917

free blacks, slavery

No 933

George, a free person of color
vs
Bazil B Craig impleaded with Jacob H. Neely } assault + battery
false imprisonment

(suit for freedom pending at the time)

April 1840
Cape Girardeau

STATE OF MISSOURI, } ss.
4th JUDICIAL DISTRICT, }

The State of Missouri, to the Honorable the Circuit Court of Cape Girardeau County, GREETING:

FOR AS MUCH as in the record and process, as well as in the rendition of Judgment, on a certain plaint which was in our Circuit Court, for our County of Cape Girardeau before our judge thereof, between George a free man of colour

Plaintiff, and Bazil B Craig impleaded with Jacob H Nelly

Defendant,

in a plea of Trespass as it is said, manifest error hath happened, to the great damage of the said George a free man of colour as by his complaint we are informed: WE, being willing that the error, if any there be, should be duly amended, and full and speedy justice done to the parties aforesaid in this behalf, COMMAND YOU, that if judgment be thereupon given, then a transcript of the record of the judgment, with all things touching the same, you certify and send (with this writ) to our Supreme Court, to be holden at the town of Potosi, within and for the 4th Judicial District, on the 2nd Monday of May next, that our Judges of our said Court, inspecting the record of the judgment aforesaid, may cause to be done therein, for correcting the said error, what to them of right, and according to law, shall seem meet to be done.

Witness, ISRAEL M'GREADY, *Clerk of our said Court, and the seal of office hereunto affixed, at the town of Potosi, this* 10th *day of* April *in the year of our Lord, one thousand eight hnndred and* ~~thirty~~ forty, *and of the Independence of the United States of America, the* sixty-fourth

Israel McGnady clk

The Execution of this Writ of Error will appear by the schedule hereunto annexed

Given under my hand and the seal of the said Circuit Court at Jackson in said County of Cape Girardeau the 16th day of April 1840.

Wm Sanford Clk

No 10

In Prime Court of Judicial district May term 1840

George a free man of colour
V.S. Writ of Error
Basil. B. Craig

To Cape Girardeau County

Record of pleas and proceedings of the Circuit Court of the County of Cape Girardeau, tenth judicial Circuit of the State of Missouri, between George a free person of color, plaintiff and Basel B. Craig impleaded with Jacob H. Neely, defendant, on an action of Assault and Battery and false imprisonment

Be it remembered, that at the February Term 1840 of the said Circuit Court on a motion of the defendant to order the Sheriff to pay over to him the proceeds of the hire of the said plaintiff, the following proceedings were had (to wit)

Feby. T. 1840
Feby. 27th 1840
10th day

Cape Girardeau Circuit Court, February Term 1840, February the 27th, 10th day of the Term

George a free person of color
versus
Bazel B. Craig, impleaded with
Jacob H. Neely
} Trespass a & b.

motion for order on Shff to pay over to deft the proceeds of hire

The defendant by his attorneys comes and moves the Court to order the Sheriff to pay over to said defendant the proceeds of the hire of the plaintiff. And the Court after hearing the arguments of counsel will thereof advise.

Feby. T. 1840
12th day

Cape Girardeau Circuit Court, February Term 1840, February 29th 12th day of the Term

George a free person of colour
versus
Bazil B. Craig, impd. with
Jacob H. Neely
} On motion to order the Sheriff to pay over to the defendant the hire of the plaintiff

order on Shff to pay over hire to the defendant

The Court now being sufficiently advised of and concerning said motion, doth order, that the Sheriff of this County pay over to the said defendant the hire of the plaintiff accrued up to this time. To which decision of the Court the plaintiff excepts and tenders his bill of exceptions, which is signed and sealed by the Court and made a part of the records in this case.

plaintiffs exception

motion to grant an appeal

And the said plaintiff moves the Court to grant an appeal in this case to the Supreme Court, and it appearing that the affidavit on which the motion for an appeal is made is sufficient;

It

It is therefore ordered, that the appeal be granted. order to grant appeal
Whereupon the said plaintiff as principal and Albert H. Brevard and Alexander Anderson as his securities acknowledge to Recognizance
owe and be indebted to Bazil B. Craig, the defendant in this case in the sum of seventy five dollars, to be levied and made of their respective goods and chattels, lands and tenements, void on condition, that said plaintiff will prosecute this appeal with due diligence to a decision in the Supreme Court and that if the decision of this court in this case is affirmed or this appeal dismissed, they will pay whatever debt and costs have been recovered against said plaintiff by the decision of this Court in this cause, together with the interest that shall grow due thereon, or that they will otherwise perform the decision of the Circuit Court and that they will also pay the costs and damages that may be adjudged against said plaintiff in the Supreme Court upon this appeal.

The said bill of exceptions tendered by said plaintiff is in the words and figures following, to wit,

George a person of color
versus
Bazil B. Craig, impleaded &c. Bill of exceptions plaintiffs bill of exception

Be it remembered that upon the calling of this cause at the February Term of the Circuit Court for the County of Cape Girardeau, State of Missouri in the year of our Lord 1840. the defendants by their counsel moved the Court, for an order directing the Sheriff of said County (who had under a previous order of said Court hired out the said plaintiff George from time to time during the pendency of said suit) to pay over to the said defendants the hire that had hitherto accrued. Whereupon the Court made an order directing the Sheriff of said County, so to pay over the said hire to the said defendants, to which decision the plaintiff excepted & prays that this his bill of exception here tendered may be signed, sealed & enrolled a part of the record in this case & it is done accordingly. —

John D. Cook (Seal)

The affidavit of the plaintiff in support of his motion for

for an appeal in this case is in the following words (to wit)

George a person of colour, who is permitted to sue as a poor person } Petition

versus

Bazil B. Craig impleaded &c

Plaintiffs affidavit of appeal

George a person of color who is permitted to sue as a poor person, plaintiff in a suit instituted for the recovery of his freedom in the Circuit Court for the County of Cape Girardeau State of Missouri, against Bazil B. Craig impleaded with Jacob H. Neely defendant comes in his own proper person and prays an appeal from the decision of the said Court touching the orders made by said Court of the hire accrued during the pendency of said suit - and maketh oath that this appeal prayed for in this behalf is not taken for the purpose of vexation or delay, but because this affiant verily believes that the said appellant is aggrieved by the decision of said Court.

George (his mark) a person of colour

sworn to & subscribed in open Court the 29th day of February 1840

Hy. Sanford Clk
By his Deputy Fr. Flach

State of Missouri }
County of Cape Girardeau } ss. I Henry Sanford Clerk of the Circuit Court within and for the County aforesaid certify, that the foregoing 3 pages contain a true copy of the proceedings had between the said parties on a motion of the defendant Craig to order the Sheriff to pay over to him the hire of the said plaintiff, as fully as the same appears of record in said Circuit Court.

Given under my hand and the seal of said Circuit Court at Office in Jackson County and State aforesaid the 17th day of March A.D. 1840.

Hy. Sanford Clerk
By his Deputy
Fr. Flach

Bill of the costs in the foregoing case

Febry V. 1840.	motion for order on Shff 25, order 25, filing bill of except.s 6¼	$. 56¼
	motion to grant an appeal 25, order thereof 25, recognizance 25	$. 75
	filing affidavit 6¼ entering appeal 25	$. 31¼
	making out record 750 words 75, certificate & seal 50	$ 1 . 25
	Clerk Hy. Sanford	$ 2 . 87½

Test Hy. Sanford Clerk
By his Deputy
Fr. Flach

6 No. ~~17~~ May. D. 1840
George a free person of color versus 3 certified record
Bazil B. Craig impleaded with Jacob H. Keely.

933

Appeal —

933.

Box 26

Filed April 23d 1840
J. M. Chrady
Cl

made a part of the record in this cause, which accordingly is done. Given under the hand & seal of the judge of said Court, this 3d day Dec. A.D. 1839.

John D. Cook (Seal)

State of Missouri
County of Cape Girardeau } ss

I. Henry Sanford Clerk of the Circuit Court within and for the County aforesaid, certify, that the foregoing is a true and perfect copy of the plaint between the parties aforesaid, as fully as the same appears of record in said Circuit Court

Given under my hand and the seal of said Circuit Court at Office in Jackson, County and State aforesaid the 16th day of April A.D. 1840.

Hy. Sanford Clerk
By his Deputy
Fr. Flach

Bill of costs:

October T. 1839. motion [illegible] order to pay over proceeds of hire 25, order thereof 25 $ .50.
[illegible] of exceptions 6¼ .... $ .12
making out the above record 3440 words $ 3.44. certif. & seal 50 -- $3.94
Clerk Hy. Sanford ---------- $4.56

Test. Hy Sanford Clerk, by his Deputy
Fr. Flach

y Term 1840 8

George a free man of colour
vs ℥ certified record
Bazel B. Craigt imp^d with
Jacob H. Neely

on Error.

Box 26

Filed April 24th 1840
J. McGready Clk

In the Supreme Court
September Term 1840.

George Appellant
vs.
B B Craig Appellee
} On Appeal

And the said plaintiff George comes and says that in the Record and proceedings aforesaid as well as in the decision and Judgment aforesaid there is manifest Error. in this to wit.

1. The Circuit Court Erred in Sustaining the motion of the Defendant to order the Sheriff to pay over the money arising from the hire of the plaintiff George. pending the Suit for freedom.

2. The Court Erred in making the order requiring the Sheriff to pay over to the Defendt. the Sum of $134. the proceeds arising from the hire of the plaintiff George during the pendency of the suit for freedom

3. The Court erred in sustaining the Defendants Motion. Until the suit for freedom was finally Determined

Therefore for these and many other errors in the record & proceedings aforesaid. and in the decision & Judgment aforesaid the said plaintiff prays that the said Judgment and decision of the Circuit Court may be reversed and Made void. and that he may be restored to all things which he hath sustained by reason of the Judgment and decision & proceedings aforesaid

I S Bibby Atty.

George

vs.

Craig

Errors assigned

Filed June 3rd 1840
J M Grady
Clk

Brickey Atto.

George pltff
vs.
B. B. Craig Deft. } In Error.

And the said plaintiff George a person of Color. Comes and says that in the Record and Proceedings aforesaid as well as the decision and judgment aforesaid there is manifest Error, in this to wit.

1. The Court erred in ordering the Sheriff of Cape Girardeau County to pay over the Proceeds of the hire of the said pltff George, to the Defendant Craig - Amounting to the sums of "One hundred & thirty four Dollars" — while the Suit for freedom was yet Pending and undetermined.

2. The Court Erred in making any such order, or rule upon the Sheriff to pay the proceeds of the hire of the pltff. to the Defendant, before the final determination of the suit for freedom.

3. The Court erred in Sustaining the defendants Motion for the payment of Money Until the suit for freedom was finally determined according to law.

And for the Errors aforesaid, and other Errors in the record. decision Judgment and Proceedings aforesaid. The said George prays that the Judgment, order and decision of the said Circuit Court may be reversed. set aside, made void and for nought held - And that he may be restored to all things which he hath =

lost by reason of the Judgment. decision order and proceedings aforesaid -

George - by his Attor.

Jno. S. Brickey

George
vs.
B. B. Craig
Assignment of Errors

Filed June 3rd 1840
McGuady Clk
Brickey Atty.

Bazel B. Craig
v
George a free man
of Color.

Error from Copen
Guardian Court.
In Supreme Court
May Term 1840

The defendant in error in above
course, moves the court to dismiss
the same for the reason, there
has been no final decision therein
in the circuit court, and for
the further reason that said course
remains undetermined by the
circuit court and as appears from the
record ~~and~~ is yet pending there.

P. Cole Atto
for Craig —

Boyd Craig
a
George a man of
color

Motion to dism
iss

1. Neo Rep. 65.

Filed Sept 8th 1840
McGregor
Clk

In the Supreme Court.
May Term. 1840.

George. Appellant
v.
B B. Craig aplee. } On Appeal

And the said plaintiff George a person of color by his attorney comes. and says that in the Record and proceedings aforesaid as well as the decision and rendering the Judgment aforesaid there is manifest Error. in this. to wit.

1. The Cercuit Court erred in ordering the Sheriff to pay over the proceeds of the hire of the plaintiff. pending the action
2. The Court erred in making such order to pay the proceeds of the plaintiffs hire to the Defendant. before a final determination of the suit. for the plaintiffs freedom.
3. The court erred in sustaining the Defendants motion, until the suit for freedom was finally determined.

And for the Errors aforesaid. and other errors in the Record. decision and proceedings aforesaid. the said George the plaintiff. prays that the Judgment and decision of the said Circuit Court may be reversed, set aside. made void and altogether held for nought. and that he may be restored to all things which he hath lost. by reason. or occasion of the Judgment, decision and proceedings aforesaid.

Jno. S. Brickey atty for
plaintiff in Error.

In the Supreme Court
Fourth Judicial Dedrict
May Term 1840

George Appellant
vs.
Craig Appellee } On Appeal from Cape Girardeau Circuit Court

This was an action of trespass assault and battery. Commenced by the plaintiff George a person of Color against the Defendant Craig impleaded with one Jacob H. Neely, in the Cape Girardeau Circuit Court. for the freedom of the plaintiff. The Record although some what defective, seems to shew that some time after the Commencement of the action, George the plaintiff was hired out, he being at the time held in Slavery. Afterwards the proceeds of the hire of George come into the Sheriffs hands; what the Amount was, does not Appear. — At the February Term 1840. on motion of the Defendant the Circuit Court made the following order, to wit.

"The Court doth order, that the Sheriff of this
"County (Cape Girardeau) pay over to the
"said Defendant the hire of the plaintiff
"(meaning George) accrued up to this time"

To this order and decision of the Circuit Court the

plaintiff George objected and filed his bill of Exceptions and for the purpose of reversing the order and decision of the Circuit Court in this particular now bring the cause into this Court by Appeal.

On behalf of the plaintiff in Error. I will submit two points for the consideration of this Court.

First. Is the Judgment or decision of the Circuit Court in this case such a final Judgment or decision that an Appeal will lie to this Court?

Second. Did the Circuit Court err in making the order for the Sheriff to pay over the proceeds of the hire of the plaintiff George to the Defendant while the suit for freedom was still pending?

As to the first point submitted. The statute declares "that writs of Error upon any final Judgt. " or decision of any Circuit Court in all cases are " writs of right and shall issue of Course out of the " Supreme Court in Vacation as well as in term"

see Digest page 518. Section 1-

Dgt. 521. Sec. 21-22

" " " 521- " 21-22-

Section 22. provides that - On Appeals and writs " of Error the Appellant and plaintiff in error shall " assign errors on or before the first day of the " term VC - I am aware that this court has decided that incidental questions decided in the

decided, that incidental questions determined by the court below not being final judgments or decisions can not be Appealed from. But here the question arises, is not this such a decision or judgment between the parties, as is and must be forever final Because I conceive the Court below, by ordering the Sheriff to pay over the money, has put it beyond the control of that court forever. Let this action ultimately result as it may. Therefore the decision of the Circuit in this particular must be final and conclusive.

Again, it would seem to be a very doubtful question, whether the Defendant is or could be entitled to the hire of the plaintiff George during the pendency of the suit. — because the law Digest 286. Sec 8. Digest 286. Section 8. expressly provides upon certain conditions. That the Sheriff "shall hire "out the plaintiff to the best advantage. from "time to time during the pendency of the suit — and he is bound to take a bond from the hirer payable to the State of Missouri. "That the hirer will pay the hire to the Sheriff. and also to return the plaintiff (suing) at the expiration of the term for which he is hired. or so soon as the action is "determined." This whole section seems to have in contemplation a special design to retain and suspend the payment of the hire during the pendency of the suit —

I am aware the 14. Section provides that
" In actions prosecuted under that act, the
" plaintiff shall not recover any damages!!
I presume this Section of the law, only intended to restrict the plaintiff in the action for freedom.. and never could have been designed to prevent a subsequent action for damages, after the freedom was established = otherwise it would be in the power of any and every individual to seize and enslave every free negro in the State, no matter if he had been born free = and by such unlawful means the individual acting thus would legally acquire to himself all the benefits arising from the labour and services of a free negro, at least during the pendency of the action which might be for years! Such an interpretation of the law would seem to me preposterous and absurd.

Should not the money then arising from the hire of the plaintiff remain in the hands of the Sheriff as a trustee until the final determination of the question of freedom? if not. why would the Legislature have made such a provision as to require the Sheriff to go through all the formality of hiring out the

plaintiff. from time to time, and taking bond for the payment of the hire &c: & all this during the pendency of the suit? if it were merely to collect the money and pay it over to the Defendant.

I conclude therefore that the Legislature designed that the avails of the services of the pltff while the suit was pending should remain in the Sheriffs hands. subject to the order of the Court <u>after</u> the cause should be finally determined. But the Court having made the order for the payment of the money before the suit was finally determined. and that order and decision being beyond the control of the court. and conclusive upon that point. does seem to be such a <u>final decision</u>. or Judgment in the case. that an appeal will lies to this court; and if this court can not take Jurisdiction of the case. the plaintiff is wholly without remedy =.

Applnts. Brief

George - colored man

vs. } appeal

B. B. Craig

Brickus atto.

Digest page 518.
See — 1.
page 521
Sects - 21 = 22.
page — 286.
See — 8 —

George a Man of Colour
vs
Bazil. B. Craig impleaded
with Jacob H Neely

Appeal from the Circuit Court of Cape Girardeau County —

The transcript of the Record in this case presents this state of facts. That in the progress of a suit instituted by the Appellant in the Circuit Court of Cape Girardeau County for the recovery of his freedom, the defendants having failed to enter into the recognizance required by the Judge, the plaintiff was taken from their possession, committed to the Sheriff & by him hired out from time to time, agreably to Law. That at the February term of said Court, for the year 1840, said suit still pending & undetermined, the defendants moved the Court for an order directing the Sheriff to pay to them the proceeds of hire accrued up to that time. The Court made the order & from that decision an Appeal has been taken to this Court.

[illegible]ppellant presents the following points in order to reverse the judgement of the Circuit Court:

1st The order was unauthorized by Law

2ly Hire thus accruing is a trust fund intended to abide the event of the suit.

3ly The order was premature & in contravention of the policy of law — as tending to circuity of action & multiplicity of suits.

Authorities — Digest of 1825. 1 vol. p. 404.5. Sect. 2. Title Freedom.
Digest of 1835. p. 285-6. Title Freedom.
Missouri Rep. 2 vol. p. 385. Ralph Gordon vs R. Duncan

Alexander Anderson for Appellant

appeal.

George
" } Plaintiffs Bri[illegible]
Craig

George a Man of Colour
vs.
Bazil B Craig impleaded
with Jacob A Keely

Appeal from the Circuit Court of Cape Girardeau County.

The transcript of the Record in this case, presents this state of facts. That in the progress of a suit instituted by the appellant in the Circuit Court of Cape Girardeau County for the recovery of his freedom — the defendants having failed to enter into the Recognizance required by the Judge, the plaintiff was taken from the possession — placed in the custody of the Sheriff & by him hired out from time to time, agreeably to law. That at the February term of said Court for the year 1840 — said suit still pending & undetermined, the defendants Moved the Court for an order directing the Sheriff to pay to them the proceeds of him, accrued up to that time. The Court made the order & from that decision an appeal has been taken to this Court.

The appellant presents the following points in order to reverse the judgement of the Circuit Court:

1st The order was unauthorized by law.

2d Said them accruing is a trust fund, intended to abide the event of the suit.

3d The order was premature — & in contravention of the policy of law — as tending to circuity of action & Multiplicity of suits.

Authorities — Dig. of 1825. page 404.5 Sect. 2. Title Freedom
Dig. of 1835. p. 285:6. same Title.
Miss. Rep. vol. 2. p. 385. Rachel Gordon vs
R. Duncan —

Alexander Anderson
pro. appellants.

Appeal

George

v. Z Plaintiffs Brief

Leroy

Read

George a Man of Colour
vs
Bazil B Craig impleaded
with Jacob H Reely

Appeal from the Circuit Court of Cape Girardeau County.

The transcript of the record in this case presents this state of facts. That in the progress of a suit instituted by the appellant in the Circuit Court of Cape Girardeau County for the recovery of his freedom; the defendants having failed to enter into the recognizance required by the Judge, the plaintiff was taken from their custody, committed to the Sheriff & by him hired out from time to time, agreably to law.

That at the February term of said court for 1840, said suit still pending & undetermined, the defendants moved the Court for an order directing the Sheriff to pay to them the proceeds of hire accrued up to that time. The court made the order & from that decision an appeal has been taken to this Court.

The appellant presents the following points in order to reverse the judgement of the Circuit Court.

1st. The order was unauthorized by law.

2dly. Hire thus accruing is a trust fund, intended to abide the event of the suit.

3dly. The order was premature & in contravention of the policy of law, as tending to circuity of action and multiplicity of suits.

Authorities. Digest of 1825. page. 404-5. Sect. 2. Tit. Freedom.
Digest of 1835 p. 285-6. same title
Missouri Rep. 2 vol. p. 385. Ralph Gordon vs R. Duncan —

Alexander Anderson
for the appellant —

appeal

George
" } Plaintiffs
Craig &c. Brief

George a Man of Colour
vs
Bazil B. Craig impleaded
with Jacob H Neely

} Upon a Writ of Error —

The transcript of the record filed in this cause, cum aliis, exhibits these facts. That on the 10th day of Septr 1838 the plaintiff in error, filed his petition against one Jacob H Neely, setting forth reasons sufficient to authorize the institution of a suit for the recovery of his freedom. The original petition contained a somewhat remarkable prayer, viz. "that the petitioner be hired out by the Sheriff until the final termination of the suit & that the proceeds of hire be detained to defray the expenses of said suit." Accordingly the Judge made an order permitting George to sue in forma pauperis. Suit having been formally instituted in the Circuit Court for the County of Cape Girardeau, another petition was filed on the 25th day of Septr 1838 invoking the Court's protection: whereupon a recognizance was required of the defendant Neely, in pursuance of the 7th Sect. of the "Act to enable persons held in slavery to sue for their freedom." Neely failing to enter into the recognizance so required, the Judge made an order, "that the Sheriff take possession of the petitioner & hire him out from time to time, during the pendency of said suit &c" pursuant to the provisions of the 8th Sect. of the Act above recited. Vide. Digest p. 285-6.

On the 8th day of Octr 1838 Bazil B Craig was made a Co-defendant & issue joined in the cause. At the same term a trial was had & a verdict found for the plaintiff. Upon reasons filed, a new trial was granted & an application made by the defendants, for an order directing the Sheriff to pay to said defendants the proceeds of hire from the 25th day of Septr 1838 to the 25th day of Novr 1839. amounting to One hundred & thirty four dollars.

To the decision of the Court sustaining this application, the plaintiff filed a bill of exceptions, whereby is presented

for the consideration of this Court, the Question—
"Did the Circuit Court err in ordering the Sheriff to pay to said defendants the proceeds of hire accrued during the pendency of said suit?"

In support of the affirmative of this question & to reverse the decision of the Circuit Court, the Counsel for the plaintiff in error, relies on the following points and authorities—viz:

1st The decision was extra-judicial.

2d It was premature.

3d The proceeds of hire thus accruing during the pendency of a suit, must abide its issue & are not subject to the courts controul—

4th Hire thus accruing constitutes a trust fund, the final disposition of which depends on ulterior circumstances— over which fund the Circuit Court pass for no jurisdiction either on its Common law or Chancery side.

5th The powers of the Circuit Courts of this State quoad suits for freedom, are wholly of a statutory character & our Statute confers no such authority either expressly or impliedly.

6th The doctrine contended for by the circuit Court is in direct contravention of the policy of law— tending to engender multiplicity of suits & Circuity of Action—

Authorities— Digest 1835 p. 285.6. Title Freedom
Digest 1825 p. 404.5. same Title
2 Miss. Rep. p. 385. Ralph Gordon vs R. Duncan

Alex. Anderson Atty
for plff. in Error

Wm. Enne

Geery
v
Craig

Plaintiffs
Brief

George a Man of Colour
versus
Bazil B Craig impleaded } Upon a Writ of Error.
with Jacob A Neely

The transcript of the Record filed in this cause, cum aliis, exhibits these facts. That on the 10th day of Septr 1838 the plaintiff in Error, filed his petition against one Jacob A Neely, setting forth reasons sufficient to authorize the institution of a suit for the recovery of his freedom. The original petition contained a somewhat remarkable prayer, viz. "that the petitioner be hired out by the Sheriff until the final termination of the suit, & that the proceeds of him be detained to defray the expenses of said suit." Accordingly the Judge made an order, permitting George to sue in forma pauperis. Suit having been formally instituted in the Circuit Court for the County of Cape Girardeau, another petition was filed on the 25th Septr 1838, invoking the Court's protection; whereupon a Recognizance was required of the defendant Neely, in pursuance of the 7th Section of the "Act to enable persons held in Slavery to sue for their freedom". Neely failing to enter into the Recognizance so required, the Judge made an order "that the Sheriff take possession of the petitioner & him him out to the best advantage from time to time, during the pendency of said suit &c" pursuant to the provision of the 8th Sect. of the act above citeo. Vide Digest p. 285. 6.

On the 8th day of Octr 1838, Bazil B Craig was made a co-defendant — and issue was joined in the cause. At the same time a trial was had & a verdict found for the plaintiff. Upon Reasons filed a new trial was granted, and an application made by the defendants, for an order directing the Sheriff to pay to said defendants the proceeds of him from the 25th day of Septr 1838. to the 25th day of Novr 1839. amounting to the sum of One hundred & thirty four dollars. To the decision of the Court sustaining this application, the plaintiff filed a

Bill of Exceptions; whereby is presented for the consideration of this Court, the question — "Did the Circuit Court err in ordering the Sheriff to pay to said defendants the proceeds of hire, accrued during the pendency of said suit?

In support of the affirmative of this question, the plaintiffs' counsel, assigns for Error the decision of said Court — and to reverse the same, relies upon the following points and authorities — viz.

First. The decision was extra judicial.

Secondly. It was premature.

Thirdly. The proceeds of hire, thus accruing during the pendency of a suit, must abide its issue — and are not subject to the Courts Control.

Fourthly. Here thus accruing constitutes a trust fund, whose final disposition depends on ulterior circumstances — over which fund the Court possesses no jurisdiction, either upon its Common Law or Chancery side.

Fifthly. The powers of the Circuit Courts of this State, pursuit for freedom — are wholly of a Statutory character & our Statute confers no such authority either directly or impliedly.

Sixthly. The doctrine contended for by the Circuit Court, is in direct contravention of the policy of Law — and tends to engender, instead of preventing, Multiplicity of suits & circuity of action.

Authorities cited. Statutes of Mississippi. Dig. p. 285-6. Title Freedom
Also. same Title. Act. Dec 30. 1824. Sect. 2-3
vide. Laws of 1825. 1 vol. p. 404-5.
Ralph & Gordon vs R. Duncan. Miss. Rep. vol. 2. p. 383.

Alexander Anderson Attorney
for plaintiff in Error

W. E.

George } Plaintiff, Brief
v
B. B. Craig &c

Read.

George a free Man of Colour pl'ff.
vs
Bazil B Craig in pleaded &c. deft

} Upon a Writ of Error from the Supreme Court.

To N. W. Watkins attorney of record for Bazil B Craig defendant, in a suit Trespass, Assault & Battery & false imprisonment instituted in the Circuit Court of Cape Girardeau County, Missouri by George a free Man of Colour —

Sir: You are hereby notified that in the above named case, I have obtained a Writ of Error from the Supreme Court, holden for the 4th Judicial District of the State of Missouri, returnable, before said Court, to be holden at the town of Potosi on the 2nd Monday of May next. Given under my hand this 18th day of April 1840.

George + his Mark —

State of Missouri
Cape Girardeau County } Set.

Alexander Anderson being duly sworn according to law, deposeth & saith that on the 18th day of April 1840, he served the above notice on the above named defendant, by delivering a copy thereof to N. W. Watkins attorney of record for Bazil B Craig, the above named defendant — & further this affiant saith not.

Alexander Anderson

Sworn to and subscribed before the undersigned Clerk of the Circuit Court for the County of Cape Girardeau tenth judicial Circuit of the State of Missouri the 18th day of April 1840.

Hy. Sanford Clerk
By his Deputy
Fr. Flach

George, a free Man of Color
vs 3 Notice
Bazil. B. Craig &c

George a man of colour v. Basil B. Craig imp. with Jacob H. Neely

Error to C. C. of Cape Girardeau County.

Opinion of the Court by Napton J.

The record in this case shows, that in September 1838, the plaintiff, George, filed his petition in the circuit Court of Cape Girardeau county with a view to institute a suit for the recovery of his freedom. The suit was accordingly brought, by leave of the Court, in forma pauperis, and in pursuance of the 8th sec. of the act "to enable persons held in slavery to sue for their freedom", the Court directed the petitioner to be hired out by the sheriff. At the ~~October~~ February Term ~~1838~~ 1840, on the application of the defendant, the Court ordered the proceeds of the hire accruing from September 1838 to November 1839 to be paid over to defendant. From this decision of the Court, the plaintiff appealed.

This Court is of opinion that the decision of the circuit Court on the collateral point saved by the bill of exceptions, must be considered incidental to the main suit which is yet undetermined. It is not therefore such a final judgment, as will authorise an appeal. The appeal is therefore dismissed

W. B. Napton

We concur
G Tompkins

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George
v.
Craig & Steely
imp.

Opinion
of the Court

Geny a Man of Colour
vs
Bazil B Craig impleaded with
Jacob A Neely

Upon a Writ of Error.

The transcript of the record filed in this case, cum aliis, exhibits these facts. That on the 10th day of Sept. 1838 the plaintiff in error filed his petition against one Jacob A Neely setting forth reasons sufficient to authorize the institution of a suit for the recovery of his freedom. The original petition contained a somewhat remarkable prayer, viz. "that the petitioner be hired out by the Sheriff until the final termination of the suit, & that the proceeds of him be detained to defray the expenses of said suit." Accordingly the judge made an order, permitting Geny to sue in forma pauperis. Suit having been formally instituted in the Circuit Court for the County of Cape Girardeau, another petition was filed on the 25th Sept. 1838 invoking the Courts protection; whereupon a Recognizance was required of the defendant Neely, in pursuance of the 7th Sec. of the "Act to enable persons held in slavery to sue for their freedom". Neely failing to enter into the Recognizance so required, the Judge made an order "that the Sheriff take possession of the petitioner & him hire out to the best advantage, from time to time, during the pendency of said suit &c. pursuant to the provisions of the 8th Sect. of the Act above cited. Rev. Laws est. pag. 285-6. On the 8th day of Oct. 1838, Bazil B Craig was made a Co-defendant - and issue was joined in the cause. At the same term a trial was had & a verdict found for the plaintiff. Upon reasons filed, a new trial was granted, & an application made by the defendants, for an order directing the Sheriff to pay to said defendants the proceeds of him from the 25th day of Sept. 1838 to the 25th day of Nov. 1839. amounting to the sum of One hundred & thirty four dollars.

To the decision of the Court sustaining this application, the plaintiff filed a bill of exceptions; which is presented for the consideration of this Court, the Question ——

"Did the Circuit Court err in ordering the Sheriff to pay to said defendants, the proceeds of hire accrued during the pendency of said suit?"

In support of the affirmative of this question & to reverse said decision, the counsel for the plaintiff in error relies upon the following points & authorities. viz:

1st The decision was extra-judicial.

2ly It was premature.

3ly The proceeds of hire, thus accruing during the pendency of a suit, must abide its issue & are not subject to the control of the Court.

4th Hire thus accruing constitutes a trust fund, the final disposition of which, depends on ulterior circumstances:— & over which fund the Court possesses no jurisdiction, either upon its Common Law or Chancery side.

5th The powers of the Circuit Courts of this State, quoad suits for freedom, are wholly of a statutory character, & our Statute confers no such authority either expressly or impliedly.

6th The doctrine contended for by the Circuit Court is in contravention of the policy of law— tending to engender multiplicity of suits & circuity of action.

Authorities cited— Digest of 1835 p. 285-6. Title Freedom
Digest of 1825 p. 404.5. same Title
Ralph Gordon v R. Duncan 2 Miss. Rep
p. 385—

Alex. Anderson atty
for plff. in Error.

N. Ern

George
v
Craig &

Plaintiffs
Brief

Record of pleas and proceedings of the Circuit Court of the County of Cape Girardeau, tenth judicial Circuit of the State of Missouri, between George a free person of colour plaintiff and Basel B. Craig impleaded with Jacob H. Neely, defendant, on action of Assault and Battery and false imprisonment

Be it remembered that on 10th day of September 1838, the said plaintiff by his attorney filed with the Clerk of said Court a certain petition against Jacob H. Neely in the words and figures following (to wit),

Plaintiffs petition to the judge of the 10th judicial Circuit in vacation of the Court.

George a free man of colour
vs
Jacob H. Neely

In the Circuit Court of Cape Girardeau County in the State of Missouri, 10th judicial Circuit, Term October A. D. 1838.

To the honorable John D. Cook, judge of said Circuit

The petition of George a free person of colour respectfully represents unto your honor that one Basel Craig or B. Craig purchased your petitioner from one Bradshaw in the State of Arkansas about the Month of August in the year one thousand eight hundred and thirty six, and took him, your petitioner about the same time to the State of Illinois, where the family of said Craig resided near Jonesborough and kept him in service about eight weeks; that thence the said Craig removed your petitioner to Wisconsin Territory about the month of November in the year above written, where your petitioner remained performing the usual services of a slave near the space of Nine months; that thence the said Craig removed your petitioner to the State of Michigan where he hired out your petitioner to several different individuals until the latter part of the Month of June in the year eighteen hundred and thirty seven: that the said Craig thence removed your petitioner back again to the State of Illinois near Jonesborough during the month of July then ensuing and there put your petitioner to work with his brother William Craig about two miles from Greens ferry where your petitioner remained in service about one week, that thence the said B. Craig

Craig removed your petitioner to the State of Missouri where he hired your petitioner to one Suhering for about the space of two months, then to one Thompson Smith for the space of one Month, then to one Jacob H. Neely for about the space of three months, ending about Christmas of said last mentioned year. That thence said Craig removed your said petitioner back again to the State of Illenois, where he hired your petitioner to one Bowlin Sabbette with whom your petitioner remained in service for about the space of two months, that after which time said Craig removed your petitioner back again to the State of Missouri about the month of April last, where your petitioner was again hired by said Craig to the said Jacob H. Neely with whom your petitioner has remained ever since in service. Wherefore in consequence of the premises, your petitioner has became entitled to his freedom. Therefore your petitioner humbly prays your honor, that leave may be granted unto him to sue before your honorable court as a poor person to the end that your petitioner may establish his right to freedom and to this end that your honor may make such orders as are according to the exigencies of the case and the laws of the land in this behalf. Your petitioner further represents, that judging of the past conduct of the said B. Craig that he is in imminent danger where he now resides at Jacob H. Neely's on the Mississippi river of being run off and placed out of the jurisdiction of this court and grievously missed in consequence of the Step which he has thus taken to obtain his freedom, wherefore it is the prayer of your petitioner that your honor may forthwith make an order from under your hand, that your petitioner may be placed in the posession of the Sheriff of said County of Cape Girardeau, he to hire out your petitioner to the best advantage until the final termination of your petitioners suit for freedom: further that your honor order, that the proceeds of said hire be detained in the hands of said Sheriff to defray the expenses of this suit, and that such other and further relief

Jeffs petition cont'd

Pff's petition cont'd.

lief shall be granted in the premises as to law & equity & justice shall seem meet, and your petitioner as in duty bound will ever pray &c.

George free man of color

An which petition the following order is endorsed.

judges order.

State of Missouri, tenth judicial Circuit } ss
Cape Girardeau County

George a person of colour the within petitioner, having presented this petition to the undersigned John D. Cook judge of the tenth judicial Circuit for the State of Missouri, praying for leave to sue as a poor person in order to establish his right to freedom, and sufficient matter, as in the opinion of the undersigned judge of said Circuit, being contained in said petition to authorise the said petitioner to institute suit for his freedom, it is therefore ordered, that George said petitioner be allowed to sue in the Circuit Court for Cape Girardeau County in said State as a poor person to establish his right to freedom, and that Thomas B. English an attorney in said Court, be assigned counsel for said petitioner in that behalf, and secondly it is further ordered, that said petitioner George, have reasonable liberty to attend his counsel & the court as occasion may require that he be not removed out of the jurisdiction of said Court, and that he be not subject to any severity on account of his application for freedom. Ordered and certified in said circuit this 9th day of September A.D. 1838.

John D. Cook.

Plaintiff's declaration.

On the said tenth day of September 1838, the said plaintiff by his attorney filed the following declaration (to wit)

George a free person of colour } In the Circuit Court, 10th judicial
vs } Circuit for the State of Missouri,
Jacob H. Neely } Cape Girardeau County, October Term A.D. 1838.

George a free person of colour complains of Jacob H. Neely in a plea of trespass, assault and battery, for that

plaintiffs declaration continued

that the said Jacob H. Neely on the first day of April in the year eighteen hundred and thirty eight at said County of Cape Girardeau, with force and arms, with fists, sticks and staves made an assault on him said plaintiff and then and there beat, wounded and illtreated him said plaintiff, and then and there imprisoned him and kept and detained him in prison for a long space of time (to wit) for the space of one hundred and fifty days then next ensuing without any reasonable or probable cause whatsoever, contrary to the laws of the State and against the will of said plaintiff. And also for that the said defendant the said defendant afterwards (to wit) on the first day of July in the year eighteen hundred and thirty eight aforesaid on him the said plaintiff made an other assault and him the said plaintiff then and there beat, bruised, wounded and illtreated him and then and there imprisoned him said plaintiff and kept and detained him said plaintiff in prison for a long space of time (to wit) for the space of twenty four hours then next ensuing without any reasonable or probable cause whatever, contrary to the laws of the State and against the will of him said plaintiff. This plaintiff further avers, that he said plaintiff before and at the time of the committing of the said several grievances (by said defendant as herein before alledged) was and still is a free person and that he said defendant held and still holds him said plaintiff in slavery. All of which as aforesaid in said plaintiffs declaration mentioned, is to said plaintiffs damage five hundred dollars and therefore he sues by

Thos. B. English
his attorney

Upon which declaration the following writ was issued with the endorsment of a copy of the judges order thereupon (to wit).

State of Missouri, tenth judicial Circuit } Ss.
Cape Girardeau County

copy of the judges order endorsed upon the writ.

George a person of colour the within petitioner having presented his petition to the undersigned John D. Cook, judge of the

copy of judges order endorsed upon writ vent.

the tenth judicial Circuit for the State of Missouri praying for leave to sue as a poor person in order to establish his right to freedom, and sufficient matter, as in the opinion of the undersigned judge of said Circuit, being contained in said petition to authorise the said petitioner to institute suit for his freedom it is therefore ordered, that George said petitioner be allowed to sue in the Circuit Court for Cape Girardeau County in said State as a poor person to establish his right to freedom, and that Thomas B. English an attorney in said Court be assigned counsel for said petitioner in that behalf, and secondly it is further ordered, that said petitioner George, have reasonable liberty to attend his counsel & the Court as occasion may require, that he be not removed out of the jurisdiction of said Court, and that he be not subject to any severity on account of his application for freedom.

Ordered and certified in said Circuit this 9th day of September A. D. 1838.

John D. Cook

A true copy of the original

Hy. Sanford Clerk of the Circuit Court for the County of Cape Girardeau, tenth Judicial Circuit for the State of Missouri, by his Deputy F. Flach

writ of summons.

State of Missouri
County of Cape Girardeau } Ss. The State of Missouri:

To the Sheriff for the County of Cape Girardeau in said State Greeting:

You are hereby commanded to summon Jacob H. Neely the within named defendant, if he be found in your County, to be and appear before the Circuit Court for the County aforesaid, at the Courthouse in Jackson within and for said County of Cape Girardeau on the third Monday of October next, then and there to answer the within named George a free person of colour of the within complaint.

complaint. And have you then there this writ
Witness Henry Sanford Clerk of the said
Circuit Court at Jackson in the County
and State aforesaid the 10th day of
September A. D. 1838.

Hy. Sanford Clerk
By his Deputy
F. Slade

Which writ was afterwards returned by the Sheriff's return.
Sheriff with the following return endorsed thereon.
Served the petition and declaration and the order
of the judge endorsed thereon together with the writ
on the within named defendant Jacob H. Neely
by reading them in his presence and hearing this
10th day of September A. D. 1838.

John M. Johnson Shff
by his Deputy
A. J. English

service $1.00.

On the 25th day of September 1838 a certain other petition of
the plaintiff with 2 affidavits annexed thereto was filed, which
are in the words and figures following (to wit)

George a person of colour
vs
Jacob H. Neely

In the Circuit Court for the County of Cape Girardeau, State of Missouri, tenth judicial Circuit for said State.
October Term A.D. 1838.

Plaintiff's petition to the judge in vacation of the court for an order on Shff to seize him

To the honorable John D. Cook, judge of said Circuit.

The petition of George a person of colour humbly sheweth unto your honor, that in consequence of his application to sue for his freedom, which your honor hath heretofore granted, and in consequence of the suit which your petitioner has accordingly instituted, your petitioner verily believes, that he is about to be greatly injured by one B. Craig and his confederates, and if said Craig could get hold of your petitioner, that he would immediately remove him out of the jurisdiction of your honorable court. that said Craig came to Jacob H. Neely's last Thursday morning

pffs petition cont'd.

morning and attempted to seize your petitioner, and that your petitioner hath understood, that said Craig has offered a reward of twenty dollars to any Person or persons, who would catch your petitioner and deliver your petitioner unto him: that your petitioner to elude the said Craig & his confederates, has been compelled to lie out ever since last thursday morning. Further your petitioner represents, that he is in great danger of being forcibly taken and removed out of the jurisdiction your honorable court so long as he remains at Jacob H. Neely's on the Mississippi river: your petitioner is adviced and verily believes, that it is extremely dangerous for him said petitioner to remain there; hence the cause of your petitioner's importunity. Wherefore it is the prayer of your petitioner, that your honor order the Sheriff of said County immediately to seize your petitioner and dispose of him according as the law contemplates in such cases; and that if your petitioner has mistaken his remedy in the premises, that such orther & further relief may be granted unto your petitioner as may seem meet & proper and your petitioner as in duty bound will ever pray &c.

George a person of colour
by Th. B. English atty.

plaintiffs affidavit

State of Missouri tenth judicial circuit ss.
George a person of colour the above plaintiff in this behalf being duly sworn, states to the best of his knowledge and belief, that the facts contained in the above petition are true
Sworn to and subscribed before the undersigned judge of the Circuit aforesaid this 18th Sept. 1838

George + his mark

John D. Cook

affidavit of Thomas B. English

George a person of colour
vs
Jacob H. Neely

Trespass &c
State of Missouri, tenth judicial Circuit.

Thomas B. English being duly sworn states

affidavit of Th. B. English cont'd

states that to the best of his recollection, on thursday evening last, and since the process in the above case was served on said defendant Jacob H. Neely, a gentleman came to his house in the town of Jackson, representing himself to be by the name of Craig, and the master of the said plaintiff in the above suit. and further inquired of this deponent if said plaintiff George had been there that day and further stated, he said Craig had seen said boy at Mr. Neely's that morning and that he went to said boy and commanded or told said boy to follow him, when the said boy George followed a part of the way toward Neely's Store, but directly broake through said Neely's corn patch and that said Craig had not seen said George since, that this deponent is informed and verily believes, that said Craig resides in the State of Illinois near Jonesborough and further this deponent saith not.

Th. B. English.

Subscribed and sworn to before the undersigned judge of said Circuit the 18th September 1838.

John D. Cook

judges order on Sheriff.

State of Missouri – Tenth judicial Circuit ss.
The State of Missouri – To the Sheriff of Cape Girardeau Greeting: Whereas one George a colored man has instituted a suit in the Circuit Court for said County against on Jacob H. Neely, to establish his right to freedom, and the undersigned judge of the tenth judicial Circuit aforesaid, being satisfied that the said George is about to be removed out of the jurisdiction of said Court, on account of his said application for freedom. These are therefore to command you, that you seize the said George wherever he may be found, and bring him before the undersigned judge as aforesaid, on the twenty fifth day of the present month of September (1838) at the Office of of the Clerk of said Circuit Court in the town of Jackson in said County and that you summon the said defendant Jacob H. Neely then and there

judges order on Sheriff vs.

there to be and appear before the said judge at ten O'Clock in the forenoon of said day. Given under my hand in said Circuit this 18th day of September A.D. 1838.

John D. Cook

Sheriffs return

On which order the Sheriff made the following return In pursuance to the foregoing order I have seized George the within plaintiff and have him now at the time and place and before the honorable John D. Cook judge in the said foregoing order mentioned, and have summoned the within mentioned Jacob H. Neely by reading the said order in his hearing and presence. Sept 25th 1838.

John M. Johnson Shff.
By his Deputy A.G. English

services $2,00.

judges order on Sheriff to take possession of plaintiff and hire him &c

State of Missouri } ss.
Cape Girardeau County }

The Sheriff having executed the above order according to the tenor thereof and made proper return, and the said Jacob H. Neely failing to appear and enter into recognizance as the law directs, it is therefore ordered by John D. Cook judge of the tenth judicial Circuit for the State of Missouri, that the Sheriff of the County of Cape Girardeau take possession of George the petitioner and hire him out from time to time, during the pendency of the suit instituted by said petitioner for his freedom in the Circuit Court for said County; and that he take a bond from the hirer, payable to the State of Missouri in the penality of two hundred dollars with such security as the Sheriff shall approve conditioned, that the hirer will pay the hire to the said Sheriff of said County and return the said petitioner at the expiration of the term for which he may be hired or so soon as the action is determined and further that the said petitioner shall not be removed out of the jurisdiction of said Court and that he shall have reasonable liberty of attending his counsel and the court.

Done and ordered at the office of the clerk of the Circuit Court for said County on the 25th day of September A.D. 1838.

John D. Cook

Octobr. T. 1838
Octbr. 24th
7th day

At the October Term 1838 of the Cape Girardeau Circuit Court, October 24th 1838, 7th day of the Term

George a free person of colour
versus
Jacob H. Neely
} Trespass

The plaintiff by Th. B. English his attorney and Basel B. Craig by N. W. Watkins appear, and on motion of said Craig, leave is granted to him, to be made codefendant in this case. On motion of the plaintiff, a commission to take depositions de bene esse is awarded to him - And this cause is continued to the next term of this court

B. B. Craig made codefendant.

continued

At the said October Term 1838, October 27th the 10th day of the Term

George a free man of colour
versus
Jacob H. Neely and Basel B. Craig
} Trespass.

Octbr. T. 1838
Octbr 27
10th day.

The defendants by N. W. Watkins their attorney file their plea of not guilty, to which the plaintiff joins issue

Which said plea is in the words and figures following (to wit)

George a person of colour
versus
Jacob H. Neely and Bazil Craig
} Trespass & false imprisonment, October Term 1838.

defendants plea

And the said defendants by Watkins their attorney comes and defends the force and injury when &c and say that they are not guilty of the said supposed Trespasses above laid to their charge, or any part thereof in manner and form as the said George hath above thereof complained against them and of this they the said defendants puts themselves upon the Country for trial. Watkins atty for defendants

And the said plaintiff doth the like
English for plaintiff

issue joined

At

October 1839
Novbr. 2nd
11th day

At the October Term 1839. November 2nd, 11th day of the Term

George a free person of colour
versus
Jacob H. Neely & Bazel B. Craig } Assault & Battery & false imprisonment

The parties by their attorneys appear. Whereupon a jury come (to wit)
1 Jonathan A. Malone 5, Bernard S. McGuire 9, Henry D. Spear.
2, William C. Hayden 6, John J. Cordell, 10, William D. Walsh
3, Aaron Fulbright 7, Jesse Lisle 11, John Ray
4, Aaron Snider 8, Lewallen Russell 12, Anson Erwin

jury sworn

twelve good and lawful men who being tried and sworn to well and truly try the issue joined between the parties in this case, who having heard the evidence and argument of counsels upon their oath do say: We of the jury find the defendant Bazel B. Craig guilty in manner and form as charged in the plaintiffs declaration and Jacob H. Neely not guilty in manner and form as charged in the plaintiffs declaration

verdict.

Whereupon the defendant Bazel B. Craig by his attorney moves the court, to grant a new trial on reasons herein filed.

motion for a new trial

October T. 1838
Decbr. 2nd.
13th day

At the October Term aforesaid on December the 2nd and 13th day of the term.

George a free person of colour
versus
Bazel B. Craig } On motion to set aside verdict and grant a new trial in this case

The Court after having had the hearing of the arguments of counsels on said motion, doth consider and order, that the verdict in this case be set aside and a new trial granted to the defendant Bazel B. Craig

order to set aside verdict and new trial granted to B. B Craig

Whereupon the defendant Craig by his attorneys moves the Court to order the Sheriff to pay over to said defendant the proceeds of the hire of said plaintiff. And the court after hearing the arguments of counsel will take time to consider.

motion for order on Sheriff to pay over the plffs hire to defendant.

October Term 1839 December 3rd 1839, 14th day of the Term

Octr T. 1839
Decbr 3rd 1839
14th day

George a free person of colour
versus
Basel B. Craig impd with
Jacob H. Neely
} A & B. Trespass and false imprisonment

On motion to order the Sheriff to pay over the proceeds of the hire of the plaintiff to the defendant.

The court now being fully advised of and concerning said motion, doth order, that said motion be sustained and that John M. Johnson the Sheriff of this County pay over to the defendant Craig the proceeds of the hire of said plaintiff into his hands from the 25th day of September one thousand eight hundred and thirty eight up to the 25th day of November one thousand eight hundred and thirty nine, amounting to the sum of one hundred and thirty four dollars. To which decision of the Court the plaintiff by his attorneys excepts and tenders his bill of exceptions which is signed and sealed by the Court and made a part of the records in this case.

order on Sheriff to pay over plaintiffs hire to the defendant.

plffs exception.

Which said bill of exceptions is in the words and figures following to wit,

plffs bill of exceptions.

George (man of colour)
vs
Bazel B. Craig
} Assault & Battery, false imprisonment
suit for freedom

This cause came on to be tried at the October Term of the Circuit Court of Cape Girardeau County State of Missouri in the year eighteen hundred and thirty nine, when the defendant by counsel moved, that the amount of the hire of the said plaintiff already accrued in the hands of the Sheriff, be paid over to the defendant in this cause & thereupon the defendant Craig by his attorneys moves the Court to order the Sheriff to pay over to said defendant the proceeds of the hire of said plaintiff & which order the court made, to which opinion of the Court the plaintiff excepts and prays, that this his bill of exceptions may be allowed in this behalf, sealed and

made