said John Vinyard the defendant
and that he have and recover of and from
the plaintiff his cost in this behalf expended
and that he have execution therefor
and it is further adjudged that the said
plaintiff have his judgment for the proportion
of the residue of said land not so
above vested in said John Vinyard,
and that he have his writ of possession
for the same. It is further adjudged that the plaintiff
pay the costs of this suit & that execution issue therefor,

Marie

no

Wingard

Wesce

Filed Nov 10 1866.
Samuel R. Payell

Oliver Dudley Harris } In the Second District
vs } Court Mo. -
John Vinyard } "

This was an action of ejectment brought by Plaintiff to recover the possession of certain lands in Jefferson County Mo. described as follows: "The East fractional half of the South West quarter, the South East quarter of the North West quarter of section twenty three and the North West fractional quarter of section twenty six, Township forty - Range four East, containing two hundred and nine acres and ninety three hundredths. The plaintiff claims title to the land solely by virtue of a patent issued by the United States in the year 1857 to Oliver D. Harris. The defendant in his answer sets up claim to about sixty acres of said lands to wit S. E. 1/4 of the N. W. 1/4 and the N. E. 1/4 of the N. E. 1/4 of the S. W. 1/4 (north of the Creek) of section 23 in Township 40 Range 4 East and denies that he has ever been in possession of any other part of the land described in plaintiff's petition. The defendant claims to have purchased this land of Oliver D. Harris on the 22nd day of August 1863, soon after Oliver D. Harris entered it and took his bond for a deed to said land - to be made as soon as said Harris should obtain the patent from

the United States. On the trial the plaintiff
offered in evidence the same patent to Oliver
S. Harris and one witness John Williams who
testified that he knew John Vengance and his
farm, that part of his farm included a portion
of the land claimed plaintiff. It is contended
by plaintiff that his name is Oliver Dudley Harris
and that his father, who he contends entered
this land for him (his son) was only Oliver
Harris and introduces two witnesses to prove this
fact. The defendant proves that Old Man
Harris admitted his name to be Oliver S.
Harris when he went to ask him about ~~the~~
entering this land, and also by three witnesses
that one well acquainted with him that his
name was Oliver S. Harris and that he
frequently wrote letters and signed his name
Oliver S. Oliver Dudley Harris, at
the time this land was entered by his father
in 1833 was only about fifteen years old.
The land entered by Harris was entered
by ~~Harris~~ under what is called the Gradua-
tion Law, and was lying adjacent to Vin-
yard's farm and he had a right to enter it
under that law. Minors were not permitted
to enter land under that law, and if entered
by Old Man Harris ~~for his son~~ the entry
would have been illegal for two reasons.

that is the ~~Monopoly~~ of Oliver S. Harris and
the presumption ^{right} of John Vineyard and it was
no doubt in consequence of the latter reason
that Old Man Harris, ^{when he ascertained this fact} agreed to convey these
60 acres of his entry to Vineyard, but Vineyard
might set ~~aside~~ his whole entry - Defendant
offered ~~to prove~~ in evidence the bond of Oliver
S. Harris to convey the sixty acres claimed
by him when Harris showed up his papers
and the testimony to prove that Old Man
Harris' name was Oliver S. Harris.

There is no error in the rulings and decision
on the trial in the Court below, nor the various
motions in the cause nor on the points assigned
for error and objection and exception to in the case.

The judgment in the Court below in the case
is affirmed. - Albert Jackson

Judges Barber & Rice Concur in affirming the
judgment in the Court below.

State of Missouri
Second Judicial District

J. Leonard Sargeant, Clerk of
the District Court within & for said District Certify
that the above & foregoing is a true & perfect copy of the
opinion of the Court in the above named cause as fully
as the same appears from the files belonging to
my office - Witness my hand & official seal
at office in the City of Cape Girardeau this 22nd
day of August 1867. Leonard Sargeant, Clerk

W. D. Harris
John Vinland

June 24th 1861
Ed. Quincy, Ohio,



When the name of two persons is used
without the addition of "dr" or "fr," the
law presumes the eldest person was
intended.

O. D. Harris

John Vinyard

Plaintiff asks the Court
to declare the Law as follows

1st if the Court sitting ^{as} a jury finds
from the evidence that Oliver
Harris the father of Plaintiff
executed to the Defendant the Bond
read in Evidence ^{for} the Transfer of
the patent to land in question and
that Oliver D. Harris in whose
name the Patent was issued was
a minor under Twenty one years
of age it will further find that
said Oliver Harris could not by
writing or otherwise bind Plaintiff
to Transfer said Patent or convey
said Lands

2nd That Oliver Harris had no right as
the father of Plaintiff to bind
Plaintiff in writing or otherwise to
convey the Land in question to
Defendant Vinyard and any agree-
ment or Contract made by him in
virtue of this relation for the convey-
ance of the Land in question

Refused

Refused

is void as to this Plaintiff and
does not prejudice his right to
recover in this suit

~~and in the event of a final decree
in favor of the Plaintiff without the assist-
ance of said evidence a valuable
consideration then it is of no
binding force or effect~~

Alumina 100.00

25

Unigard

Alum 100.00

25

Unigard

Alum 100.00

Refused

is void as to this Plaintiff and
does not prejudice his right to
recover in this suit

~~and in fact he can find from~~
~~fact of the handwriting without the assist-~~
~~ance of expert evidence a valuable~~
~~indication that it is of no~~
~~binding force or effect~~

The Court sitting as a jury declare the law
in this case to be ~~that~~

1. If the land mentioned in plaintiffs petition
and set forth in the bond read in evidence
was entered by old Man Harris under
the name of Oliver D. Harris, and
that said Harris entered into a Bond
dated the 22nd day of August 1855-
to convey said land for a ^{good} ~~valuable~~
consideration to the defendant, then
the defendant is entitled to recover so
much of said land as is described
in the said Bond.

Before the Court can find for the
plaintiff it must be shown by
competent evidence that the
plaintiff is the identical person
who entered the land in
controversy.

Davis

27

Pring

John C. Tuckman

28th September

O.D. Harris

John Vineyard

court sitting as a

If the jury believe from the evidence that the land in controversy was entered by Oliver D. Harris at the Land office in St Louis, and that said Harris executed the Bond read in evidence agreeing to convey said land to defendant, then they will find for the defendant.

Court sitting as a jury

If the jury find from the evidence that Oliver Harris the father of the plaintiff, at the time said land was entered was insolvent, and entered the land in Controversy in his son's name, who was then a minor, for the purpose of defrauding said Harris creditor, and that said defendant when he took the bond read in evidence believed that the land had been entered by the said Oliver Harris the father of the plaintiff they will find for the deft.

If the jury believe from the evidence that Vineyard had no knowledge of the plaintiff's claim when he purchased the land as shown in the Bond, of Oliver D. Harris read in evidence, and was then in possession, and continued to hold possession, and that the said land was ceded by plaintiff's father with his money, ~~and~~ that said father was insolvent or greatly embarrassed by and his means to pay his debts, then the defendant is an innocent purchaser and the jury will find for defendant.

Starr's

3

Weyand

Sept 2nd 1864

Oliver D. Harris }
vs }
John Vinyard }

Be it remembered that in the trial of the above entitled cause the plaintiff introduced the following testimony to sustain the issue on his part,

1 The Patent to Oliver D. Harris dated 10th June 1857 (see copy the same)

John Williams Sworn

I don't know the land in controversy. knows the south part of Vinyard's farm. Some 35 or 40 acres in cultivation, worth \$150.00 per acre in rents per year. Vinyard has been in cultivation of this land over five years. Plaintiff has closed his case

Defendant then offered to read the Bond of Oliver D. Harris dated 22 day of August 1855. (see copy the bond) and called Oscar Dorer who testified, that the bond was written and signed by Old Man Harris as Oliver D. Harris and that is his signature to the bond. I don't know what Old Harris name was, to the reading of which Bond. Plaintiff objected to the reading of the bond because plaintiff was an infant & it is not obligatory on him - 2 Because there was no authority in Oliver Harris to sign the name of Oliver D. Harris to the bond. 3 Because the bond does not specify any consideration

& is only a voluntary bond. The Court overruled the objection of plaintiff & allowed defendant to read the bond in evidence to which decision and ruling of the Court plaintiff objected & excepted. Defendant then read the bond in evidence.

Oscar Dover was recalled and testified that he, Vinyard & Wiley went to the land office and found out that the land was entered by Oliver D. Harris and was told when his office was, went there and asked for him, and he said he was the man, we then told him we came to set the entry aside for he had entered Vinyard's farm in part, we then began to talk about a compromise, He made several propositions and finally said he would let Vinyard have so much land, ^{over} than go into trial or have any difficulty, & finally agreed to let Vinyard have what was on the North side of the Creek. The first thing we asked when we went to Harris office was for Oliver D. Harris he said he was the man, I think the next question I put to him was if he had entered land in Jefferson County lately, and he said he had, then the conversation was as detailed as above about the compromise, and the Bond was the result. In conversation Vinyard was willing to pay Harris what this land cost him and any expense he had

been at. But Harris was not willing to take any thing more than said he would set the entry aside, and he agreed if we would not, he would give Vinyard the land described in the bond, and then wrote and executed the bond read in evidence. We took no steps to set aside the entry. we let the matter drop there as it was agreed upon. I was employed by Vinyard to assist him and went to St Louis for that purpose.

Cross Examination

I don't know Yerring Harris never saw him that day, never heard of him until this suit was brought, Mr Lutter told me that Oliver W. Harris had entered the land and should ~~see~~ his affir. I was in Harris office. Don't know whether he was a land agent or not,

Plaintiff objected at the time it was offered to so much of the foregoing testimony, as went to prove an agreement or Contract other or different from that expressed in the Bond or a consideration not therein expressed. The Court sustained the objection which applied to an agreement or Contract different from that contained in the bond and overruled that which applied to the proof of Consideration. to which entry of the Court Plaintiff excepted

The defendant then offered to swear John Vinyard the defendant, and the Court of its own motion

did and Vinyard to be in competent and excluded
his testimony

Oscar Dover recalled says

that the land in con-
trovery lies adjoining Vinyard's land and
that Vinyard had some of the land in
cultivation about three or four acres in
1855 & has since cleared some 9 or 10 acres
making twelve in all and when we went
to Harris' office we told him that Vinyard
had some improvement on the land and we
filed on it.

Defendant then stated that he closed.
Plaintiff then called William Bantz who was
sworn as a witness. Defendant then stated
that he had omitted to read the deposition
of D.C. Tuttle. Plaintiff then gave way to the
introduction of the deposition. Defendant then
affirmed in evidence the deposition of D.C. Tuttle.
Plaintiff objected to it being read in evidence.
Defendant then said nothing more about
it. But then called Philip Pipkin. Plaintiff
objected to the introduction of Philip Pipkin
or other original witnesses because defendant
had closed the case & had not accidentally
omitted to call these witnesses, but the court
overruled the plaintiff's objection and allowed
defendant to introduce other witnesses to which
decision & ruling of the court plaintiff

objected and excepted,

Philip Piptin knew Oliver D. Harris as a
land agent in St Louis. He was brother in law
to D. C. Tuttle, He was an old man some fifty years
of age in 1855, edited a paper in St Louis
a few years ago & was many years ago connected
with the Republican in St Louis. Don't know
his hand writing. Never heard of young Oliver
D. Harris until after this suit was brought.
John H. Mose

Knew Oliver D. Harris as land
agent in St Louis about the time of entry of ^{lot} lands
I corresponded with him about Mr. Marshcrafts
land and he signed his name as Oliver D. Harris
I knew him well, He was a large red faced man
about fifty years of age. I have received letters
from him. He always signed his name Oliver
D. Harris. He wrote me several letters about the
land of Marshcraft,

E. F. Honey.

I knew Oliver D. Harris, got acquainted
with him in St Louis about 1854, 1855, or 1856. Have received
letters from him, always written by him in name
of Oliver D. Harris. I always addressed him as
Oliver D. Harris. He was about fifty years of age
had a peculiar look. Red blotches on his face called
whisky blotches. (The Bond shown to Mr Honey) and
he says the same is in the hand writing of the man
who wrote to me as Oliver D. Harris from St
Louis. I saw him here in my office in Hillsboro

He was introduced to me as Oliver D. Harris by Gov
Seldner, and I corresponded with him afterwards by that
name. On Cross Examination, Honey stated that he
has not seen the letters of Harris for 8 or 10 years, they
were thrown away & he never examined them to
see whether the signature was Oliver or Oliver D.
Harris. Could not state whether old man Harris
or his own son wrote the letters. Harris never stated
to him that he was the man who wrote the letters.
That he remembers that Mr Harris was introduced
to him by name of "Oliver D. Harris" and not
as "Mr. Harris".

~~defendant~~ ~~Harris~~ here closed his case

6-

Plaintiff then introduced Mr. Bantz who testified that he lived in St Genevieve for many years. That all the family of Harris went to school with Oliver S Harris in 1855 or 1856. his father then lived in Slem, and moved to St Genevieve about 1858. that he became acquainted with the whole of the family of Harris in 1858, lived off and on in town of St Genevieve & was often in the family; has often seen the old man Harris wife. He always signed his name Oliver Harris, and never signed it Oliver S Harris.

The son of Oliver Harris was named Oliver S Harris, his mother's maiden name was ~~Lillian~~ Dudley, and the son was named after his mother's family.

S stands for Dudley. & his name in full is Oliver Dudley Harris; The old man was no relation to the Dudleys & not named after Dudley, his name was not

Oliver S Harris. The old man was a Justice of the peace & Editor of the St Genevieve Plaindealer from 1858 to 1863 witness of was subscribed to the Plaindealer for several years & knows that his name stood on the paper "Oliver Harris" Has seen receipts & official documents signed by him always signed "Oliver Harris"

the signature to the bond is the handwriting of Oliver Harris and not the handwriting of Oliver D Harris, that Oliver D Harris is about 26 years of age now & residing in St Genevieve

On cross Examination witnesses stated that Oliver D Harris has paid him \$100 for expenses & for coming from St Genevieve to court here - he has made three trips as witness to Hillsboro

Oliver D Harris has not attended at Hillsboro at any time

Oliver Harris the father of Oliver D Harris died in St Genevieve about 1863

John B Robinson then testified for Plaintiff that he was born & raised in St Genevieve In 1858 Mr Harris moved to St Genevieve witness was introduced to Mr Harris in 1858 & was familiarly with the family. he studied law ^{with C C Sattle the brother in law of Mr Harris} & boarded with Mr Harris for two years. ~~Mr Harris~~ Harris name was Oliver Harris, his sons name was Oliver D Harris who is now about 26 years of age

page 9

Oliver Harris the father was a Justice of the peace in S Genevieve & ~~had~~ was editor of the S Genevieve Plaindealer. witness has seen Harris write his name to Justice of the peace papers hundreds of times. practiced law before Harris as Justice and knows that he always signed his name "Oliver Harris". witness took the Plaindealer from 1858 to 1863. The name of Mr Harris was on the paper as Editor & was "Oliver Harris"

witness paid Mr Harris board every month & took his receipts. The receipts were signed "Oliver Harris" and never Oliver D Harris. witness knows that on one occasion Oliver Harris got a letter addressed to Oliver D Harris by mistake & stated to witness that he came very near opening his sons letter, that he discovered "D" in the address & did not open it.

witness has seen many of the relatives of Mrs Harris at the house of Oliver Harris. ~~the~~ the maiden name of Mrs Harris the mother of plff was Louisa B Dudley and the son was named after his mother family. D stands for Dudley & his name in full is Oliver Dudley Harris.

The handwriting to the bond is not the handwriting of Oliver D Harris but the handwriting of Oliver Harris.

Plaintiff then read in evidence a copy of
the birth of Oliver & Haron, taken
from the family Bible of Oliver Haron
in words & figures following to wit
(here copy)

The plaintiff then withdrew his objection
to the deposition of S. C. Tuttle & offered to
read the deposition as evidence but the court
refused to allow the deposition to be used
in evidence to which decision of the court
plaintiff excepted

The foregoing was all the evidence
on the part of the plaintiff & defendant

The plaintiff then asked the court
to give the following instructions to wit
(here copy plaintiffs instructions) which
being seen the court refused to give plaintiffs
instructions to which ruling & decision of
the court refusing plaintiffs instructions, plain-
tiff excepted. The defendant then asked of
the court the following instructions ^{to wit} (here copy depts instruction) The plain-
tiff objected to the defendants instructions but
the court overruled plaintiffs objections & gave
defendants instructions to which decision & ruling
of the court in giving of defendants instructions
plaintiff excepted

The court then rendered judgment for defendant as follows (here copy)

The plaintiff then filed a motion for to set aside the finding of the court & for a new trial in words & figures following to wit (here copy)

Plaintiff had in support of his motion for a new trial the following to wit, an affidavit of J. A. Real and the deposition of D. C. Tuttle in words & figures following (here copy affidavit of J. A. Real & the deposition of D. C. Tuttle on file)

which motion being seen by the court was overruled by the court & the court refused to set aside the finding & judgment of the court & refused to grant plaintiff a new trial to which decision of the court in refusing to set aside the finding & judgment of the court and refusing to grant the plaintiff a new trial, plaintiff objected & excepted and here tenders his bills of exceptions & prays the court to sign & seal them & make them a part of the record which is accordingly done

J. H. Wall judge

Seal

2283

Oliver & Horns

as

John Briggs

Bill of Exchange

Supreme Court
St Louis Fall Term 1868

Olivier D Harris
Plaintiff in Error
v
John Truysant Defendant in
Error

Opinion Of the Court

This was an action of ejectment in the Jefferson Circuit Court to recover certain real estate described in the petition. The answer of Truysant the Defendant below admitted the possession of only a part of the tract alleging that he had lawfully acquired the same in pursuance of a written contract with Olivier D Harris the father of the Plaintiff for the purchase of the same. The death of the father is also alleged and the remainder of his heirs asked to be made parties to the suit. The purchase money for that portion of the tract claimed by defendant being tendered in court a decree was asked for dividing the heirs of Olivier D Harris deceased of the same

and vesting the title thereof in the defendant.

It appears from the record that an attempt was made to bring in the heirs of the deceased only one of whom appeared and answered. The Court thereupon proceeded to try the issue tendered by the defendants Tanswre and upon a special finding of the facts in the case rendered a judgment granting the relief prayed for.

It is manifest upon this statement of the case that such a judgment cannot be permitted to stand. The defense set up by Tanswre of his claim to the premises under a contract with the father of plaintiff as stated in his answer was sufficient if true to defeat a recovery.

It does not follow however that because that issue should have been found for him that therefore he would be entitled to a decree vesting the title in himself as against all the heirs of the deceased party under whom he claims. The real question for determination was whether the land in question belonged to the plaintiff or to the estate of his deceased father. That was simply a question of fact depending for its solu-

tion upon the evidence in the cause
and which we do not feel authorized
to receive. That portion of the answer
which prays for the decree of title in the
defendant should have been stricken out.

It has no proper connection with this
case and should be disregarded.

The case will then stand upon the
simple issue as between the plaintiff
and the estate of his deceased father
it being avowed by the answer that their
names are identical. The judgment of the
District Court is therefore reversed and
the cause remanded to the Circuit
Court for further trial.

The other judges concur
Thos. H. Fagg.

Oliver S. Morris
26

John Tracy and
26

Spencer of the Court
26

Remained Remanded.

State of Missouri—ss.

I, O. T. FISHBACK, Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify that the above and foregoing is a full, true and complete copy of the opinion delivered in the above entitled cause, as fully as the same remains on file in my office.

WITNESS my hand, with the seal of said Court hereto affixed, at office in the
City of St. Louis, this Fifth day of December
one thousand eight hundred and sixty-Eight



O. T. Fishback Clerk.
Per E. M. Larty, Dep.



W. D. Harris

to

John Wingard

Filed Dec 7 '68,
J. P. Carey Clerk

In the Supreme Court held at St. Louis, of the State of Missouri,

October Term 1868
November 9th 1868

Olive D Harris
Plaintiff in Error

v

John Truyard
Defendant in Error

Error to Second
District Court

Now, again come the parties aforesaid, by their respective attorneys, and the Court being now sufficiently advised of and concerning the premises, doth consider and adjudge that the judgment rendered herein by the said Second District Court be reversed, annulled, and for naught held and esteemed: That the said Plaintiff in Error be restored to all things which he has lost by reason of the said judgment: That the said cause be remanded to the ~~aforesaid~~ Circuit Court of Jefferson County for further proceedings to be had therein, in conformity with the opinion of this Court herein delivered and filed, and that the said Plaintiff recover of the said Defendant in Error his costs and charges herein expended, and have execution therefor.

STATE OF MISSOURI, SS.

O. T. Filback
I, ANDREW W. MEAD, Clerk of the Supreme Court, held at St. Louis, of the State of Missouri, certify that the above and foregoing is a full, true and complete copy of the judgment rendered in the above entitled cause, as fully as the same remains of record in my office.

In Testimony Whereof, I have herunto set my hand and affixed the seal of said Court, at office in the City of St. Louis, this Fourth day of December A. D. eighteen hundred and Sixty Eight

O. T. Filback Clerk.
Per E. M. Galt Jr

2288
Supreme Court of Missouri.

Oliver D. Harris
Plaintiff

vs
John Langford & Co.
MANDATE.

Judgment & Award Filed
Reversed and Remanded.

Filed Dec 7 1868,
J. P. Henry Clerk



In the Circuit Court,
Jefferson County,
State of Missouri

Oliver D Harris Plaintiff }
against } Ejectment
John Vinyard Defendant }

The undersigned
parties Plaintiff & defendant in the
above entitled cause, do hereby agree
to compromise and settle the said ~~said~~
cause on the following terms ~~terms~~
and conditions viz:

That the said defendant hereby
agrees to pay to the said Plaintiff
one hundred dollars, and to withdraw
all pleas and answers and defen-
ses heretofore ^{and set up} filed, by him in the ~~said~~
said cause, & not hereafter to
plead, file answer or set up
any defenses in said cause and
to ^{against him} permit judgment to go by con-
fession, and in favor of the said
plaintiff, at the next term of the
circuit to be held in said county
of Jefferson in said ^{cause}, on condition
that the said plaintiff, ^{shall &} do make
and execute to the the said

244

Filed May 12 1869
 Elias J. Henry Jr

defendant a warrantu breed to such parts of The Land sued for in said Cause as is included within the enclosure of The said defendant

3^d The said plaintiff, ^{Promises and agrees} to make to the said defendant a warrantu breed for such part of the Land sued for in the above entitled Cause as is included within the enclosure of The said defendant on the payment ~~of~~ ^{by} The said defendant to said plaintiff of the sum of one Hundred Dollars and on conditions that said defendant shall at the next term of said Circuit Court, ^{held} in the County of Jefferson withdraw all pleas and answers and defenses ^{filed or} set up by him in said Cause and permit judgment therein to be entered up in favor of said plaintiff and against said defendant signed by us this 24 day of Feb'y A.D. 1869 in duplicate. Intertineation in this copy before signing

John Vinyard
 By W.H. Thomas his atty

In presence of
 J. B. Robbins

C. D. Harris