

Jefferson County Circuit Court
Case Files-Civil

November 1865, No. 31

Box 16 Folder 55

Herrington, Stephen B.

Ks.

Herrington, Hanna J.

Title

One half of unspecified acreage
in Survey 93274125E

Stephen B Herrington } In the Circuit
vs } Court of Jefferson
Hanna J Herrington } County Mo
Nov. Term 1883—

Plaintiff says that Elias B Herrington
about the year 1880 became the
purchaser of the following Real
Estate in Jefferson County Missouri
to wit: part of survey No. 932 in
Township Forty one Range 5 East
Containing _____ acres more
or less that said Elias Bought said
land from one J. C. Fletcher & executed to
him his promissory note for \$254.
(Two hundred & fifty four dollars) payable
after date that said
Fletcher afterwards assigned said
note to one Josiah Craft who before
said note became due said Elias B.
Herrington verbally agreed with
plaintiff that if plaintiff would
pay to said Craft one half of said
note that said Elias would execute
to plaintiff a deed for one half of
said land - plaintiff says that in
pursuance of said agreement with
said Elias Herrington plaintiff about
the day of _____ 1881 paid to
said Elias B. Herrington the sum of one

hundred & twenty seven dollars being
one half of the aforesaid note which
note was given by said Elias B Herrington
to secure the purchase money of said
land, that soon after the payment of
the purchase money as aforesaid the
plaintiff with the consent of said Elias
entered upon & took possession of one
half of the Real Estate aforesaid, that he
built a house & made other valuable &
lasting improvements on said land to the
value of about Three hundred & fifty
dollars, that said Fletcher executed a
deed to said Elias about the year 18
that it was always agreed & understood
between plaintiff & said Elias that plain-
tiff should have one half of said land but
that Elias, but that said Elias notwith-
standing the payment of one half of the
purchase money by plaintiff as
aforesaid & the agreement aforesaid
failed and refused to execute to plaintiff
a deed of his one half although often
requested by plaintiff to do so that said
Elias died about the month of
July 1863 without executing a conveyance
to plaintiff of his half of said land,
and by his last will gave said

Real Estate to his wife the Defendant &
to his infant son, who has since departed
this life & by the Terms of said will the
same on the death of said infant goes
to the Defendant, Plaintiff prays the Court
in Consideration of the premises aforesaid
to make a decree vesting the Defendant of
any title she may have by reason of the deed
from Fletcher & the will aforesaid of one
undivided half of the Real Estate aforesaid
and to vest the same in plaintiff

And to grant such further
relief as to the Court may seem just
& proper

J. J. Williams
Att'y for Plaintiff

Stephen B Herrington
on oath says that the
matters & things stated in the foregoing
petition are true

Signed
Sworne before me
this day of 1868

J. B. Herndon

vs
Thomas J. Herndon

Petition for writte
petition

Don't let process issue
William
for help

The State of Missouri, } ss.

COUNTY OF JEFFERSON.

The State of Missouri

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

We command you, that you summon *Hanna Herrington*

if She be found in your County, that She
be and appear before the Hon. Judge of our Circuit Court, on the first day
of the next term thereof, to be begun and held at the town of Hillsboro, within
and for the County of Jefferson, on the second ~~Monday after the fourth~~
Monday of *November* next, then and there to answer unto

Stephen B. Herrington

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

Witness, *Saml A. Reppy*
ELLAS F. HONEY Clerk of our said Circuit

Court, with the seal thereof hereunto affixed, at office
in Hillsboro, this *Twenty Seventh*
day of *October* A. D. 1865

Saml A. Reppy
Clerk Circuit Court.

I executed the within writ at the County of
Jefferson State of Missouri on Hanna L
Herrington the within defendant on the 28th day
of Oct 1865 by leaving a true copy of said writ and
annexed petition at her usual place of abode
with a white person over the age of fifteen years
and a member of her family

C. C. Fletcher
Sheriff

31
TO JEFFERSON CIRCUIT COURT

2186

Assessed Term, 1865—

Stephen B. Herrington

vs. Summons

Hanna L Herrington

29 Oct

C. C. Fletcher Sheriff. 150

Stephen B. Herrington, - Plaintiff } In the Circuit
Against } Court of Jef=
Hanna J. Herrington, - Defendant } ferson County
Missouri,

The Defendant by her Attorney, comes and moves the Court, to rule the Plaintiff in the above cause to give security for the Costs therein, for the following reasons;

- 1 - Because the Plaintiff is a non-resident of the State of Missouri, - and, because Plaintiff has no property subject to Execution, wherewith, to satisfy the Costs that may arise in said Cause.

Abner Green
Atty. for Defendant

Henry B. Worthington
as,
Martha J. Worthington
Prothon for
Account for Costs

Filed Dec 14 1865.
Attest my self

Stephen B. Herrington, - plaintiff } In the Circuit
Against } Court of Jefferson
Nannah J. Herrington, defendant } County Missouri.

The Defendant for Answer to Plaintiff's petition, ^{admits} that some time in the year 1860, Elias B. Herrington purchased of Thomas C. Fletcher the Land described in Plaintiff's petition, and that he gave his Promissory Note to said Fletcher for 234 dollars for the Consideration money for said Land, - and she also admits that Fletcher afterwards assigned said Note to Josiah Craft, But Defendant has no knowledge or information sufficient to form a belief, whether her husband, said Elias B. Herrington agreed verbally to deed half said Land to Plaintiff, in case he would pay half of said Note to said Craft, - nor whether said Stephen B. Herrington in 1861, or at any other time, paid half of said Note to said ^{Elias B. Herrington} ~~Josiah~~ Craft, or any part of it, - except that she verily believes that he never paid any part of it to said Elias B. Herrington, Defendant denies that any agreement in writing, or any valid agreement, was ever made by her husband, said Elias B. Herrington, obligating him to convey the one half of said Land to Stephen B. Herrington, if he would pay half of said Note, assigned to Josiah Craft, - and she has no knowledge, or information sufficient to form a belief (other than above stated) of whether Plaintiff paid one hundred & twenty seven ^{or any part thereof} dollars, to Elias B. Herrington or not, and requires proof of such allegations, - Defendant admits that, after Elias B. Herrington paid said Promissory Note (which was the Consideration of said Land) said Thomas C. Fletcher

executed and delivered to him a deed for the same,
- and that he permitted his brother said Ste-
phen B. Werrington to occupy said Land for
several years, - and that said Stephen B. Werrington
built a small Cabin on said Land for his ^{own} convenience
while he was working it, & made some other improve-
ments, - but not worth \$350, or anything like that
sum. But, Defendant avers that while Plaintiff
occupied said Land, he cut down & carried away
a large amount of timber and Cord wood, amounting
in the whole, to about \$, and that the Cord
wood taken from said Land by him & converted
to his own use, was worth a great deal more
than the improvements he made thereon.
Defendant has no knowledge or information suffi-
cient to form a belief, as to whether it was always
agreed & understood between Elias B. Werrington and
Plaintiff, that Plaintiff should have one half
of said Land or not, or whether he paid any part
of said money or not, & proof is required.

Defendant admits that by the provisions of the
Will of said Elias B. Werrington, said Land was
devised to her and her infant, who has since
died, so that Defendant is now entitled
to the whole of the Land described in Plain-
tiff's petition. And she denies that Plain-
tiff is entitled to said Land or any part
of it, and denies that he has any equitable
right to divest her of title to the same or
any part of it, or to have the title to any
part of said Land vested in Plaintiff.

And having answered all deemed material
she asks to be dismissed with Costs. - A. Green

Attorney for Defendant

Agent for Defendant
makes oath and says the foregoing Answer
and the matters therein ~~as~~ stated he believes
to be true.

2186

In Circuit Court
Jefferson County

Stephen B. Westing
vs,
28,

Wernick Westington

Defendants
(Answer)

Verdict

Filed April 19th 1866
David McKeefy, clerk