State of Missouri v. Hart, Thomas 1851 10th c. Cape Girardeau 171/10

21 Grand Larceny Motion to quash granted ; stealing slaves

Theft, Slaves

Charge of venue from MS County ; No Opin

Placita.

Pleas and proceedings before the Circuit Court for the Tenth judicial Circuit of the State of Missouri, had in a case, where, in The State of Missouri is plaintiff and Thomas Hart is defendant.

Be it remembered, that on the nineteenth day of June A.D. one thousand eight hundred and fifty, the following Transcript of Record was filed in the Office of the Clerk of the Circuit Court for the County of Cape Girardeau in said State, to wit:

Transcript of Record from Mississippi County

" State of Missouri. Tenth judicial Circuit, County of Mississippi
" ss. Transcript of Record, pleas and proceedings, had in the
" Circuit Court for Mississippi County, Missouri at the April
" Term for the year 1850. before the Honorable Harrison Bou-
" gh, Judge thereof, in the matter of the State of Missouri a-
" gainst Thomas Hart on a charge of Grand Larceny. Be it
" remembered, that on the 12th day of June in the year 1850 at
" the April Term of said Court the Grand Jurors empannelled
" and sworn for said County, returned into Court an indict-
" ment against one Thomas Hart, in words and figures as
" follows: State of Missouri, Tenth judicial Circuit. In the

Indictment.

" Circuit Court for the County of Mississippi. April Term in
" the year of our Lord eighteen hundred and fifty. The Grand
" Jurors of the State of Missouri, empannelled and sworn to en-
" quire in and for the body of the County of Mississippi in the
" State aforesaid upon their oaths do present, that Thomas Hart
" late of the County of Mississippi aforesaid, on the twenty eighth
" day of April, in the year of our Lord, eighteen hundred and
" fifty at the County of Mississippi in the State aforesaid one
" negro man slave of the value of six hundred dollars, and
" by name called Goliah of the goods and chattels and slaves

of one Charles A. Shelby then and there being found feloniously did steal, take and carry away, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the State of Missouri

H. F. Porter Circuit Atty. pro. tem.

Joseph Dyson, foreman of the Grand Jury do hereby certify, that the foregoing bill of indictment is a true bill. Given under my hand this 11th day of April AD. 1850.

Joseph Dyson foreman.

endorsed: a true bill Joseph Dyson foreman. Filed June 12th 1850. Geo. Whitcomb Clerk. Witnesses: Charles A. Shelby William Sayers. - and on the same day the following proceedings were had in said Circuit Court: The State of Miss, ouri against Thomas Hart, Indictment for Grand Larceny of Slave. - and now comes the Circuit Attorney, and the defendant in his proper person and being arraigned says he is not guilty in manner and form as charged in the indictment, and for trial puts himself upon his country, and the Circuit Attorney doth the like, and the said defendant by his attorney presents his petition verified by affidavit, setting forth the facts, that the inhabitants of this County are so prejudiced against him, that a fair trial cannot be had therein and praying a change of venue in this case. Whereupon it is ordered by the Court, that the venue in this case be changed to the County of Cape Girardeau in this State and the Sheriff of this County is commanded to remove the body of the said Thomas Hart to the Jail of the the said County of Cape Girardeau, and deliver him to the keeper of such Jail together with the warrant or process by which he is imprisoned and held; which petition was in words and figures as follows: To the Hon. Circuit Court of Missisippi. The petition of Thomas Hart makes known, that there are three indictments pending in the Circuit Court, Circuit Court.

Arraignment. plea. Not guilty.

Motion for change of Venue.

petition for Change of Venue.

of Mississippi County against him for felony, that he be-
lieves the minds of the inhabitants of said County are so much pre-
judiced against him, that he cannot have a fair trial in
either of the cases in said County; he therefore asks that his
cases may be removed to some County, where such prejudice
does not exist.

Sworn to and subscribed before me } Thomas Hart.
June 12. 1850. Geo. Whitcomb Clerk of said Court.

Clerk's Certificate.

I George Whitcomb, Clerk of the Circuit Court in and for
the County of Mississippi, in the State of Missouri certify,
that the foregoing is a full and true Transcript of all the
records and proceedings in the case it purports to be in as
full a manner as the same remains on file and of record
in my office. In witness whereof, I hereto affix the seal
(L.S.) of said Court at office in Charleston, this 17th
day of June 1850. Geo. Whitcomb Clerk.

Endorsed:

Filed June 19th 1850. Hy. Sanford. Clk by Jacob Tobler D. Clk.

Afterwards the following proceedings were had:

Cape Girardeau Circuit Court. November Term 1850.

Tuesday 2d day of the Term. November 26th 1850.

Appearance in Cape Gir. Circuit Ct.

The State of Missouri
vs } Indictment for Grand Larceny.
Thomas Hart. } (Stealing Slave.)

The Circuit Attorney comes and on
his motion it is ordered, that the Clerk of the Circuit Court
for the County of Mississippi do perfect the Transcript in this
case, so as to show all the facts and proceedings in the said
Circuit Court of Mississippi County, and that he certify
the amended Transcript to this Court on or before the next
Term thereof, and this cause is continued.

Rule on Clk of Mississ. Ct. Ct.

Answer to the foregoing rule:

Answer

In the Circuit Court for the County of Mississippi in the State

" of Missouri. April Term 1850. Wednesday the 12th day of
" June 1850. and 5th day of the Term. Be it remembered that
" on the 12th day of June in the year eighteen hundred and fifty
" the Grand Jurors duly empannelled and sworn to enquire in
" and for said County returned into said Court an indictment
" in words and figures as follows: State of Missouri, Sixth ju-
" dicial Circuit, in the Circuit Court for the County of Mississip-
" pi, April Term in the year of our Lord eighteen hundred and
" fifty. The Grand Jurors of the State of Missouri, empannelled
" and sworn to enquire in and for the body of the County
" of Mississippi in the State aforesaid, upon their oaths do pre-
" sent, that Thomas Hart, late of the County of Mississippi
" aforesaid, on the twenty eighth day of April in the year of
" our Lord eighteen hundred and fifty at the County of Mississip-
" pi in the State aforesaid, one negro man slave of the value
" of six hundred dollars and by name called Goliah of the
" goods and chattels and slave of one Charles A. Shelby then
" and there being found feloniously did steal, take and carry
" away contrary to the form of the Statute in such case made
" and provided, and against the peace and dignity of the
" State of Missouri. H. F. Porter Circuit Atty. pro tem.
" Joseph Dyson foreman of the Grand Jury do hereby cer-
" tify, that the foregoing bill of indictment is a true bill.
" Given under my hand, this 11th day of April A.D. 1850.
" Joseph Dyson foreman.
" Endorsed: State vs. Thos. Hart. G. Larceny. A true bill.
" Joseph Dyson foreman. Filed June 12th 1850. Geo. Whiteman
" Clerk, Witnesses. Charles A. Shelby. William Sayers. — and
" on the same day proceedings were had in said cause as fol-
" lows: The State of Missouri against Thomas Hart. Indict-
" ment for Grand Larceny of Slave. And now comes the
" Circuit Attorney, and the defendant in his proper person,
" and being arraigned says he is not guilty in manner and

form as charged in the indictment, and for trial puts him-
self upon his Country and the Circuit Attorney doth the like
and the said defendant by his attorney presents his petition
verified by affidavit, setting forth the facts, that the in-
habitants of this County are so prejudiced against him,
that a fair trial cannot be had therein, and praying a
Change of Venue in this cause, Whereupon it is ordered by
the Court, that the venue in this cause be changed to the
County of Cape Girardeau, in this State, and the Sheriff of
this County is commanded to remove the body of the said
Thomas Hart to the Jail of the said County of Cape Girar-
deau and deliver him to the Keeper of such Jail together
with the warrant or process by which he is imprisonned
and held. – I, George Whitcomb, Clerk of the Circuit Court
in and for the ~~xxxx~~ County of Mississippi certify, that the
foregoing is a true, full and complete Transcript in the
case of the State of Missouri against Thomas Hart on an In-
dictment for Grand Larceny of a Slave, and that it is perfect
and doth show all the facts and proceedings in the said
Circuit Court in said case, as required by rule of the Cir-
cuit Court of Cape Girardeau County in said State. In attest-
ation of all which I hereto affix the seal of said Court at
my office in Charleston this 24th day of May Anno
(S.S.) Domini 1851. Geo. Whitcomb Clerk."

Endorsed:

Filed May 27th 1851. Hy. Sanford Ck by Jacob Tobler D. Ck.

Afterwards the following proceedings were had in said case:

Cape Girardeau Circuit Court. May Term 1851.

Monday 1st day of the Term. May 26th 1851.

The State of Missouri
vs.
Thomas Hart.

Indictment for Larceny
Stealing negro.

The defendant by his attorney comes,

plea not guilty withdrawn — & motion to quash said entered

" and withdraws his plea of not guilty, and moves the Court
" to quash the indictment in this case and files his reasons therefor. "
which are as follows:
" The State of Missouri against Thomas Hart. Indictment
" for stealing negro. The defendant moves the Court to quash
" the indictment in this cause for the following reason.
" There is another indictment pending in this Court against
" said Thomas Hart for the same matter, charged as a
" different offence, found after this indictment, to wit: on
" the 1st day of June 1850. A. Jackson for deft. "
Afterwards:
" Cape Girardeau Circuit Court. May Term 1851.
" Tuesday 2d day of the Term. May 27th 1851.
" The State of Missouri
" vs. } Indictment for stealing negro.
" Thomas Hart. } Change of Venue from Mississippi County. On motion to quash indictment made at this Term of this Court.
"
Motion sustained " The Court after inspecting said motion to quash the indictment in this case and inspecting the reasons doth consider and order that said indictment be quashed, and that said defendant be hence discharged.
" Cape Girardeau Circuit Court. May Term 1851.
" Wednesday 3d day of the Term. May 28th 1851.
" The State of Missouri
" vs. } Indictment for stealing negro.
" Thomas Hart. } Change of Venue from Mississippi County. On motion to quash indictment.
"
Pltffs' Exceptions " On the decision of the Court to quash the indictment in this case, the Circuit Attorney excepted to the opinion of the Court he now tenders his bill of exceptions, which is signed and sealed by the Court, and made part of the record in this,

„case, whereupon the Circuit Attorney prays for an appeal
„to be granted to the Supreme Court, it is therefore ordered that
„an appeal in this case be granted.

Bill of Exceptions.

Bill of Exceptions. „State of Missouri versus Thomas Hart, Indictment for
„Stealing negro. Be it remembered that the defendant files
„his motion in this case to quash the indictment herein,
„for the following reason: „there is another indictment
„pending in this Court against said Thomas Hart, for
„the same matter, charged as a different offence, found
„after this indictment, to wit. On the first day of June
„1850" which motion to quash said indictment the
„Court sustained, and quashed said indictment, to which
„opinion of the Court, in sustaining said motion and quashing
„said indictment, the plaintiff by Henry F. Porter Circuit
„Attorney objects and excepts and tenders this his bill of excep-
„tions, which he asked may be allowed signed, sealed, and
„made part of the record in this case, which is accordingly
„done. H. Hough (Seal).

Endorsed: „Filed May 27th 1851. Hy. Sanford Clerk.

State of Missouri
Cape Girardeau County } ss. I, Henry Sanford, Clerk of the Cir-
cuit Court within and for the County aforesaid, do hereby certify
that the foregoing contains a full, true and perfect copy (Trans-
cript) of all the pleas and proceedings had in said case, as the
same remains on file and of record in my office.

In Testimony whereof, I have here-
unto signed my name and affixed the
Seal of said Court, at office in the
Town of Jackson, in said County, the
19th day of June A.D. 1851.
Hy. Sanford Clerk by Jacob Tobler D.C.R.

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The State of Missouri

vs. } Ind.t Grand Larceny
(Stealing slave).

Thomas Hart.

Transcript of record
from
Cape Girardeau County.

Larceny of a negro

Filed July 24th 1851
Wm. B. Starke, Clk.
Wm. S. Glanville D.C.

dismissed