STATE TO THE USE OF JEFFERSON COUNTY ✓ SKEEL, WILLIAM et al * OCTOBER 1866 JEFFERSON COUNTY 56 1/8

OLD 652/1 DISMISSED

* SMITH, FRANCIS J
HOWE, Wm. S
ENGLAND, JAMES R.
McCORMACK, HANDY JR.
WILEY, AUGUSTINE

INVOLVED:
COLLECTION OF COUNTY REVENUE

# The State of Missouri, ss.

The State of Missouri, to the Honorable the Judge of the Ninth Judicial Circuit in said State,---GREETING:

**Whereas,** *In the record and proceedings in a certain cause lately pending in the* Circuit Court of Jefferson County *wherein* the State of Missouri to the use of Jefferson County

was *plaintiff*

*and* Wm. Steed, Francis J. Smith, Wm. S. Howe, Jas. R. England, Hardy McCormack jr., and Augustine Wiley were *defendants*

*in a civil action, manifest error hath intervened, to the great damage of said* plaintiff *as by* her *complaint we are informed.*

NOW, *being willing that the error, if any there be, should be corrected, and full and speedy justice done to the parties aforesaid, in that behalf,* **COMMAND YOU,** *that you send to us, certified under your seal, the record and proceedings in the cause aforesaid, as fully as the same remain of record before you in said Court, so that we may have them before us at our Supreme Court, to be begun and held in the City of St. Louis, in the County of St. Louis, in said State, on the Third Monday in* October *next, so that our Judges of our Supreme Court, on inspecting the record and proceedings aforesaid, may cause to be further done therein, for correcting the error, what of right, and according to law, ought to be done.*

*WITNESS,* ~~ANDREW W. MEAD~~ John A. Willis *Clerk of our said Supreme Court, at office in the City of St. Louis, the* 25th *day of* September *in the year of our Lord one thousand eight hundred and sixty-*five

John A. Willis Clerk.

**STATE OF MISSOURI,** } ss.

County of Jefferson

I, Samuel A. Reppy

Clerk of the Jefferson County Circuit Court, within and for the County aforesaid, in obedience to the mandate of the within writ, herewith transmit to the Honorable Supreme Court of the State of Missouri, held at St. Louis, a full, true and complete transcript of the record and proceedings in the within entitled cause as fully as the same remain of record and on file in my office.

**In Testimony Whereof,** I hereunto set my hand and affix the seal of said Court, at office, in the Town of Hillsboro this 27th day of September 1865

Samuel A. Reppy Clerk.

The State of Missouri,
To the use of Jefferson County
Plaintiff

Petition

Against
Wm Skeel, Francis J. Smith,
Wm S. Howe, James R. England,
Hardy McCormack Jr. and
Augustine Wiley. Defendants

In the Jefferson circuit
Court June Term 1864

Plaintiff by her attorney states that Wm Skeel one of said Defendants was on the first Monday in August 1857. duly elected by the qualified voters of Jefferson County, Missouri, collector of and for said County for two years ending Sept 1st 1859 and until his successor should be elected and qualified; that he as such collector of the revenue for said county took the oath of office required by law and entered into a bond under seal

with the other Defendants herein as his securities to the State of Missouri in the sum of Fourteen Thousand dollars, the conditions of which bond is as follows; "The Condition of the above bond is such that whereas the above bound William Skeel has at the Special election held in the County of Jefferson on the first Monday of August A.D. 1857 been elected collector of the revenue of said County for two years and until his successor is elected and qualified, Now if the said William Skeel shall faithfully and punctually collect and pay over all the State and County revenue for the two years next and shall in all things faithfully perform all the duties of the office of collector according to law then above bond to be void, else of full force and virtue; a certified copy of said bond being herewith filed and prayed to be taken as a part of this petition the original having

been lost mislaid or distroyed, Plaintiff alleges by way of breaches of said bond that the said Skeel did not collect and pay over all the county revenue for the years 1857 & 1858. these being the two years for which he was elected collector as aforesaid, that he did not in all things faithfully perform all the duties of the office of collector, that for the two years ending Sept 1st 1859. the said Skeel received County revenue for said county amounting to Eleven Thousand Three hundred and fifty five $\frac{81}{100}$ dollars, that said Skeel paid over to the proper officer the Sum of Eight Thousand four hundred and thirteen $\frac{12}{100}$ dollars, leaving a balance which he has received and not accounted for, of two thousand nine hundred & forty two $\frac{69}{100}$ dollars, Plaintiff therefore prays the Court to declare said bond forfeited on account of the breach of the condition thereof as aforesaid, to enter judgment against

Defendants for fourteen Thousand dollars, the penalty of said bond and to award the State of Missouri for the use of Jefferson County an Execution against said Defendants for the sum of Two Thousand Nine hundred and forty Two $\frac{69}{100}$ dollars, amount for which said Steel failed to account as aforesaid, together with Two & one half per cent per month on the same from the 1st day of Oct 1859, till the rendition of judgment,

John L Thomas
atty for the county.

John L Thomas makes oath & says he believes the above petition and the matters as therein stated are true,

Sworn to & subscribed before me Jan 28th 1864 } John L Thomas

Elias G. Haney, clerk,

5¢ U.S. Rev. Stamp,

"Endorsed"

Filed January 28th 1864
Elias G. Haney clerk,

Bond

Know all men by these presents that, I, William Skeel, as principal and We, Francis J. Smith, William S Hare, James R. England, Hardy McCormack, Jr., and Augustine Wiley, — as securities are held and firmly bound unto the State of Missouri in the full and just sum of Fourteen Thousand dollars for the true payment whereof we bind ourselves, our heirs, our executors and administrators jointly and severally firmly by these presents, sealed, with our seals and dated this Twenty fifth day of August A.D. Eighteen Hundred and fifty seven,

The condition of the above bond is such that, whereas, the above bound William Skeel, has at the special Election held in the County of Jefferson on the first Monday of August A.D. 1857, been elected Collector of the revenue of said County for two years,

and untill his successor, is elected and qualified; Now if the said William Steel shall faithfully and punctually collect and pay over all the State and County revenue for the two years next, and shall in all thing faithfully perform all the duties of the office of Collector according to law, then the above bond to be void else of full force and virtue,

Wm. Steel (seal)
Isaac J Smith (seal)
Wm S. Howe (seal)
Jas R England (seal)
Hardy McCormack Jr (seal)
Augustine Wiley (seal)

Auditors Office, Mo. City of Jefferson
Jan: 19 – 1864

I, Wm S Moseley, auditor of Public account of the State of Missouri, – certify the above bond of William Steel, Collector of Jefferson County for the year 1857, to be a true and correct copy of the original bond of the said Collector now on file in this office. Witness my hand and official seal the day and date above written

Wm. S. Moseley, auditor of Public accounts

The State of Missouri } ss.
County of Jefferson }

Summons

To. The Sheriff of the County of Jefferson ---- Greeting:
We command you, that you summon William Steel, Francis J. Smith, Wm. S. Howe, James R. England, Hardy McCormack jr and Augustine Wiley if they be found in your County, that he be and appear before the Hon. judge of our Circuit Court, on the first day of the next Term thereof, to be begun and held at the Town of Hillsboro, within and for the County of Jefferson, on the second Monday after the fourth Monday of May next, then and there to answer unto The State of Missouri, to the use of Jefferson County upon her original petition, a copy whereof is hereunto annexed and accompanies this writ, and have you then there this writ. Witness, Elias G. Haney, Clerk of our said Circuit Court with the seal thereof hereunto

affixed, at office in Hillsboro. this Twenty Ninth day of January A.D. 1864

(L S) Elias G. Haney

50¢ U.S. Rev Stamp. clerk circuit court.

Sheriff's return.

Sheriffs return

I executed this writ at the county of Jefferson and State Missouri on the 3rd day of February 1863, on Wm. Skeel by delivering to him a true copy of this writ and annexed petition as furnished me by the clerk he being the first served, on Wm. S. Hove on the 5th day of February 1864, on James. R. England on the 22d day of February 1864, on Hardy McCormack jr. on the 16th day of April 1864 by delivering to him a true copy of this writ. Francis J Smith & August. Wiley not found in my County this May 20th 1864

Jerome B. Dover, Sheriff

The State to the use of
Jefferson County;
vs
Wm. Skeel et als

In the Jefferson
Circuit Court
June Term 1864

Be it remembered that on the 9th day of June 1864 it being the 4th juridical day of the June Term of the Jefferson Circuit Court for 1864. The Defendants filed a demurrer to the petition of the plaintiff in words and figures as follows:

Demurrer

The State of Missouri
to use of Jefferson County
vs
Wm Skeel & others

~~and~~ Defendants come and demur to the petition of plaintiff and assign the following grounds of objection.

1 From the face of the petition it appears that plaintiff's right of action if she had any is barred by the

statute of limitations.

2 The petition should state the amount of revenue due and not collected for each year separately, & the amount collected and paid over for each year.

3 The petition is inconsistent in itself in stating that the revenue for the years 1857 & 1858, was collected, and again stating that said Steel had failed to collect the revenue for those years

Real & Pipkin
for Defts.

Which demurrer was by the court sustained & the court gave judgment for Deft. as follows:

judgment

State of Missouri to use
of Jefferson County,
vs
Wm Steel et als
} on demurrer

Now at this day came said parties by their respective attorneys & the demurrer heretofore filed in this behalf being taken up for argument, and being fully understood by the Court is by the Court sustained.

It is therefore considered by the Court that Plaintiff take nothing by her writ, and that Defendants have and recover of and from Plaintiff their costs in this behalf laid out and expended and that they have execution therefor, Bill of Exceptions filed,

To which action of the court in sustaining said demurrer & giving judgment for Deft, the Plaintiff by her attorney objected and excepted and here tenders her bill of Exceptions and prays that it may be signed, sealed and made apart of the record in this cause in open court which is accordingly done

Jas W Owens Seal

"Endorsed"—

Bill of Exceptions-Filed June 10th 1864. E. F. Honey, Clk—

Agreement

The State to the use of
Jefferson County
vs
Wm Steel et als

It is hereby agreed between John L. Thomas, attorney for Jefferson County and J. A. Beal & Philip Pipkin attorneys for defendants in the above entitled cause that the following points may be submitted to the Supreme Court regardless of the question whether they may or may not be taken on demurrer to wit:

1 In an action on a Collector's bond must suit be commenced within three years or five years after the expiration of his term of office,

2 Are there any exceptions in such cases which would take a case out of the operation of the statute of limitations and if so would the act of the Collector coming into the court upon notice or otherwise & being a party to settlement two years after, the expiration of his term of office by which a balance is found against him, such an exception as would take it out of the statute of limita

tions as would bind the securities.
Given under our hands & seals this
10th day of June 1864.

J. L. Thomas Co. atty (seal)
J. A. Beal (seal)
P. Pipkin (seal)

"Endorsed"

Filed June 10th 1864.
E. F. Honey clerk

State of Missouri } ss
County of Jefferson } I the undersigned Clerk of the Circuit Court, within and for the County aforesaid hereby certify the above and foregoing to be a full true and complete abstract of the Record and papers relating to the cause therein mentioned as fully as the Same remains of Record and on file in my office. In Testimony whereof I have hereto set my hand and affixed the Seal of Said court, this 20th day of September 1865
Samuel A. Reppy Clerk

JEFFERSON COUNTY CIRCUIT COURT SEAL

Fee Bill for making above Transcript for 2000 words and figures at 20 per per 100 words and figures $4.00
Cert & Seal 75
Revenue Stamps 5
$4.80

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State of Missouri to the use of Jefferson County vs Wm Skeel, Wm S Howe James R. Mygland & Hardy McCormack Jr.

In the Circuit Court of Jefferson County Mo.

To the above named Defendants You and each of you will take notice that a Writ of Error has been issued at the instance of the plaintiff in the above entitled Cause by the Supreme Court of the State of Missouri Returnable to the October Term of the Supreme Court at St Louis on the third monday in October 1865 when and where said Cause will be Tried

Jos. J. Williams, County Atty. for plaintiff

I Executed the within Notice in Jefferson County Missouri on the Twenty Sixth day of September 1865 by delivering a True and perfect Copy of the same to Wm S. Howe James R. England and Hardy McCormack p. each and also to philip pipkin one of the Attorneys of Reccord for the within named Defendants in the within Entitled Cause

C. C. Fletcher
Sheriff of Jeff Co Mo

(1) 5 (1)
October Term 1866.

State to the use of
(1) Jefferson County P.E.
vs
William S Keel
Wm S. Howe
Jas R. England &
Hardy McCormack
D E

Error to Jefferson
Circuit Court

Filed Oct 3d, 1863
J. A. Willis
Clerk

Jos. J. Williams
Atty for ~~Affidavit~~ P.E.
$10 paid by Atty Williams

1865 Oct 16. motion to docket for Oct. Term.
" " 18 " overruled.
1866 Aug 1 Dismissed by P. E.

State of Missouri to the
use of Jefferson County P.C.
vs
Wm Skeel & others D.C.

In the supreme Court

The plaintiff in error moves the Court to place the above Stiled Cause on the Docket for Trial for the following reasons, viz.

1st The writ of Error was returned by the Clerk of the Court below & by him with the Transcript delivered to J.A. Beal Atty. of Record for Defendants in Error more than fifteen Days before the first day of this Term and because it was the wrong of the said Atty. that prevented said Cause from being filed in Time to be docketed & because said Beal as such Atty. ought not to be permitted by the Court by so withholding said Transcript (of which fact plaintiff in Error was ignorant but supposed ~~his~~ said papers were duly filed) to prevent said plaintiff having a Trial at this Term

2nd Defendants in Error can not be prejudiced by the Docketing of said Cause for the

Reason that said Transcript was in the possession of their Atty, who had the means of examining the same and of fully informing him self of the nature of said Cause & because they have been duly served with notice of said writ of Error

Williams
Atty. for P.E.

State to the use of
Jefferson County
vs
Mr Steel & others
Motion to Docket

Filed Oct 17 1865
J. A. Willis
Clk

State use Jefferson County
vs
William Kul et al

} In the Supreme Court of Mo

The defendants move the court dismiss the writ of error in this cause & to affirm the judgment below for these reasons

1st Because the plaintiff in error failed to file the case in this court in time required by law

2 Because there was not 20 days service of notice on defts in error before the first day of the October Term 1865 of the Supreme Court

3 Because pltffs in error failed to assign errors on or before the first day on which causes from the 9th judicial circuit are set for hearing

4 Because pltffs in error failed to prosecute his writ according to law

J A Beal
for defts in error

State use Jeffles
vs
Jno Steel et al

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Motion to affirm
Judgment

Filed Nov 6. 65
J. A. Willis
Clerk

State of Missouri to the use
of Jefferson County P. E.

vs

Wm Skeel W. S. Howe
J. R. England & Hardy
J. McCormack Jr. D. E.

In the Supreme Court of
Missouri

The Clerk of the Supreme Court will
dismiss the Writ of Error in the above
Cause, at Cost of the P. E.

Jos. J. Williams, Leo.
Attorney for P. E.

State to the use of
Jefferson County
vs P.E.
Wm Keel et al.
J. E.

order to dismiss

Filed Aug 1/66