

May 1867 No 13

Greer, Silas R

vs

Williams, Thomas, Sr.

Set aside sale

160 acres in S20T40R4E sold under
deed of trust

Silas R. Green, - Plaintiff
Against
Thomas Williams, Jr. - Defendant } In the Circuit
Court of Jef-
ferson County
Missouri.
3 May Term 1867.

The Plaintiff states that on the first day of January 1859, he gave his Promissory Note to the Defendant for Six hundred dollars, payable twelve months after date, and to secure the payment of said Note, he signed also, a Deed of Trust, conveying to Elias F. Honey as Trustee, the following described Land, situate in Jefferson County, Missouri, to wit, the South half of the North East quarter, and the North half of the South East quarter of Section Twenty, in Township Forty of Range Four East, Containing One hundred and sixty acres; and afterwards, on the 31st day of January 1861, he gave another Note to Defendant, for one hundred and twenty dollars, and to secure the same, he on the same day signed another Deed of Trust, conveying to said Elias F. Honey as Trustee, the following described Land, situate in Jefferson County, Missouri, to wit, the South East quarter of the South East quarter of Section Twenty, in Township Forty of Range Four East, Containing Forty acres, - also, the South half of the North West quarter of the North East quarter of Section Twenty, in Township Forty of Range Four East, Containing Twenty acres, - which said Deeds were afterwards recorded, and Plaintiff states ^{that} afterwards, to wit, on the sixth day of February 1864, the Defendant caused said Trustee to sell said Land at auction, and he became the purchaser for four hundred and eighty dollars,

a sum less than one sixth of the value of said Lands,
and afterwards received a Deed from said Trustee,
for said Lands. And Plaintiff states that the
Defendant, in order to obtain said Lands, at his
own price and to prevent competition, neglected and pur=
posely omitted to give ~~as~~ came to be given, the proper
sufficient legal Notice of the time, terms, & place of
said sale, as required by said Deeds of Trust. And
Plaintiff avers that Defendant did not cause any
Notice, stating that said property would be sold
on the 6th of February 1864, at the Court House door,
in said Jefferson County, at public vendue, and
to the highest bidder, for cash, to be given by
setting up said Notice Bills, in public places in said
County, ^{as required by said Deeds of Trust} twenty days before the day of sale. Plain=
tiff therefore avers that said sale or pretended sale,
was made, without sufficient legal Notice being
given, such as was required by said Deeds of Trust.
And Plaintiff avers that said Trustee did not
pursue strictly the powers given in said Deeds of
Trust, in said attempted sale of said Lands, and
that such defective execution of said powers are
invalid and void. And Plaintiff states that, in
consequence of no sufficient Notice being given, that
said Lands would be sold at public vendue, and
to the highest bidder, but very few persons attended
said sale, and they not prepared to bid, and having no com=
petition, the Defendant had said Lands struck off to
him^{self} at any price he chose to bid. Plaintiff avers
that said Lands were at the time of sale, well worth
three thousand dollars, - and that therefore, his property
has been disposed of at a great sacrifice, - and Plain=
tiff thus cheated and defrauded of his rights, by the
illegal, overreaching, and ^{improper} ~~unlawful~~ conduct of the

Defendant, & Plaintiff further states that it was not competent for said Trustee to take the acknowledgment of a deed, conveying ^{land} to himself, and that therefore said Deeds of Trust were not sufficient in law, to authorize said Trustee to sell & convey the fee simple title to said Lands. & Plaintiff there-fore avers that said Lands have not been sold in pursuance of the powers, contained in said Deeds of Trust, - that such failure to perform ~~and~~ execute the same according to law, operates greatly to the prej-udice of Plaintiffs rights. And that, to permit the Defendant to retain the advantages, acquired by his own, and said Trustee's, illegal proceedings, would be contrary to every principle of Equity.

Plaintiff therefore in consideration of the pre-mises, asks the Court to order and decree, that the sale of said Trustee, made on the 6th day of February 1864, ^{of said lands} and the Trustee's Deed of the Lands aforesaid, made to Defendant on the 8th day of February 1864, be set aside and vacated, as illegal and void, - and ^{all} that the Defendant be divested of title or interest in said Lands, and that the title thereto be fully vested in the Plaintiff, upon his paying, (which he here offers to do) to Defendant the full amount of said Promissory Notes and the interest thereon, and to grant such other and further relief as the facts of the case may warrant;

Abner Green
Attorney for Plaintiff

1 copy Johnson 40.80
 each 40.80
 and 46.00
 each 46.00
 110-
 82
 82

In Circuit Court

Jefferson County

Shaw A. Green

vs.
Thomas Williams, Jr.

Petition

to set aside Decree

for division same.

Shaw
for Pet.

Filed March 5th 1867

Edna J. Harvey Clerk

13.00 paid by Pet. to 27th

THE STATE OF MISSOURI, }
COUNTY OF JEFFERSON. } SS.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson—Greeting:

We command you, that you summon *Thomas Williams*
Senior,

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 *Sixth* Monday after the
fourth Monday of *March* next, then and there to answer unto
Silas R Green

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

Witness, ELIAS F. HONEY, Clerk of our said Circuit Court,
with the seal thereof hereunto affixed, at office in Hillsboro, this
Sixth day of *March* A.D. 1867

Elias F. Honey
Clerk Circuit Court.

No. 13

2577

JEFFERSON CIRCUIT COURT.

Mo. Term, 1867

Chas. R. Green

vs. & defendants

Thomas Williams &c.

Sheriff fee \$1.00

I Executed this Writ in the County of Jefferson
State of Missouri on Thomas Williams on the
19th Day of March 1867 By Delivering to the
said Thomas Williams a true copy of the Writ
and annexed Petition as furnished by the clerk

John Williams Sheriff of
Jefferson County Mo

Silas R. Green, plaintiff,
against
Thomas Williams, Jr. defd. } On the Circuit
Court of Jefferson
Co. Mo.
May Term 1867.

The above named defendant moves
the Court, to strike from the petition
of the Plaintiff the following part, to
wit:

" Plaintiff further states, that it was
" not competent for said Trustee to
" take the acknowledgments of a Deed
" conveying land to himself, and that
" therefore said Deeds of trust were
" not sufficient in law, to authorize
" said Trustee, to sell and convey the
" fee simple title to said lands,
and the reasons for this motion are
as follows:

1st The petition does not allege, that
the Trustee therein named, took the
acknowledgments of the deeds of trust
mentioned in petition, in which
he was Trustee.

2nd A Trustee in a Deed of trust for
the security of the payment of money
may take the acknowledgments of
such Deeds, if otherwise his official
capacity gives him authority to do

so, because such a Trustee is not a beneficiary, but merely acting in a fiduciary capacity; clothed with no interest in the land, affected by the deed, whatsoever.

3^d. In this case it matters not, whether the deeds of trust were acknowledged or not, as the plaintiff in the petition does not deny the execution of said deeds, but admits the same, and as no third parties are affected by the transaction, and further because deeds of conveyance are good between the parties to them, whether they are acknowledged and recorded or not.

Henry F. Ahlvers
Atty for defendant,

Levin & Hunt
Hudson Co. N.Y.

Alfred R. Green

we
Thomas Williams
do.

Proctor & Clarke
and part of per
tition, by de
pendant,

Filed May 6th 1867
Geo. J. Honey, clk

recorded May 8, 1867

Silas R. Green } Circuit Court
vs. } Jefferson Co., Mo.
Thomas Williams } May Term 1867.

Now on this day comes defen-
dant and moves the court to
rule the plaintiff to give security
for the payment of the costs in
the above case, and alleges as
reasons for this motion, that
plaintiff is unable to pay such
costs and that he is so unsettled
as to endanger the officers of the
court with respect to their
legal demands.

Henry F. Ahrens
Atty for Defd

Miss R. Green

as
Hannah Williams

—
Christiana for
over her account
for week,

—

Filed May 8th 1867
Elias J. Honey clerk

Silas R. Green, pett^r } Circuit Court,
vs. } Jefferson County
Thomas Williams, def^t. } Mo. May Term 1867.

Be it remembered, that on the 6th day of May 1867, it being the first judicial day of the May Term of the Jefferson Circuit Court 1867, Thomas Williams, defendant, filed a motion to strike out portions of the petition of plaintiff, as follows viz: (here copy motion) and on the 8th day of said month said motion coming on to be heard, was by the court overruled to which action of the court in overruling said motion defendant Thomas Williams then and there objected and excepted and here in open court tenders this his bill of exceptions which is signed, sealed and filed as a part of the record in this cause.

J. H. Vail, Judge. (Seal)

Alas R. Green

re.

Thomas Williams

—

Bill of exception,
by defendant

Filed May 11th 1867

E. F.weeney clk

Silas R. Green, - Plaintiff } In the Circuit Court
Against } of Jefferson County
Thomas Williams, - Defendant } Missouri, - Nov. Term
1867

The Plaintiff, for amended Petition filed by leave of the Court, states that on the first day of January 1857, he gave his promissory Note to the Defendant for six hundred dollars, payable Twelve months after date, and to secure the payment thereof, he signed an instrument of writing purporting to be a deed of Trust, conveying to Elias F. Honeg as Trustee, the following described Land, situate in Jefferson County Missouri, to wit, the South half of the North East quarter, and the North half of the South East quarter of Section Twenty, in Township Forty, of Range Four East, Containing One hundred and sixty acres, - and afterwards, on the 31st day of January 1861, he gave another Note to the Defendant for One hundred and twenty dollars, and to secure this Note he on the same day signed an another instrument of writing purporting to be a deed of trust conveying to Elias F. Honeg as Trustee, the following described Land situate in Jefferson County Missouri, to wit, the South East quarter of the South East quarter of Section Twenty, in Township Forty, of Range Four East, Containing Forty acres, - also, the South half of the North West quarter of the North East quarter of Section Twenty, in Township Forty of Range Four East, Containing Twenty acres. - Plaintiff states that the acknowledgements of said Instruments of writing purporting to be Deeds of Trust, were taken by the said Elias F. Honeg, to whom said Lands purported to be conveyed, - and therefore Plaintiff avers that said acknowledgements were illegal and void, and that no

title to the Lands aforesaid was vested in said Trustee by virtue of said Instruments of writing purporting to be deeds of trust. - Plaintiff states that afterwards to wit, on the sixth day of February 1864, the Defendant caused said Trustee to make a pretended sale of said Lands, at auction, at which the Defendant bid off the same at four hundred and eighty dollars, and said Trustee made a pretended deed to the Defendant for said Lands. - Plaintiff avers that said Instruments of writing purporting to be deeds of Trust, were not sufficient in law to vest the legal title to said Lands in said Trustee, and that therefore he had no power to ^{sell and} convey the legal title to said Lands to the Defendant, - and that his pretended deed of said Lands to the Defendant is utterly void. - Plaintiff further states that, if said instruments of writing purporting to be deeds of Trust, were sufficient in law, to authorize said Trustee to sell and convey said lands, (which Plaintiff denies) that yet the pretended sale and conveyance of said Lands by said Trustee are utterly null and void, for the reason that said Trustee entirely failed to comply with the terms and manner of sale provided for in said instruments of writing, in his pretended sale of said lands, - that he failed to set up six hand bills in public places, in said Jefferson County, twenty days before the day of sale, stating the time, terms, and place of sale, as required by said Instruments of writing - that he failed to set up any ^{twenty days before the day of sale} written Notice, in said County, stating that he would sell said lands at public vendue to the highest bidder for cash, at the Court House door, in the Town of Hillsboro, in said Jefferson County, as required in said Instruments of writing purporting

To be deced, of Trust, Plaintiff therefore states that said Trustee did not give proper and sufficient legal Notice of his intended sale of said lands, to authorize him ^{- that he did not give any notice of said sale, -} to sell the same, - and that therefore his pretended sale of the same is utterly void, Plaintiff states that by reason of said Trustee failing to give Notice of his intended sale of said Lands, no persons attended ^{said} sale prepared to bid, and the Defendant bid off the lands at his own price, - at less than one fifth of the value of said Lands, - Plaintiff states that said Lands were at the time of said pretended sale, worth three thousand dollars, Plaintiff further states that the Defendant caused said Trustee to make a pretended sale of said Lands, without giving proper, sufficient legal notice, of the time, terms, and place of said sale, in order that he, Defendant, might have no competition in bidding for the same, and could ^{therefore} purchase at his own price, And Plaintiff therefore avers that such pretended sale is a fraud upon Plaintiff's rights, - that the Defendant caused the same to be made at such time, & in such manner, as aforesaid, as to enable him to cheat and defraud Plaintiff, and obtain his lands for a mere trifle. - Plaintiff therefore states that it would be unjust and contrary to Equity, to permit Defendant to hold said Lands, obtained in the manner aforesaid, and without paying one fifth of the value of the same,

Plaintiff therefore states that said Trustee, for the reasons aforesaid, had no authority to sell and convey said Lands, - that he was not invested with power so to do, by virtue of said Instruments of writing purporting to be deced of trust, - that he failed to give proper & sufficient notice of such pretended sale, or any notice

whatever and that by reason of all such defects ^{and want} of
and failure to comply with the Powers given
authority, his pretended sale of the lands aforesaid
is utterly null and void.

In Consideration of the Premises, Plaintiff
asks the Court to declare the pretended sale of the
lands aforesaid null and void, - to adjudge and
decree that the pretended Trust deed, given by said
E. F. Woney to Defendant on the 6th day of February
1864, for said lands, be set aside, vacated and an-
nulled, and ^{that} Defendant be divested of all title to said
lands, (if any he has,) and that the title to the same
be fully vested in the Plaintiff, upon his paying
to Defendant the full amount of said Promissory
Notes and the interest thereon, - which the Plaintiff
here offers to do, - and that the Court will grant
such other and further relief as the Plaintiff may
show himself Equitably entitled to.

Abner Green

Attorney for the Plaintiff,

In the Circuit Court
of Jefferson County

Wm. R. Green

vs.

Thomas Williams

Answer

Petition of Plaintiff



Filed Aug 2nd 1867

Wm. R. Green
Plaintiff

Silas R. Green, plaintiff,
 against
Thomas Williams, defdt.

In the Circuit Court
of Jefferson County,
Missouri, Nov. Term 1867.

The defendant, answering the amended petition of plaintiff, filed Aug. 2nd, 1867, admits, that on the 1st day of January 1859, plaintiff gave his promissory note to defendant for six hundred dollars, payable twelve months after date, and defendant also admits, that on said day for the security of the payment of said note plaintiff signed, sealed and delivered to defendant an instrument of writing, but denies that this instrument was merely purporting to be a deed of trust, and alleges, that it was a deed of trust, direct and positive upon its face, and admitting of no two different constructions, conveying to Elias F. Haney as trustee the land described in plaintiffs petition, and situate in Jefferson Co. Mo. to wit; the South half of the North East quarter and the North half of the South East quarter of sec. 20. Tonn. 40. R. 4 East containing One hundred and sixty acres, —

Defendant further admits, that afterwards on the 31st day of January 1861. Plaintiff gave another note to the defendant for One hundred and twenty dollars, payable likewise twelve months

after date, and that for the security of the payment of this note plaintiff signed, sealed and delivered to defendant an instrument in writing, but defendant also denies, that this instrument was merely purporting to be a deed of trust, and alleges, that the same was an absolute deed of trust to all intents and purposes, conveying to Elias F. Harey as trustee the lands described in plaintiffs amended petition, situate in Jefferson County, Missouri, to wit: the South East quarter of the South East quarter of sec. 20. Town. 40. R. 4 East, containing 40 acres, and the South half of the North west quarter of the North East quarter of sec. 20. Town. 40. R. 4 East containing 20 acres, Defendant says, that he has no knowledge or information, sufficient to form a belief, that the acknowledgments of said deeds of trust were taken by the same Elias F. Harey, to whom as trustee the lands were conveyed, and denies that the acknowledgments were illegal and void, and positively denies, that no title to the lands aforesaid, was vested in the trustee by virtue of said deeds of trust, and defendant states, that by said deeds of trust an Estate in fee simple, ^{in said lands} was vested in Elias F. Harey in his fiduciary

character as trustee, and that the title of said trustee could not become impaired or affected by any defect or even want of acknowledgment, so long as Plaintiff admits the execution of said deeds of trust, which plaintiff even now has done in his petition. Defendant states, that on the sixth day of February 1864, the whole amounts of the principal of said notes and also interest thereon remaining due and unpaid, he caused said trustee to sell the lands in accordance with the powers given him in the deeds of trust, that the sale was not, as plaintiff says, merely a pretended, but a bona fide sale, in accordance with the requisitions in said deeds of trust, and that he, defendant, being the highest bidder, bought the land described at the sum of four hundred and eighty dollars, and that thereupon said trustee made a deed in good faith and delivered the same to defendant. Defendant avers, that the deeds of trust aforesaid, were good and sufficient in law, that thereby the legal title to said lands was vested in the said trustee for the purposes, mentioned therein, and that the trustee had full power to sell and convey said lands to the defendant, and that the deed made by said

trustee for the land, is not void as plaintiff says, but lawful. Defendant further states, that said trustee fully complied with the terms and manner of sale, provided and prescribed in said deeds of trust, at the actual sale of said lands, that he set up six handbills in public places in Jefferson County twenty days before the day of sale, stating the time, terms and place of sale, as required by the deeds of trust, ^{if not in the exact words used in the amended petition, at least in substance,} and also stating that he would sell said land at public vendue to the highest bidder for cash at the courthouse door in the town of Hillsboro, in said Jefferson County, and defendant states that the deeds of trust do not prescribe the form of, nor the exact words, which said trustee shall use in the notices, of sale, that the notices given, were proper and sufficient legal notices of the sale of ^{the} lands, described in the deeds of trust, that the notices were sufficient to base the sale upon and that the sale was bona fide. Defendant states, that the sale of said lands was attended by such a number of persons, as will ordinarily attend such sales, and defendant denies, that the land was sold at less than one fifth of its value

at the time of sale, and that they were worth at the time of sale three thousand dollars. Defendant positively denies, that he caused said trustee to make a pretended sale of said lands without giving proper, sufficient, legal notice of the time, terms, and place of sale, in order, that he, defendant might have no competition in bidding for the same, and could therefore purchase at his own price, and defendant refutes the charge as utterly groundless, that the sale by the trustee was a merely pretended one, and a fraud upon plaintiffs rights, and that defendant caused the sale to be made at such time and in such manner, as to enable him to cheat and defraud Plaintiff and obtain his lands for a mere trifle, and defendant says, that, to take the title to said lands from him, upon the facts aforesaid would be against law, equity and justice.

Defendant further in ~~replication~~ answer to plaintiffs amended petition states, that more than three years since the sale of said lands have elapsed, that during all this time and before the institution of this suit, plaintiff never pretended not even by words or actions indicated,

that the sale of said lands was fraudulent as not in accordance with the requisitions of the deeds of trust, and that knowing the sale of said lands to have been fair, bona fide, lawful, and upon the giving of sufficient notices thereof, he, the plaintiff, soon after the sale of said lands voluntarily and fairly rented the said lands of defendant, and that the lease though verbal, was renewed ~~for~~ annually for three consecutive years, that plaintiff has annually paid to defendant the rent for said land agreed upon, and that plaintiff now is holding said lands as tenant of defendant by sufferance, and this defendant further states, that the plaintiff, having had full knowledge of all the circumstances of the sale of said lands, and therefore means to know whether or not the sale was legal and effective, or illegal, — by voluntarily becoming the tenant of defendant as to said lands for three consecutive years is estopped from denying that the title to said lands is in defendant lawfully.

Defendant further states, that previous to the sale of said lands he offered to plaintiff to take the lands and an absolute

deed for them, for the whole amount of debt and interest; that after the sale of said lands and about four weeks thereafter plaintiff reminded defendant of his said offer, expressing dissatisfaction that he had not accepted the offer of defendant as made previous to the sale, and that defendant then upon the request and solicitation of plaintiff, to that effect, voluntarily and without consideration released the plaintiff from his liability upon the unsatisfied balance of said notes by delivering them up to plaintiff, so that in effect plaintiff has recovered for said land the whole amount of the debts and interest secured by said deeds of trust, for said land.

Defendant therefore states, that the deeds of trust were valid and effective, that the trustee had authority to sell and convey, that the notices of sale were sufficient, that the sale was bona fide, and that the conveyance by the trustee to defendant conveyed good title to said lands to defendant, and therefore asks that the prayer of plaintiff be not granted and that decree be given for defendant for costs of suit.

Henry F. Ahlvers
Atty for Defendant,

John A. Green

or.

Thomas Williams

—

former the
plaintiff and
defendant

—

John A. Green

John A. Green
By John A. Green

COUNTY OF JEFFERSON,

The State of Missouri,

To

Wm. J. Vansant *David Honey* *Eliza Honey*
& James Duckrey

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 *ninth day of Dec 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 *Eliza R. Greene* is

Plaintiff, and

Thomas Williams 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 *2nd* day of *October*, A. D. 1867.

Eliza R. Honey Clerk.

By Ed. Jerome *Deputy*

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867.

Green
vs.
Williams

For Debt

W. S. Vinyard +

Bazile Heiney

Elias Heiney +

James Dusterkey +

John Williams

Sheriff fee

\$2.00

I Green test the within in Jefferson County
Mo on the 10th day of October 1867 by
Dececting the same to J. W. S. Kingman
Bazile Heiney & J. Heiney and James Dusterkey

COUNTY OF JEFFERSON.

The State of Missouri,

To *Wm. H. Hargrett & Joseph Henry*

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 *twelfth day of November 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

Plaintiff, and *Wm. H. Hargrett & Joseph Henry* is

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 *10th* day of *October*, A. D. 1867.

Elias Honey Clerk.
By Ed. D. Smith

SUBPŒNA.

TO

Jefferson Circuit Court

Nov. TERM, 1867.

S. R. Green

vs.
The Williams Co.

For Plaintiff

W. S. Vandy 16th

Bayle Honey 16th

"
Sheriff fees \$1.00

I Execute the within Subpoena at Jefferson County
in the W. S. Vandy and Bayle Honey vs. Reaching the land
in the Precinct of the 16th day of October 1867

John W. Williams Sheriff
By W. H. Harris Deputy

Silas R. Green, - Plaintiff } In the Circuit
Against } Court of Jef=
Thomas Williams, - Defendant } ferson County

I, William A. Jackson, a resident of
Jefferson County Missouri, do hereby ack=
nowledge myself bound to pay all costs
which have accrued, or which may accrue
in the above entitled cause, and be adjudged
against the Plaintiff, - Witness my sig=
nature this 4th day of November 1867,
William A. Jackson

COUNTY OF JEFFERSON.

The State of Missouri,

To

Margaret Pauline

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 *14th day of May 1868* 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

James Williams

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 *9th* day of *April*. . . A. D. 186*8*.

Elias F. Honey Clerk.

James Williams

SUBPŒNA.

TO

Jefferson Circuit Court

May ... TERM, 186...

S. R. Green

vs. Thos Williams

For Plaintiff

W. S. Winyard & Co

Debit Honey &

Sheriff fee

\$1.00

I herewith the within in & Jefferson County the
on 6th of August 1866 and being the
by receiving the same to each of them

Thos Williams
Honey

COUNTY OF JEFFERSON.

The State of Missouri,

To

*Wm Muellic James E. Green,
and C. J. Harvey, Bapts Society, behavls Benjamin Harvey*

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 *seventh day of May 1868* 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 *Silco D Green,*

Plaintiff, and *Wm Muellic Dr.* 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 *9th* day of *May* . . . A. D. 1868.

Elias F. Honey Clerk.

SUBPÆNA.

TO

Jefferson Circuit Court

May... TERM, 1868.

Silas R. Green

vs.

Sho. Williams

for Debt.

R. W. McMullen

Ed. Haney, James LePore

Buzie Reiny and

Charles Vinyard jun

John Williams

Sheriff fee \$200

I certify the within is a copy of a Subpoena issued by the
on the 9th Day of May 1868 on R. W. McMullen
Ed. Haney James LePore Buzie Reiny and
Charles Vinyard jun for appearing at the same to
each of them

Sho. Williams
Henry

Silas R. Green, - Plaintiff
Against
Thomas Williams, - Defendant

In the Circuit Court
of Jefferson County Mis-
souri, - May Term 1868

The Plaintiff for amended Petition filed by leave of the Court, states that on the first day of January, 1859, he gave his promissory Note to the Defendant for six hundred dollars payable twelve months after date, and to secure the payment thereof, he signed an instrument of writing purporting to be a Deed of Trust, conveying to Elias F. Honey as Trustee, the following described Land, situate in Jefferson County Missouri, to wit, the South half of the North East quarter, and the North half of the South East quarter of Section Twenty, in Township Forty, of Range Four East, containing One hundred and sixty acres, - and afterwards on the 31st day of January 1861, he gave another Note to Defendant for One hundred and twenty dollars, and to secure this Note, he on the same day signed another instrument of writing purporting to be a Deed of Trust conveying to Elias F. Honey as Trustee the following described Lands situate in said County of Jefferson in the State of Missouri, to wit, the South East quarter of the South East quarter of Section Twenty in Township Forty, of Range Four East, containing Forty acres, - also the South half of the North West quarter of the North East quarter of Section Twenty, in Township Forty of Range Four East, containing Twenty acres. Plaintiff ^{states} that said Elias F. Honey, to whom said Lands were attempted to be conveyed by said Instruments of writing purporting to be Deeds of Trust, assumed to take the acknowledgements of the same, And Plaintiff therefore avers that such attempt by the person to whom said Lands purported to be conveyed, to take the ack =

acknowledgements of the grantor in ^{such} writings was illegal and void, and that such ~~instruments~~ of writing purporting to be Deeds of Trust, were invalid and insufficient to vest in said Elias F. Honey as such Trustee the fee simple title to said Lands. - Plaintiff states that afterwards, on the sixth day of February 1864, the Defendant caused said Trustee to make a pretended Sale of said Lands at auction at which the Defendant bid off the same for four hundred and eighty dollars, and said Trustee thereupon made a pretended Deed for said Lands to the Defendant. - Plaintiff avers that by reason of the illegal and void acknowledgements of such instruments of writing purporting to be Deeds of Trust, said Elias F. Honey as such Trustee was not invested with the fee simple title to said Lands, and therefore was incompetent to convey such title to the Defendant. Plaintiff therefore avers that such pretended sale by said Trustee of the Lands aforesaid to the Defendant, ~~is~~ null and void, and that no title to said Lands passed to the Defendant by virtue of such sale and conveyance by said Trustee. - Plaintiff further states that such sale is void for the reason that said Trustee did not comply with the terms specified in said instruments of writing even if they had been sufficient to authorize a sale, which is denied. - That said Trustee failed to set up six hand Bills in public places in different parts of said Jefferson County, twenty days before the day of sale, stating the time, terms, and place of sale, and describing the property to be sold, as required by said instruments of writing. - That he

failed to set up in said County any written Notice, stating that he would sell said Lands at public vendue to the highest bidder for cash, and at the Court House door in the Town of Hillsboro in Jefferson County Missouri as required by said instruments of writing purporting to be deeds of Trust. Plaintiff therefore states that said Trustee did not comply with the terms, and provisions expressed in said instruments of writing in his attempted sale of said Lands, and that therefore such sale is void and the conveyance of said Trustee is invalid, and should be declared void as being contrary to Equity. - Plaintiff states that by reason of said Trustee not giving proper and sufficient notice of said sale, but very few persons attended the sale and the Defendant having no competition, bid off the said Lands at less than one fourth of their value. - That said Lands were at the time of such sale, worth about three thousand dollars, and were bid off by Defendant for four hundred and eighty dollars. - Plaintiff further states that after said promissory Notes became due, and but a few weeks before the sale, he in conversation with Defendant, enquired if he needed his money, and intended to compel a payment then, when money was scarce and land sales dull, owing to the embarrassed condition of the Country, - and the Defendant replied that he did not need his money, and would not undertake to enforce payment by a sale of the land, which would necessarily be at a great

sacrifice, - and that Plaintiff need not give himself any uneasiness about the matter, - that if he should need the money at any time, he would let Plaintiff know, before he made any effort to sell the Land, And Plaintiff being thus lulled into security did not make such efforts to get the money as he could, if he had had any expectation Defendant intended to sell the Land, - and Plaintiff could not learn any thing of the sale until only one or two days before it took place, which was only about three weeks after said Conversation and agreement by Defendant, - And Consequently Plaintiff had no opportunity to get the money in so short a time to prevent a sacrifice of his property, - Plaintiff therefore states that he was deceived by the statements & agreement of Defendant, - and that ~~he~~ ^{he} signed, and caused his property to be sold at a great sacrifice, Plaintiff ^{states} that, by reason of such acts of Defendant and the failure to give proper notices and the means used to lull Plaintiff into security, that Defendant might obtain said property at his own price, it would be contrary to Equity to permit Defendant reap the profits of his own illegal and improper proceedings, and to hold an apparent title to property, acquired without authority of law.

In consideration of the premises, Plaintiff asks the Court to declare the pretended sale of said Land null and void, and to decree that the pretended deed made by said Justice on the 6th day of February 1864, for the

Lands aforesaid to the Defendant, be set aside
vacated and for naught held and that Defen-
ant be divested of all title to said Lands, if any
he has, and that the title to the same be
fully vested in the Plaintiff, - and that Plain-
tiff be permitted to redeem said Lands,
by paying to Defendant the amount of
said promissory notes and such interest as
is justly due, - which Plaintiff here offers
to do and perform as the Court shall di-
rect, - and to grant such other and further
relief as may be consistent with Equity, ✓

A. Green
Attorney for Plaintiff

In Circuit Court
Jefferson County
May Term 1868

Wm. P. Green

vs,

Thomas Williams

Shenandoah Tree

Wetmore

Ordeed May 13th 1868
J. H. Honeywell

Elias R. Green, pl^{ff}

against

Thomas Williams, de^{ft}

In the Circuit Court
of Jefferson Co. Mo.
May Term 1868.

Defendant, answering the second amended petition of plaintiff, in the above entitled case, filed this 13th day of May 1868. admits, that plaintiff executed and delivered to defendant the two promissory notes, described in said petition, and also admits, that plaintiff executed, signed, sealed and delivered to defendant the two instruments of writing, being deeds of trust, to secure the payment of said two notes to defendant, as stated in said petition, and defendant says, that said instruments of writing were not only purporting to be deeds of trust, as stated in petition, but were such in fact. Defendant also admits, that the lands in said deeds of trust described, were conveyed to Elias F. Haney as trustee, for the purpose, declared in said deeds of trust, and that the plaintiff, acknowledged the same before said Elias F. Haney, as clerk of the Circuit Court of Jefferson Co. Mo., Defendant says, that said acknowledgments of said deeds of trust were legal and not void, and that said deeds of trust were valid and sufficient to vest in said Elias F. Haney as such trustee the legal estate in fee simple to the said lands.

Defendant ^{admits} states, that on or about the 6th day of February 1864., said notes remaining due and unpaid, he caused said trustee to make a sale of said lands, in accordance with the powers given him in said deeds of trust, that defendant was the highest bidder at said sale at the sum of four hundred and eighty dollars, that the land was struck off to him for that sum and that said trustee thereupon made a deed for said lands to defendant in fee simple, in accordance with the powers, given said trustee, but defendant denies, that said sale and deed to defendant were pretended, ^{merely} as stated in said petition, ~~that~~ and states, that the sale was bona fide and fair, and that said deed was made and delivered by said trustee to defendant in good faith and according to fact and law. Defendant here repeats, that the acknowledgments of said deeds of trust are legal and sufficient, and denies, that by reason of such acknowledgments said Elias F. Honey as trustee was not invested with the fee simple title to said lands, and also denies, that said trustee was incompetent by reason of such acknowledgments to convey to defendant such title.

Defendant denies, that the sale of the land by

said trustee to defendant is null and void, and that no title to said lands passed to the defendant by virtue of such sale and conveyance. Defendant avers, that said trustee complied with the terms specified in said deeds of trust, and that therefore the sale is not void, as stated in petition. Defendant says, that said trustee set up red hand bills in public places in different parts of said Jefferson County, twenty days, before the day of sale, stating the time, terms and place of sale and describing the property to be sold, as required by said deeds of trust, that said trustee did set up in said county written notices, stating that he would sell said lands at public vendue to the highest bidder for cash and at the courthouse door in the town of Hillsboro, in Jefferson County, Mo, as required by said deeds of trust, and defendant therefore repeatedly avers, that said trustee complied with the terms and powers, expressed in said deeds of trust, in the sale of said lands, and that therefore the sale of said lands is legal and valid, and the conveyance by said trustee is valid and not contrary to Equity, and therefore should not be declared void, as stated in petition. Defendant states, that at the sale an ordinary

number of persons was present, such a number
as will usually attend, and that there was
also competition at the sale, and defendant
denies that he bid off said lands at less
than one fourth of their value. Defendant
denies, that said lands at the time of sale
were worth about three thousand dollars.

Defendant denies, that, after said dates had be-
come due and a few weeks before the sale, he, viz
plaintiff, in conversation with defendant, en-
quired, if defendant needed his money, and
intended to compel a payment then, when
money was scarce and land sales dull, owing
to the embarrassed condition of the country,
and denies, that defendant, replied, he did
not need his money, and would not un-
dertake to enforce payment by a sale of the
land, which would necessarily be at a great
sacrifice. Defendant also denies, that he
told plaintiff, he need not give himself any
uneasiness about the matter, that if he should
need the money at any time, he, would let
plaintiff know, before he made any effort
to sell the land.

Defendant denies, that plaintiff was lulled
into security on account of any acts of defen-
dant, and says, that plaintiff knew, a good
and sufficient time before the sale, that and

when the same was to take place, and defendant says, that plaintiff had sufficient time to make efforts to get the money, if he could get it.

Defendant denies, that plaintiff did not learn any thing of the sale until only one or two days before it took place, and defendant says, that plaintiff, knowing of the sale a sufficient time before the same, may have had an opportunity to get the money. Defendant says, that there was no sacrifice of plaintiffs property, and that if there was any sacrifice, it was not an account of any acts of defendant, or because plaintiff did not know of the sale a long time before the same took place.

Defendant denies, that he made any statements or agreements, by which plaintiff was deceived, or that any statements or agreements operated as a fraud on plaintiffs rights, or caused his property to be sold at a great sacrifice. Defendant denies, that he could obtain said property at his own price, denies that he was guilty of any illegal and improper proceedings, in causing the land to be sold, in giving notices thereof, and in the sale thereof, or in the acceptance of the bid thereof.

Defendant states, that, although the land was struck off to him for the sum of four hundred and eighty dollars, still defendant plaintiff has actually received for the same,

the full amounts of both notes, described
in petition principal and interest there
of, that plaintiff ever since the sale of said
land by trustee has ~~had~~ the same in his
possession as tenant of defendant, and
Defendant therefore says, that the notes
and deeds of trust were executed and del-
ivered in good faith, that ~~defendant's~~ causing
the land ~~to~~ be sold, and the sale thereof were
free from fraud and in every respect fair
and lawful, and that the notices of the sale
were sufficient, and that there is no ground
whatever, legal or equitable, to set the sale
aside, as asked in petition, and to dis-
vest defendant of his title to the land,
Defendant therefore asks, that the prayer
of plaintiff be not granted and that de-
crees be given for defendant for costs of
suit.

Thomas S. Shivers
Atty for defd.

John R. Green

vs.
Thomas Williams
et al.

Answer of de fets.
to plaintiffs
second amended
petition.

Giles May 18th 1868
D A Honey 20

Silas R. Green, - Plaintiff } In the Circuit
 Against } Court of Jef=
 Thomas Williams, Jr. Defendant } ferson County
 Missouri, May Term
 1868

To the Honorable, the Judge of the Cir=
 cuit Court of the County aforesaid,
 The Plaintiff in the above entitled Cause
 respectfully states that the Defendant
 in said Cause, Thomas Williams, Jr. has an
 undue influence over the Inhabitants
 of the County of Jefferson in said State,
 - and that the knowledge of such fact,
 of the existence of such Cause, only came
 to the knowledge of this Plaintiff since
 the commencement of this Term of the
 Circuit Court. Plaintiff asks for a
 Change of Venue of the above entitled
 Cause, to some other County where such
 Cause does not exist, - for the Cause above
 alleged.

Silas R. Green
 Plaintiff
 State of Missouri }
 County of Jefferson }

Silas R. Green, the above Plaintiff
 being duly sworn, on his oath states that
 the above petition and the matters therein
 as stated, he believes to be true, - and that
 he has just cause to believe and does be=
 lieve that he cannot have a fair trial

of the above entitled Cause, on account of
the Cause above alleged, - and that the
existence of the above ~~alleged~~ Cause
for a change of venue, did not come
to the knowledge of this Plaintiff until
since the adjournment of said Cause at the
last Regular Term of the Court, and not
in fact till since the commencement
of the present Term of this Court,
Subscribed & Sworn to *Judas Degen*
before me May 18th 1868
Elias H. Honeys Clerk,
By *Thos. Honeys Deft*

Alas R. Green

28,

Thomas Willing

position

for Change of venue

Filed May 19 1868

J. H. Stoney Cl

Silas R. Green, - Plaintiff

Against

Thomas William, Jr. - Defendant

In the Circuit
Court of Jef=
ferson County
Missouri

To Henry F. Ahlvers, Attorney for

You are hereby Notified that I shall, on the 19th day of May 1868, or so soon thereafter as

Counsel can be heard, make application to the Court aforesaid for a change of venue

of the above entitled cause, for the causes
set forth in a petition which will then

~~The~~ presented to said Court,

May 18th 1868

Ames Green

{ Attorney for Plaintiff

I acknowledge service of the within Notice,
and waive the necessity of service by an
officer. This 18th day of May 1868
Henry F. Ahlness
Attorney for defd.

Edw. R. Green
vs.
Thos. Williams, Jr.
—
Notice

Lyne
as
Williams

1 hour cop ret. 90^c crs 50^c mit & copy 1.10^c 2.50
 Lock 10^c stamp 50 files 30^c Indenes 50 1.60
 motion 20^c rule 20^c Leave to and 20^c Leave to amend pet. 20^c 1.95
 Bill Ex by Deft, 35^c motion for security for cost. 20^c .55
 into ord of Ct, on motion 35^c Leave to amend pet 20^c .55
 Leave to and 30^c pet affs for change of venue, 15^c .35
 ent venue 35^c or 20^c making cost, 50^c 2.13 C & S. \$1.50 2.55
 2 cont 50^c .50

Making Transcript 9720 words & fig @ 15^c per 100 \$14.58 C & S to same 50 15.08
 Sustainer, .30

John Williams 4 Spas. 1.00
 \$ 25.93

John Williams Sheriff

serv Deft. # 1- serv 12 Spas 6.00 \$ 7.00

Lyne as Williams

R. Hines	6-9	6.72
C. H. Vinyard	5-9	5.72
B. Hines	5-9	5.72