

Madaway County Circuit Court
Circuit - Civil
Term - May 1859

Box 5 File 37

Gale S. Burnes
Jerusha Burnes, His Wife
Thomas A. Ray
Sophia Ray, His Wife

Box 16 File 36

Slaves' Names

Henry
Selah
Rebecca
Mariah
George
Thomas
Samuel
Lucinda
Laura
Louisa
Lewis

Randolph Byers
Bosivar Byers
Martha Byers
William W. Byers
Isabella Byers
Lemuel Byers
Hugh A. Byers
Benjamin Holland
Thomas Ann Holland
Sidney L. Vinsonhaller
Albert Vinsonhaller
Mary E. Vinsonhaller

- Partition of Slaves in Estate - Eliza Byers died in 1850. She had inherited them from her father, Thomas Stevenson, who died in 1844 in Missouri, the Plaintiffs + Defendants are her children + grandchildren. Sheriff ordered to have a public sale of slaves + divide the money.

Notices Published in Savannah's North-west Democrat + St. Joseph Gazette

come to her possession. Which said slaves
with the increase thereof are now being and
named as follows, to wit:

Henry, Selah, Rebecca,
Mariah, George Thomas, Samuel Lucinda,
Louris, Louisa and Lewis.

who are all residing in crossway county
Missouri.

That about the year 1850 said Eliza Byers
died leaving Plaintiff Jeremiah and Sophia
with defendants, her only children and children
grown children, excepting the three last named
defendants, who are children of Mary Vincenholler
daughter of said Eliza Byers, who died some
time after her said mother - leaving said three
last named defendants as her only children.

That said Plaintiff and Defendants are
all residents of crossway county, Missouri
except Randolph and Polivar Byers who
are non residents of the state of Missouri.

That defendants are all infants, except said
non resident.

That Plaintiff Jeremiah has intermarried
with Plaintiff Burner, and Sophia with
Plaintiff Ray.

That Plaintiff Burner and wife and
Ray and wife and defendants Randolph,
Polivar, Martha, William, Isobella, Lemuel
and Hugh Byers, are each entitled to an undivided
one eleventh part of said slaves. That
defendants Benjamin and Thomas and Rebecca
are jointly entitled to one eleventh, and defendant
Sicily, Albert, and Mary & Vincenholler
are jointly entitled to one eleventh part of

in one to said slaves - and that they are treated in
conformity of one to said negroes.

They therefore pray that Partition of said slaves
be made in accordance with their respective
rights therein, and for a sale thereof if Partition
thereof in kind cannot be made without great
prejudice to their rights of said parties.

Vouch for Plaintiff

Calcutt S. Burns one of the Plaintiffs for
himself and as agent for his co-Plaintiffs,
makes oath, and says, he believes that the
foregoing Petition and the matters therein
are stated as true. ~~C. S. Burns~~

Calcutt S. Burns.

Shown to and Subscribed before me this
2nd day of May 1859 -
Amos Graham, Clerk

Final No. ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~ ~~46~~ ~~47~~ ~~48~~ ~~49~~ ~~50~~ ~~51~~ ~~52~~ ~~53~~ ~~54~~ ~~55~~ ~~56~~ ~~57~~ ~~58~~ ~~59~~ ~~60~~ ~~61~~ ~~62~~ ~~63~~ ~~64~~ ~~65~~ ~~66~~ ~~67~~ ~~68~~ ~~69~~ ~~70~~ ~~71~~ ~~72~~ ~~73~~ ~~74~~ ~~75~~ ~~76~~ ~~77~~ ~~78~~ ~~79~~ ~~80~~ ~~81~~ ~~82~~ ~~83~~ ~~84~~ ~~85~~ ~~86~~ ~~87~~ ~~88~~ ~~89~~ ~~90~~ ~~91~~ ~~92~~ ~~93~~ ~~94~~ ~~95~~ ~~96~~ ~~97~~ ~~98~~ ~~99~~ ~~100~~ ~~101~~ ~~102~~ ~~103~~ ~~104~~ ~~105~~ ~~106~~ ~~107~~ ~~108~~ ~~109~~ ~~110~~ ~~111~~ ~~112~~ ~~113~~ ~~114~~ ~~115~~ ~~116~~ ~~117~~ ~~118~~ ~~119~~ ~~120~~ ~~121~~ ~~122~~ ~~123~~ ~~124~~ ~~125~~ ~~126~~ ~~127~~ ~~128~~ ~~129~~ ~~130~~ ~~131~~ ~~132~~ ~~133~~ ~~134~~ ~~135~~ ~~136~~ ~~137~~ ~~138~~ ~~139~~ ~~140~~ ~~141~~ ~~142~~ ~~143~~ ~~144~~ 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(original)

Caleb S. Burnes and
Fruska Burnes his wife
Thomas A Ray and
Sophia Ray his wife } Plaintiffs
Against

Randolph Byers,
Bolivar Byers,
Martha Byers,
x William W. Byers,
Isabella Byers,
Leonnel D. Byers, Defendants
x Hugh A. Byers,
x Benjamin Holland,
Thomas Am Holland,
Sidney S. Vinsonhale,
Albert Vinsonhale,
Mary C Vinsonhale }

In the Ardaway Circuit Court
Plaintiffs state that one ^{Mr} Thomas Stevenson departed
this life, in the State of Missouri in the year 1844
That by his certain Last Will and Testament a copy
of which is herewith annexed and made part hereof
dated March 9th 1844 he devised and bequeathed to
his daughter Eliza Byers one fifth part of his
estate consisting of land and negroes for and
during her natural life, and at her death to
belong to and vest absolutely in the issue of her
body then living - and if she should die leaving

no child or children the said said so devised to her
should rest in his other descendants per stirpes -
That by virtue of said will certain negro slaves came
to her possession - which said slaves with the increase
thereof are now living and named as follows to wit
Henry, Selah, Rebecca, Manah, George, Thomas,
Samuel, Lucinda, Laura, Louisa and Lewis
who are all residing in Audaway County Missouri.

That about the year 1830, said Eliza Byers died
leaving plaintiffs Jerusha and Sophia with defendants
her only children and grand children excepting the
three last named defendants, who are children of
Mary Vincenkaler daughter of said Eliza Byers,
who died some time after her said mother - leaving
said three last named defendants as her only
children

That said plaintiffs and defendants are all
residents of Audaway County Missouri, except
Randolph and Bolivar Byers who are non resi-
dents of the state of Missouri

That defendants are all infants except
said non residents.

That plaintiff Jerusha has intermarried with plain-
tiff Burnes and Sophia with Plaintiff Gray.

That plaintiff Burnes and wife and Gray
and wife and defendants Randolph, Bolivar,
Martha, William, Isobella, Samuel and Hugh
Byers are each entitled to an undivided one

eleventh part of said slaves

That defendants Benjamin and Thomas And
Holland are jointly entitled to one eleventh and
defendants Sidney Albert and Mary E Vincens
herder are jointly entitled to one eleventh part
of in and to said slaves - and that they are ten
ants in Common of in and to said negroes.

They therefore pray that partition of said
slaves be made in accordance with their
respective rights therein, and for a sale there
of if partition thereof in kind cannot be
made without great prejudice to the
rights of said parties.

Veris for Plaintiffs
Caleb S. Burnes one of the plaintiffs for
himself and as agent for his Coplaintiffs,
makes oath and says he believes that the
foregoing Petition and the matters therein
as stated are true

Caleb S. Burnes
Sworn to and subscribed before me this 2^d
day of May 1839.

Amos Graham Clerk

State of Missouri }
County of Modaway } SS

V. James B. Prather Clerk of the circuit Court with
in and for said County, do hereby certify that the fore
going is a full true and perfect copy of the Peti-
tion and affidavit in the case of Caleb S.

Burnes and others against Wendolph Byers and others
as amply and fully as the same now remain on file
in my office. In testimony whereof I have hereunto

Set my hand and affixed my official seal
at office in Maryville on the 7th day of
October A.D. 1859. Jas. B. Prather Clerk

State of Missouri,
County of Stoddard } 33

The State of Missouri to the Sheriff of Stoddard County,
Greeting: We Command you to summon Martha
Byers William W. Byers, ^{Isabella Byers} Samuel D. Byers, Hugh A. Byers
Benjamin Holland James Ann Holland, Sidney L.
Vincenhaler Albert Vincenhaler and Mary E. Vincenhaler,
that they be and appear before the Judge of our Stod-
dard Circuit Court, at the Court House in Maryville
in said County on the first day of the next term then
of them and there to answer the complaint of Callet
Burnes and Gemshah Burnes his wife, Thomas A. Ray
and Sophia Ray his wife.

Hereof fail not and have you there and there
this writ; Witness James B. Prather Clerk of said
Court with the seal thereof affixed, at
office, in Maryville on the 7th day of
October A.D. 1859.

Jas. B. Prather Clerk

I served the within Petition & Writ by leaving a true copy of the same for Hugh A Byers, William W Byers and Benjamin Holland each at their usual place of abode with M Byers a white member of the family over the age of fifteen years on the 12th day of October 1839 and by leaving a copy of the within Petition & Writ for Sidney J Vinson hale, Albert Vinson hale and Mary E Vinson hale ^{each} at their usual place of abode with Mr J Vinson hale a white member of the family over the age of fifteen years on the 12th day of October 1839 and by delivering a copy of the within Petition & Writ to Isabella Byers, and Thomas Ann. Holland and Martha Saunders (formerly Martha Byers) each on the 14th day of October 1839 all done in Sadaway County Mo, Lemuel J Byers Not found in my county B F Finney Sheriff of Sadaway County Mo

Trial No ~~4~~ 4

W B Bunn & Co

No 3

Randolph Byers & Co

(Copy & writ)

Sheriff fee \$9.50

Sheriff Sadaway Co

Mo

(Return)

Caleb Burnes and Jennisha Burnes his wife }
Thomas A. Ray and Sophia Ray his wife } Plaintiffs
Against

Rendolph Byers Bolivar Byers }
Martha Byers William W. Byers }
Isabella Byers Samuel D. Byers }
Hugh A. Byers Benjamin Holland } Dependants
Thomas Ann Holland Sidney L. Vincenhaler }
Albert Vincenhaler Mary E. Vincenhaler }

In the Adair County Circuit Court.

Plaintiffs state that one Thomas Stevens departed this life, in the State of Missouri in the year 1844 - That by his certain last Will and Testament, a Copy of which is herewith annexed and made part hereof, dated March 9th 1844, he devised and bequeathed to his daughter Eliza Byers one fifth part of his estate, consisting of land and negroes for and during her natural life, and at her death, to belong to and vest absolutely in the issue of her body then living and if she should die leaving no child or children, the said part so divided to her, ^{vest} ~~shant~~ in his other descendants per stirpes

That by virtue of said Will certain negro slaves came to her possession which said slaves, with the increase thereof are now living and named as follows, to wit;

Henry, Selah, Rebecca, Mariah, George, Thomas Samuel, Lucinda Laura, Louisa and Lewis who are all residing in Adair County Missouri.

That about the year 1850, said Eliza Byers died leaving plaintiffs Jesuskah and Sophia with dependants her only children and grand children excepting the three last named dependants, who are children of Mary Vincenhals daughter of said Eliza Byers who died some time after her said mother - leaving said three last named dependants as her only children.

That said plaintiffs and dependants are all residents of Toddaway County Missouri, except Rendolph and Bolivar Byers who are nonresidents of the State of Missouri

That dependants are all infants except said nonresidents

That plaintiff Jesuskah has intermarried with plaintiff Burns and Sophia with plaintiff Ray

That plaintiff Burns and wife and Ray and wife and dependants Rendolph Bolivar Martha William Isabella, Lemuel, and Hugh ^{Byers} are each entitled to an undivided ^{or} eleventh part of said slaves.

That dependants Benjamin and Thomas Ann Holland are jointly entitled to one eleventh and dependants Sidney Albert and Mary E Vincenhals are jointly entitled to one eleventh part

of in and to said slaves - and that they are tenants in common of in and to said negroes.


They therefore pray that partition of slaves be made in accordance with their respective rights therein, and for a sale thereof if partition thereof in kind cannot be made without great prejudice to the rights of said parties.

Verifies for Plaintiffs
Caleb S. Burnes, ^{one} of the plaintiffs, for himself and as agent for his Co-plaintiffs, makes oath and says he believes that the foregoing Petition and the matters therein as stated are true.
Caleb S. Burnes.

Sworn to and subscribed before me
this 2^d day of May 1839
Amos Graham Clerk

State of Missouri }
County of Modaway } SS

I, James B. Prather Clerk of the Circuit Court within and for said County, do hereby certify that the foregoing is a full, true and perfect copy the Petition and affidavits in the case of Caleb S. Burnes and others against Randolph Byers and others, as amply and fully as the same now remain on file in my office.

In Testimony whereof I have hereunto set my
 hand affixed my official seal, at office
in Maryville, on the 7th day of October A.D. 1859.

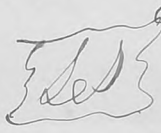
James B. Prather Clerk

State of Missouri,
County of Wodaway } SS

The State of Missouri to the Sheriff of
Wodaway County Greeting;

We command you to summon Martha Byers
William W. Byers Isabella ^{Byers} Samuel D. Byers Hugh
A. Byers Benjamin Holland Thomas Ann Hol-
land Sidney S. Vincenhaken Albert Vincenhaken
and Mary E. Vincenhaken, That they be and ap-
pear before the Judge of our Wodaway Circuit
Court, at the Court House in Maryville in
said County, on the first day of the next term
thereof, there and to answer the complaint of
Caleb S. Burnes and Gerusha Burnes his wife
Thomas A. Ray and Sophia Ray his wife

Hereof fail not and have you there and
there this writ

Witness, James B. Prather Clerk of
 said Court with the seal thereof af-
fixed, at office, in Maryville on
the 7th day of October A.D. 1859

James B. Prather Clerk

State of Missouri,
County of Wodaway } SS

J. James B. Prather, Clerk of the Circuit Court
within and for said County, do hereby certify that
the foregoing is a full, true and perfect copy of the
Petition, Affidavit, Certificate and Summons in
the case of Caleb S. Burnes and Gemma Burnes
his wife and Thomas A. Ray and Sophia Ray his
wife. Against Randolph Byers Bolivar Byers
Martha Byers, William W. Byers, Isabella Byers
Samuel D. Byers, Hugh A. Byers, Benjamin Holland
Thomas Ann Holland, Sidney L. Vincenhale, Albert
Vincenhale and Mary E. Vincenhale

In testimony whereof I have hereunto set my
hand and affixed my official seal, at office
in Maryville on the 7th day of October
A.D. 1839. J. B. Prather clerk

My dear Mr. ~~W~~
P.

W. B. Brown Esq

Esq

Charlestown Boston Mass

1860

Henrich & Co
Boston

Delaware

ORDER OF PUBLICATION.

Caleb S. Burnes and Jerusha
Burnes his wife, Thomas A.
Ray and Sophia Ray, his wife, } Plaintiffs.
Against

Randolph Byers, Boliver Byers, }
Martha Byers, William W Byers, }
Isabella Byers, Lemuel D. By- }
ers, Hugh A. Byers, Benjamin } Defendants.
Holland, Thomas Ann Holland,
Sydney L. Vinsonhaler; Albert
Vinsonhaler and Mary E. Vinson-
haler, }

Nowaway Circuit Court, October Term, (No-
vember 21,) 1859.

Now come the Plaintiffs by their Attorney,
and the Court here being satisfied that the said
Lemuel D. Byers is a non-resident of the State
of Missouri, It is therefore ordered by the
Court here that he be notified, by publication,
that an action has been commenced against him
in this Court, the object and general nature of
which is to partition the following named Slaves,
belonging to the estate of Thomas Stevenson,
deceased, to-wit: Henry, Selah, Rebecca,
Maria, George, Thomas, Samuel, Lucinda, Lau-
ra, Louisa, and Lewis. And that unless he be
and appear before the Judge of this Court on
the first day of the next term thereof, and an-
swer the Plaintiffs' petition herein, the same will
be taken against him as confessed, and judg-
ment will be rendered against him in accordance
with the prayer of said petition. It is further
ordered that a copy hereof be published in the
North-West Democrat, a newspaper published
in the town of Savannah, in Andrew Co., Mo.,
for four weeks successively, the last insertion
to be at least four weeks before the next term
of this Court. A true copy.

JAS. B. PRATHER, Clerk.

Feb. 4, 1860.

STATE OF MISSOURI, } SS.

County of Andrew.

ON this 21st day of March the undersigned *Wm. A. McCreath* and State aforesaid, *A. A. Welch*

1868, personally appeared before me, within and for the County of Andrew ~~one of the~~ Publisher of the North-West

Democrat, who being duly sworn according to law, states that the notice hereunto annexed was published in the North-West Democrat, a newspaper published in the County and State aforesaid, for four successive weeks, as follows: On the 4th day of February 1868. On the 11th day of February 1868. On the 18th day of February 1868. On the 25th day of February 1868. On the 4th day of March 1868.

Subscribed and sworn to before me on the 23rd day of April 1868. *E. A. Morrison* Clerk of the Andrew County Circuit Court with the seal of said Court affixed.

Le Bureau de la

M

Parlement de la

elle l'année par 58

Parlement de la
\$12.50

STATE OF MISSOURI }
 COUNTY OF BUCHANAN. } SS.

within and for the county and State aforesaid

Personally appear before me *a Justice of the Peace*
Henry M. Stamer

in the county and State aforesaid, who being duly sworn, upon his oath declares, that the annexed Order of Publication was printed for four weeks consecutively in said paper, to-wit: commencing on—

..... *Aug. 21st 1859* 1859, in Vol. No.

and continued from day to day (Sundays excepted) until—

Printers Fees, \$

and that the last insertion was at least four weeks before the *October* term, 1859, of the *Free Press*..... No.

Court of *Washington* County, Mo.

Sworn to and subscribed before me, this *16th* day of *Sept*..... A. D. 18*59*.

Henry M. Stamer
Justice of the Peace

COURT NOTICE.

STATE OF MISSOURI, } ss.
 County of Nodaway, }

In the Nodaway Circuit Court, May Term, A. D., 1859,
 Caleb S. Burris, and Jeannia Burris,
 his wife, and Thomas A. Key, and So-
 phia Key, his wife.

vs.
 Randolph Byers, Boliver Byers, Mar-
 tin Byers, William W. Byers, Isabella
 Byers, Samuel D. Byers, Hugh A. By-
 ern, Benjamin Holman, Thomas Ann
 Tichenor, Sherry Jr., Masonnier, Al-
 bert V. Holmader, and Mary E. Vinson-
 huter.

Petition for
 Partition.
 Defendants.

AND NOW COME THE PLAINTIFFS IN OPEN

A Court, and file their petition for Partition of the
 estate of Thomas Stevenson deceased; consisting of
 the following property, to-wit: Certain slaves be-
 longing to said estate, and named as follows: Henry,
 George, Rebecca, Maria, George, Thomas, Samuel, De-
 vinda, James, John, and Lewis—and the court here
 being satisfied that said defendants, Randolph Byers, and Boliver
 Byers, and Benjamin Holman, are non-residents of
 the State of Missouri: It is ordered, that the said
 petition be published in some newspaper published in
 the State of Missouri, of the commencement of this
 action, and of the nature of this application, and that
 unless they be and appear before the judge of this
 Court, on the first day of the next term thereof,
ON MONDAY, THE 31ST DAY OF OCTOBER, 1859,
 and answer the petition of plaintiffs herein, the same
 will be taken as confessed, and judgment by default
 will be entered against them according to the prayer
 of said petition.

Attest: AMOS GRAMMAM, Clerk.

Caleb S. Burnes & wife }
v. }
Randolph Byers & wife }

This cause coming on for hearing, the court finds that Plaintiffs and Defendants are tenants in common of in and to the following Slaves in Stoddard County in the State of Missouri, to wit: Henry, Selah, Rebecca, Mariab, George, Thomas, Samuel, Lucinda, Laura, Louisa and Lewis.

That Plaintiff Caleb S. Burnes and wife, and Thomas W. Ray and wife, and Defendants Randolph Byers, Bolivar Byers Moriches Saunders formerly Byers, William Byers, Isabelle Byers, Lemuel Byers, and Hugh Byers, are each entitled to one undivided eleventh part of said Slaves - said Burnes and wife having one eleventh thereof jointly, and said Ray and wife having one eleventh thereof jointly - and the said Defendants Benjamin and Thomas Ann Holland to one eleventh part thereof jointly, and the said Sidney, Albert and Mary Vincenholer to one eleventh part thereof, jointly between said three.

That they are entitled to have partition of said Slaves made between them, in

The proportions above named. And that from the number, situation, nature and value of said slaves, and the number of said parties interested therein, and the nature of said interest, the Court is satisfied, that partition in kind cannot be made of said slaves without great prejudice to the rights and interest of the parties therein.

It is therefore adjudged, ordered and decreed that the Sheriff of Stodaway County proceed to advertise and sell said slaves at public vendue for one third cash in hand one third in six months, and one third in twelve months, with ten per cent interest from day of sale on deferred payments, the purchaser executing Bond with approved security for deferred payment, and that he pay over the proceeds of said sale to the parties herein, in the proportions herein before declared. Sale to be advertised by handbills and publication in at least two newspapers, in North West Missouri, at least thirty days before day of sale - and sale to be made between this time and the next term of this Court in the Town of Maryville, in Stodaway County, in the State of Missouri - And that said Sheriff make report of his acts and doings

in the premises to the next term
of this Court. —

Burns
or
Barnes
J

Filed Oct 31 1860
Dan B. Hurlburt

Caleb S. Burnes & others Plaintiffs
against
Rosaeph Byers & others, Defendants

Defendants, William W. Byers, Isabella
Byers, Samuel S. Byers, Hugh A. Byers,
Benjamin Holland, Thomas Ann Holland,
Sidney L. Vincenholer, Albert
Vincenholer, Mary S. Vincenholer, by
their Guardian ad litem George
S. Hays for answer to Plaintiffs
Petition, say that they are infants of
tender years and of their own knowledge
cannot say whether the matters and
things as alleged in Plaintiffs Petition
are true or not, and therefore require
proof of same, and pray the Court
to protect their interests in the
premises -

Geo S Hays
Guardian ad litem

Case of Burnett's

205

Manuscript by

 known of infant death
by

Miss Bennett

as written
1822

Return to Box No. 16

File No. 36

C. S. Burris, et, al

vs

Randolph Byers, et, al

1860
