

Jefferson County Circuit Court
Case Files - Civil

Box 20 Folder 40

November 1867, No. 104

Tesson, Edward P.

vs.

Whitehead, Robert

Replevin

900 railroad ties removed from
524740 R4E; \$50 damages

Edward P. Tesson, - Plaintiff
Against
Robert Whitehead, - Defendant, } In the Circuit
Court of Jefferson
County Missouri

The Plaintiff states that the Defendant on or about the first day of August 1867, and on divers days betwixt that day and the commencement of this suit, at the County of Jefferson in the State of Missouri, unlawfully and wrongfully entered upon the following described Lands, situate in Jefferson County Missouri, (of which Lands the Plaintiff was then and is now the lawful owner,) to wit, The East fractional half of the North East quarter of Section Twenty four, in Township No. Forty, North of Range No. Four East, containing Seventy Seven acres and $\frac{50}{100}$ of an acre, - also, the South West quarter of the North East quarter of Section Twenty four, in Township Forty, North of Range No. Four East, containing Forty acres, And that the Defendant then and there unlawfully and wrongfully cut down a large quantity of timber standing upon said Lands, to wit, about five hundred Railroad Cross ties, of the value of Two hundred dollars, and hauled the same to the St Louis and Iron Mountain Railroad, and put them in piles by the track of said Railroad, within about two hundred yards,

of J. H. McKee's residence, ~~and~~ that the Defenda-
nts also then and there wrongfully cut and
and hauled another Lot of Railroad ties
from said Lomas, to wit, about four hun-
dred railroad ties of the value of one hun-
dred and sixty dollars, and hauled and de-
posited them by the ~~side~~ of said Railroad
at Victoria, opposite the Drug Store, of Jesse
Elders, - And Plaintiff therefore states that he
is the owner of said specific personal prop-
erty, and that the same is unlawfully and
wrongfully detained by the Defendant, at
the places above stated, from the Plaintiff.
Plaintiff therefore asks Judgment for the
recovery of said property, and fifty dollars
damages for the detention thereof.

} A. Green, & J. J. Williams

} Attorneys for the Plaintiff

Abner Green Attorney for the Plaintiff, makes oath
and says the above Petition and the matters therein
as stated he believes to be true, - and that the Plain-
tiff is the owner of the ties stated in said petition
That the same is wrongfully detained by Defendant from the Plaintiff, -
That the actual value of said property is three
hundred & sixty dollars, - that said property was
wrongfully taken by Defendant, & that Plaintiff's
right of action accrued within one year, - that the
same has not been ~~seized~~ under any Process
Execution, or attachment against the property

of the Plaintiff, - and that the Plaintiff be in
danger of losing his said property unless it be
taken out of the possession of the Defendant
or otherwise secured, Abner Green
Subscribed & sworn to 2 Attorney for Plaintiff
before me Sept 23rd 2
and 1867.

Alas Honey Creek, N. H.
By C. D. Irvine Depy

In Circuit Court
Jefferson County

Carroll P. Lewis
vs.

Robert Whitehead

Plaintiff

Defendants none,
and over for delivery
of the property,

Green M. Williams
for Plaintiff

Entered 23rd 1867,

C. A. Dancy atty
by C. A. Dancy & Co.

W. H. by Landon

In Vacation September 23rd 1867.

In the Circuit Court of Jeffer-

Edward P. Tisson
Plaintiff

-son County - Missouri

against

Robert Whitehead

Defendant

Order of Delivery.

Now at this day comes
said plaintiff and files his petition and affida-
vit, as required by law, praying an order for the
possession of hereinafter described property -
Whereupon, it is ordered, by the undersigned clerk
of said Court, that said defendant deliver the
property specified in the annexed petition, to wit,
about five hundred rail-road cross ties near
near Iron Mountain Railroad
J. F. Mc Kee's residence, and about four hun-
dred ties lying near the Drug Store of one Jesse
near Iron Mountain Railroad
Elder, and that the sheriff, if the same should
not be delivered to him, take the same from
defendant and deliver said property to the
plaintiff, on his complying with the statute
in such cases made and provided.

Witness my hand and the seal
of said Court at office
this Sept 23rd 1867,

Elias J. Heaney Clerk
By C. D. Drorine Deft

I executed the within order at the County of
Jefferson Missouri, on the 23rd day of September
1867, by taking possession & levying on 363
Rail Road Cross Ties, lying near the residence
of Doct. D. F. McKee near the St. Louis & Iron M.
Railroad, ^{found in possession} ~~on the property~~ of Robert Whitehead,
and delivering the same ^{to} the Agent of said Rail
road Company, & taking his receipt for the
same, to abide the result of the suit, & which is
here to the Court returned, - and also, on the
same day, by levying on about 300 Railroad
Cross ties, ~~of which~~ ^{found in} the possession of said Robert
Whitehead, & putting the same in the Custody of
A. Mitchell, by direction, & as Agent for Plaintiff.

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 *Robert Whitehead*

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 after the fourth Monday of November next, then and there to answer unto Edward P. Tesson

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
Twenty third day of September A.D. 1867.

Elias F. Honey
Clerk Circuit Court.
By C. D. Morine Deft.

I executed the within writ, at the County of Jefferson Missouri, on the 23rd day of September 1867, on the Defendant, Robert Whitehead, by delivering to him a copy of the writ and Petition as furnished ^{me} by the Clerk, -

John Williams Sheriff

JEFFERSON CIRCUIT COURT.

November Term, 1867.

Edward P. Tesson

vs (Replevin

Robert Whitehead

original

John Williams

Sheriff per \$2.00

Sent Nov 23

Copy pet. ass. 1.00
 writ, v. capt. 1.00
 ans - .85
 app. 1.00
 dect. 1.00
 ans - 1.00
 2.00
 leave (common) 2.00
 fees 1.50
 3.65
 3.00
 6.65

Warrant 2.00
 8.65

279 1874
 2012

Edward P. Lesson } In the Circuit Court of
 as } Jefferson County, Missouri
Robert Whitehead }

We Edward P. Lesson as
Principal and James J. Fallon and Abner
Green & Jos. J. Williams as securities acknowledge our
selves to be indebted to Robert Whitehead
in the sum of one thousand dollars
for the payment whereof we bind our
selves our heirs Executors & Adminis-
trators upon the following conditions
To wit, Whereas the said Edward P.
Lesson as plaintiff has instituted a
suit in the Circuit Court of the aforesaid
County of Jefferson against said
Robert Whitehead for ~~value of~~
~~three hundred and~~ nine hundred

Rail Road ties of the value of
Three hundred ^{sixty} dollars detained by said
Robert Whitehead Defendant and
claimed by plaintiff. Now if said
plaintiff shall prosecute his said
action with effect and without delay
and shall return said property to said
Defendant if return thereof be adjudged
and in default of such delivery (if
so adjudged) that he will pay the
assessed value of such property
together with all damages for the

taking Detention thereof and all costs
which may accrue in said action
and be adjudged against the Plaintiff
then this Bond shall be void otherwise
to remain in force

In witness whereof we have
hereunto set our hands & Seals this
19th day of September 1867

Edw. P. Jepson } Seal
James J. Fallon } Seal
Jos. J. Williams } Seal
Abner Green } Seal

approved this the 19th day
of September 1867
John Williams Sheriff

In Circuit Court
Jefferson County

Edward P. Lesson

vs.
Robert Whitehead

Bond

Filed Oct 4th 1867
C. F. Honey Clerk
By C. F. Honey

Edward P. Tesson, Plaintiff
 Against
 Robert G. Whitehead, deft } In the Jefferson
 Circuit Court.

Now at this day comes said defendant and
 for answer to the petition of the Plaintiff denies
 that he, on or about the 1st day of August
 1867 and on divers days betwixt that day
 and the Commencement of this suit at the
 County of Jefferson unlawfully entered upon
 the land described in said petition, or that
 he then and there unlawfully and wrong-
 fully cut down a large quantity of timber
 standing upon said land, to-wit: about five
 hundred Rail Road Cross Ties, or any number
 whatever, of the value of two hundred
 dollars, or any other sum - or that he then
 and there wrongfully and unlawfully cut and
 hauled another lot of ties amounting to
 four hundred or any oth^{er} ~~number~~ of the
 value of one hundred and sixty dollars, or
 any other sum
 Defendant for further answer avers that
 he was in July & August ¹⁸⁶⁷ long prior
 thereto has been ever since the legal
 owner of the land described in said
 petition & whatever timber he may have cut
 thereon he had a right as the legal owner

to cut & carry away.

Defendant says that the timber described in said petition belonged to him at the time of the commencement & denies that it or any part of it belonged to the Plaintiff or that nor or is now entitled to the possession of it.

John L. Norway
Atty for R. G. Whitehead.

C. P. Johnson

3

R. G. Whitland

Answer

Black Bear 10 1868
C. P. Johnson

Edw. Green } William
as a substitute }

To the Trustees Dr,

To amt of expense in collecting
property making sale &c, \$ 5.00

for Williams

Approved

Shanty

J. H. Vail, Judge