

Jefferson County Circuit Court
Case Files - Civil

November 1866

Hemington, Louis M., by gdn.
Hemington, John C.

vs

Smith, William

Slander

Seeking damages in the amount
of \$1,000 due to damage of

Sons reputation; case

dismissed, defendant accused
plaintiff of stealing meat
from his smokehouse

Box No.

18

Folder No. 8

Louis M. Herrington, By his }
father, John C. Herrington, his }
natural Guardian, — Plaintiff }

Against
William Smith, — Defendant }

In the Circuit Court of
Jefferson County Missouri,

The Plaintiff, Louis M. Herrington, a minor,
By his father, John C. Herrington, his natural
Guardian, states that, on the 20th day of August
1866, at the County of Jefferson aforesaid, the
Defendant, spoke the following false and
slandorous words, Concerning the Plaintiff, that
is, to say, "Louis M. Herrington (meaning the
Plaintiff) and Nathaniel S. Ogle, stole a mid-
dling of meat out of my Smoke House, they
did it, and no body else," - "They (meaning Plai-
tiff and said Nathaniel S. Ogle,) stole a piece
of bacon from me," "Louis Herrington and Na-
thaniel Ogle (meaning the Plaintiff and said Na-
thaniel S. Ogle,) stole my meat, - they stole bacon
from me, I know they did it," By reason
of which, Plaintiff says he is damaged to the
amount of one thousand dollars, and for
which he, by his Guardian aforesaid, asks Judgment,

John C. Herrington
Guardian for Plaintiff

John C. Herrington, Guardian for Plaintiff,
makes oath and says the above petition and
the matters therein as stated he believes to be
true.

Sworn to and subscribed before,

me this 19th day of Oct. 1866

Samuel S. Kipp, Clerk

John C. Herrington

In Circuit Court

Laffoon County

Louis H. Worthington
vs
My M. Anderson

William Smith

Plaintiff

Defendant

Shoes & shoes
for self.

Filed Oct. 19th 1866

Samuel D. Phelps
Clerk

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

William Smith

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 ~~first~~ ~~Monday of November~~ ~~next~~ ~~Monday of November~~
Monday of November next, then and there to answer unto

Samuel M. Herringham, By his Father John
C. Herringham his Natural Guardian

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

Samuel A. Peppy
Witness, ~~ELIAS E. HONEY~~, Clerk of our said Circuit
Court, with the seal thereof hereunto affixed, at office
in Hillsboro, this Nineteenth
day of October A. D. 1866

Samuel A. Peppy
Clerk Circuit Court.

20079

TO JEFFERSON CIRCUIT COURT

Presented by... 20th, 1866

James W. Thompson
by his Guardian
John W. Thompson
vs
J. Thompson

William Smith

Original Petition

John Williams Dept

Sherriff fee \$1.00

I Executed Within Writ in the County of Jefferson State of Missouri on William Smith on 20th Decy of October 1866 by Delivering to him a true Copy of the Within Writ and Petition as furnish to me by the Clerk

C. C. Fletcher Sheriff
By John Williams Dept

Louis M. Herrington by
his Guardian, John C.
Herrington, Plaintiff

v
William Smith, Defendant

In the Jefferson
Circuit Court,
May Term 1867.

Now at this day comes said Defendant and
for answer to the petition of the Plaintiff here-
before filed in this behalf denies that on
the 20th day of August 1866, or at any other time
at the County of Jefferson or elsewhere he spoke
the following false and slanderous words
concerning the Plaintiff that is to say, "Nathan-
iel S. Ogle (meaning the Plaintiff) and Louis
Mr. Herrington stole a muddling of meat
out of my smoke house, they did it and
no one else". "They (meaning the Plaintiff and
Louis Mr. Herrington) stole a piece of bacon
from me, Nathaniel S. Ogle and Louis
Mr. Herrington (meaning the Plaintiff) and
Louis Mr. Herrington stole my meat, they
stole bacon from me, I know they did it."
Defendant denies that Plaintiff has been dam-
aged in the sum of one thousand dollars
or any other sum by reason of any slanderous
words spoken concerning him.

John S. Thomas
Atty for Deft.

Saml. W. Huntington

27

Wm Smith

Member of Board

Filed Nov 4th 1867

Wm J. Honey Clerk

THE STATE OF MISSOURI,

COUNTY OF JEFFERSON.

To *David Meally Thomas Cole. John M. Baker*
John Buckley &c.

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 *13 day of May* 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 *Louis M. Livingston*

Plaintiff and *William Smith*

Defendant on the part of *Plaintiff*

and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court,
with the Seal thereof hereto affixed, at office, this
third day of *April* A. D. 186*7*

Elias F. Honey
Clerk.

SUBPOENA

TO JEFFERSON CIRCUIT COURT.

May Term, 1867
Louis McHerington

vs
William Smith

for plff

Daniel Medley

Thomas Cyle x 25

John W. Baker

John Huskey

Sheriff fee \$2.00

I executed the within in Jefferson County
Mo on the 25th day of April 1867 By Reading
the same to each of the
Daniel Medley Thomas Cyle John W. Baker
and John Huskey
John Williams
Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To John Hocking Esq. Thomas Ogble Daniel McNeely
John Walker

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
1867, 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 Louis Mc Herrington

is
Plaintiff and William Smith

Defendant, on the part of

Defendant

and herein you are in no wise to fail.

Witness, SAM'L A. LAPPY, Clerk of our said Court,
Chas J. Keeney

with the Seal thereof hereto affixed, at office, this

9th day of April

A. D. 1867

Chas J. Keeney

Clerk.

SUBPENA.

TO
Jefferson Circuit Court

..... May Term, 1867.

Louis M. Herrington
vs
William. Smith

for debt
John Henry Sew +
Thos Cyle + 25
Dand Medley +
John Baker +
Sheriff fee \$2.00

I Enclosed the Writting in Jefferson County
Mo on John Huestoy Thomas Cagle James
Medley and John Baker on the 25th Day
of April 1867 by reaching the same to each
of them

John Williams
Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To David Baker

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 fifteenth day of May 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

Marquette
Plaintiff, and William Smith

Defendant on the part of

Plaintiff

and herein you are in no wise to fail.
WITNESS, Edw. Hovey
SAML A. REPPY, Clerk of our said Court,

with the seal thereof hereto affixed, at office, this

15 day of April A. D. 1867

Edw. J. Hovey Clerk.

SUBPENA.

TO
Jefferson Circuit Court

..... May Term, 1867.

Louis W. Bevington

vs.

William Smith

for Plff

Orson Baker &

Sheriff fee 50

I Executed the Within in Jefferson County Mo on
Orson Baker on the 25th day of Sept
1867 by Reading the same to him
John Williams Sheriff

Louis M. Herrington
 By his next friend &
 natural guardian
 John L. Herrington
 vs
 Wm Smith

Stands.

Now at this day comes said Sept & moves the Court to require Plaintiff to give security for costs in this cause for the following reasons.

1. Because Plaintiff is insolvent & unable to pay costs.
2. Because John L. Herrington the alleged natural guardian is insolvent & unable to pay costs.

John L. Thomas
 Atty for Defendant.

Saml. M. Norridge
lyce

27

Mr. Smith

Motion to require
Bill to give security
for costs

Filed. May 11th 1867
E. J. Henney Clerk

Louis M. Merrington
by his natural guardian
John C. Merrington
vs
William Smith

} Slander.

Defendant moves the Court to dismiss
the above entitled Cause for the following
reasons.

1. Because no guardian or next friend was
appointed for Plff before being suit.
2. Because never applied for the appointment
of next friend in order for him to being suit.
3. A minor cannot bring suit by natural
guardian.
- 4.

John L. Thomas
Atty for Defendant.

L. M. Merriman

3

Providence

motion to determine
case:

sustained

Dated May 11th 1867

W. J. Merriman

Louis M. Herrington, a minor, }
 by John C. Herrington, his father, }
 and Natural Guardian, - Plaintiff }
 Against }
 William Smith, - Defendant }
 In the Circuit Court of Jef- }
 ferson County Missouri, }

Amended petition filed by leave of the Court,
 The Plaintiff, Louis M. Herrington, a minor, suing
 by John C. Herrington, who is the father and as
 such the natural guardian of such minor, and
 has given bond and security according to law, to
 account as such natural guardian for any estate
 he may hereafter receive belonging to said minor,
 by his said Guardian, states that, on the 30th day
 of August 1866, at the County of Jefferson aforesaid,
 the Defendant spoke the following false and
 slanderous words concerning the Plaintiff, that
 is, to say, "Louis M. Herrington (meaning the plain-
 tiff) and Nathaniel S. Ogle, stole a muddling of
 meat out of my smoke house, - they did it and
 no body else, -" "They (meaning the Plaintiff and
 said Nathaniel S. Ogle) stole a piece of bacon from me, -"
 "Louis Herrington and Nathan Ogle (meaning the
 Plaintiff and said Nathaniel S. Ogle) stole my
 meat, - they stole bacon from me, - I know they did
 it, -" By reason of which, Plaintiff by his guardian
 says he is damaged to the amount of One thousand
 dollars, and for which, Plaintiff by his Guardian
 aforesaid asks judgment, }
 }
 } Louis M. Herrington
 } By John C. Herrington
 } his Guardian

In Circuit Court
Jefferson County

Louis M. Worthington
By his Attorneys

William Smith

Answerer petition
of Plaintiff

Filed August 28 1867
E. J. Hovey clerk

COUNTY OF TARRANT,

The State of Missouri,

To John Hueston, Thos. Agle, Daniel McClellan,
John Foster & Alexander Skille Jr.

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 Eighth day of December 1867, 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
his friend J. E. Harrington is
Plaintiff, and J. M. Harrington is
J. M. Harrington is

Defendant, on the part of Deanthi and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with
the seal thereof hereto affixed, at office, this . . . day
of October, A. D. 1867

Miss Honey 11/17/76.

By J. Drine 27/11

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. 7. TERM, 1867

Herrington by Guard
vs
Mr Smith.

For Aff

John Hensley Sr. x

Thos Ogle, 7

David Medley x

John Baker x

also Waite Sr. x

John Williams
Sherriff fee \$2.50

I have entered the within in Jefferson County
Mo on the 8th day of October 1867 by
executing the same to John Hensley Thos
Ogle James Meddley John Baker &
Alex Hensley

John Williams Sheriff

Lewis W. Herrington
by John L. Herrington
his father and Natural
Guardian Plaintiff
Against
William Smith, Deft

In the Jefferson
Circuit Court

Now at this day comes said defend-
ant and for answer to the amended pe-
tition of the plaintiff denies that he on
the 20th day of August 1866 or at any other
time at the County of Jefferson spoke
the following false and slanderous
words concerning the Plaintiff that is to
say Lewis W. Herrington (meaning
the Plaintiff) and Nathaniel S. Ogle
stole a muddling of meat out of my
smoke house - they did it and no body else;
"They (meaning the Plaintiff and said Nathaniel
S. Ogle) stole a piece of bacon from
me." Lewis Herrington and Nathan Ogle
(meaning the Plaintiff and the said Nathan
S. Ogle) stole my meat, I know they
did it." Defendant denies that Plain-
tiff is damaged in the sum of one thousand
or any other sum by reason of any slander-
ous words spoken by Defendant concern-
ing Plaintiff. John L. Thomas
Atty for Deft.

Levin M. Hemmington
by Guerdon.

or

William Smith

Answer.

Filed Oct 24th 1857
at the County Clerk's
by Edw. Stone's atty

COUNTY OF JEFFERSON,

The State of Missouri,

To

David Mackey, Nomad Agent of H. Foster, John Mackey, & Son, Merchants, vs

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

11th day of *October*

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 *David Mackey* is
by his Attorney *John C. Merriam* is
Plaintiff, and *Wm. Smith* is

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

WITNESS, ELIAS F. HONEY, Clerk of our said Court, With

the seal thereof hereto affixed, at office, this *29th* day

of *October* . . . A. D. 186*8*.

Elias F. Honey Clerk.

By *D. D. Foster* Deft

SUBPÆNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867

Herrington
vs
Smith

For Defts

Daw Medley x

Tho agle x

Jm Bares x

John Huestey, Jr x

Nancy Herrington x

John Williams
Sheriff fee \$2.50

I Enclosed the within in Jefferson County
Missouri on the 8th day of October 1867
by reaching the same to Samuel Medley
Jas J. E. J. W. Batten John H. Huestey
Nancy Herrington the

Nathaniel S. Ogle, by
 William Ogle, his father
 and Natural Guardian
 Plaintiff } In the Superior
 Against } Circuit Court.
 William Smith, Deft. }

Now at this day comes said
 defendant and for an answer to the amended
 petition of the Plaintiff denies that he did
 on the 20th August 1866, or any other time speak
 the following false and slanderous words
 concerning the Plaintiff that is to say "Na-
 thaniel S. Ogle (meaning the Plaintiff) and
 Lewis Mr. Hermonston stole a muddling
 of meat out of my smoke house - they
 did it and no body else" They (meaning the
 Plaintiff and said ^{Lewis Mr. Hermonston} ~~Nathaniel S. Ogle~~)
 stole a piece of bacon from me" Nathan
 Ogle and Lewis Mr. Hermonston (meaning
 the Plaintiff and said Nathaniel S. Ogle)
 stole my meat - they stole bacon from
 me I know they did it." Defendant denies
 that Plaintiff has been damaged in the sum
 of one thousand dollars or any other by reason
 of any false or slanderous words spoken by
 him or Plaintiff.

John L. Thomas
 Atty for Deft.

Lewis W. Hennipster
to Guardian

(2)

Mr Smith

Answer to
Amended Petition

Filed Oct 24th 1867
O & J May 1868
One Edward Steph

COUNTY OF JEFFERSON.

The State of Missouri,

To

Amos Houtley

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 *16th day of December* 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

Plaintiff, and *Wm Smith* is *J M Livingston* is

Defendant, on the part of *Amos Houtley* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereunto affixed, at office, this *4th* day of *December*, A. D. 186*7*.

Elias Honey Clerk.

By *Ed Stone* Decld

SUBPŒNA.

TO
Jefferson Circuit Court

Nov. TERM, 1867

Herrington
vs
Wm Smith

For Debt.

Andrew S. Squire

John Williams Sheriff
fee 50

I executed the within subpoena in due form
and return thereof by the 4th day of Nov
1867 by reading the same in his
presence
John Williams Sheriff
By M. W. Morris Deputy

Lewis M. Herrington by
John C. Herrington his
natural Guardian
vs
Wm Smith

Now at this day comes the
Plaintiff and moves the Court to
Strike out the following portion
of Defendants amended Answer filed
November 11th 1867, to wit

" For further answer to said petition
by way of Special matter in mitigation
of Damages states that some time in the
year 1866 some one in the night time stole
stole and carried away some water melons
& a muddling of meat the personal property
of Defendant of the value of Ten Dollars
~~that~~ that the day after ^{his} said property
was stolen he proceeded to ferret out the
thief or thieves when he discovered in his

Water melon patch the tracks of two men
which he found come from & went to the
house of Nathaniel S. Ogle that he ascert-
ained that Lewis M. Herrington staid all
night with Nathaniel S. Ogle the same
night that he lost his ~~meat~~ property.
that Defendant then called in some neigh-
bors to assist him in tracing up the thief or
thieves who stole his property that they found
said tracks & found also where said meat

had been taken over the fence between Defendant's house and the house of Nathaniel S. Ogle, that Defendant then had evidence to prove that said Plaintiff had formerly stolen his watermelons, that from all these circumstances & from the previously notorious bad character of Plaintiff and Nathaniel S. Ogle, for honesty he stated to said neighbors his belief that Plaintiff & said Ogle stole his watermelons & meat — & because said circumstances produced the same belief in the minds of said neighbors before Defendant & pressed his opinion"

1st Because said portion of said answer sets up no defence to the Plaintiff's action as set-out & stated in his petition in said Cause, neither as matter of defence or in mitigation of damages

2nd Because it is inconsistent with the other portions of said Answer

3rd Because the same is inconsistent with the answer formerly filed by Defendant and contradicts the same in a manner not allowed by Law or the rules of pleading

Green & Williams
Attys for Plaintiff

19
J. Smith & Co. Newington
by Guardian &c,

Mr. Smith

Motion to strike out
and over

Dr. H. D. 11 May
E. H. D. 11 May 1845

Louis M. Herrington
by John L. Herrington
his guardian
vs
William Smith

Now at this day comes said defendant
for an amended answer to the amended
petition of the Plaintiff demanding that he spoke
the false & slanderous words concerning
the plaintiff charged in said petition as
therein set out.

Defendant for further answer to said
petition by way of special matter in mitigation
of damages states that sometime
in August 1866 someone in the night
time took, stole & carried away some water
melons, & maddling of meat the personal
property of defendant of the value of
two dollars: that the day after his said
property was stolen he proceeded to hunt
out the thief or thieves when he discovered
in his watermelon patch the tracks of two
men, which he found came from &
went to the house of Nathaniel S. Agle
that he ascertained that Louis M. Herrington
staid all night with Nathaniel S. Agle the
same night that he lost his property: that

defendant then called in some neighbors to assist him in tracing up the thief or thieves who stole his property: that they found said tracks found also when said meat had been taken over the fence between defendant's house & the house of Nathaniel S. Aple: that defendant then had evidence to prove that said plaintiff had formerly stolen his watermelons: that from all these circumstances & from the previously notorious bad character of plaintiff & Nathaniel S. Aple for honesty, he told to said neighbors his belief that plaintiff & said Aple stole his watermelons & meat but defendant denies that ~~plaintiff~~ that plaintiff was damaged one cent by this stole meat of defendant, because plaintiff had no character to lose & because said circumstances produced the same belief in the minds of said neighbors before defendant expressed his opinion.

John L. Thomas

Atty for defendant

L. M. Merriman

3

William Smith

Giles Ave 11th 1867
& H. Downey 1867

2
To the Clerk of the Lincoln County
I have and hereby ordered to deliver the
Case of *James M. Thompson* by
his Guardian *John Thompson* - as
from Smith.

Wm. July 17th 1868.
John L. Thompson
Attest

" Lewis M. Herrington
 by his Nat. Guard, Jas. C. Herrington
 vs
 William Smith

} Slander
 } Dismissed
 } In Vacation

Fee Bill

Saml A. Reppy clk, cop/set 25^c or 550^c .75^c .75
 writ \$1. cop 10^c dock 10^c affo 15^c ~~and~~ rule. 20^c \$1.55 ~~1.55~~
2,30

E. J. Honey clk, files 40^c answers \$1.45 \$1.85
 amend pet. 35^c motions 60^c rules 60^c \$1.55
 dis 35^c ord 35^c 6 Spas \$1.50 2,20

costs 25^c RB 50^c Ind 25^c 2 cont 50^c app 10^c 1.60 \$7.20

John Williams Sheriff zero deft. \$1.00

20 Spas \$10. calls 20^c 10.20

John Huskey Sr. 8 days 6 miles.

8.48

\$29.18

Flemington

with
Smith

John D. D.