2/24

Daniel McClanahan

v

James & Walter Wilkinson

November 1825- Perry County

Debt (but found receipts so appeal)

State of Missouri
3rd Judicial District } ss.

The State of Missouri to the Sheriff of Perry County — Greeting

Whereas Josiah McClanahan heretofore to wit: on the twenty eighth day of August in the year of our Lord one thousand eight hundred and eighteen in the Superior Court for the Territory (now State) of Missouri Northern Circuit, before the Judges thereof, recovered against James I Wilkinson and Walter Wilkinson the sum of Two thousand and eighty eight dollars and fifty Cents for his debt, together with his costs and charges by him about his suit in that behalf laid out and expended, as appears to us of record, and whereas by the Complaint of the said Josiah McClanahan we are informed that execution yet remains to be had on the Judgment aforesaid for the debt and costs aforesaid.— These are therefore to Command you that by good and lawful men of your Bailiwick you cause the said James I Wilkinson and Walter Wilkinson to know that they be and appear before the Judges of our Supreme Court, at the next term thereof, to be holden at the city of St Louis within and for the third Judicial District on the first monday in November next, if they shall think it expedient so to do, then and there to shew cause, if any they have, or know, why the said Josiah McClanahan should not have execution against them on the Judgment aforesaid for the debt and costs aforesaid, and have you then there this writ, and the names of those by whom you give them notice —

Witness Thompson Douglass Clerk of our Supreme Court for the Third Judicial District

In Testimony whereof I have hereunto set my name and affixed my Seal of Office at Office this thirtieth day of July in the year of our Lord one thousand eight hundred and twenty five, and of the Independence of the United States of America the fiftieth —

Th. Douglass Clk. S. C.
3rd J. D.

No. 20 74

November Term 1825

Josiah McClanahan

vs Scire facias

Jas. G. & Walter Wilkinson

Sheriff's fees — $1-50

Executive Linguen homme Township Sept the 5th 1825

Perry County In presents of C. C. Valli & C. McStalley

on Walter Wilkinson James D. Wilkinson & R. T. Brown Sheriff

not found in my Bailiwick — [illegible]

STATE OF MISSOURI, } ss,
Third Judicial District. }

The State of Missouri, to the Honorable the Circuit Court of St Louis 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 St Louis before our Judge thereof, between Bernard & Joseph Pratte ——— Plaintiffs, and Antoine Soulard Exr of Isabella Mackay Exrx of James Mackay Decd Defendants in a plea of Assumpsit — as it is said, manifest error hath happened, to the great damage of the said Soulard & Mackay Exrs of James Mackay decd as by their 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 City of St. Louis, within and for the Third Judicial District, on the first Monday of November 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, THOMPSON DOUGLASS, Clerk of our Supreme Court for the Third Judicial District.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal of Office, at Office, this Nineteenth day of September in the year of our Lord one thousand eight hundred and twenty five and of the Independence of the United States of America, the fiftieth

T. Douglass Clk

No. 10
Nov. Term 1825
James MacKay's Ex.rs
vs
Writ of Error
B & J Platte

In Obedience to the within writ I herewith certify to the Hon. The Supreme Court a correct Transcript of the Record & proceedings in the case required

A Gamble clk

Josiah McClenahan
v
James & Walter Wilkinson

And the said James and Walter by their attorneys come and say that the said judgment ought not to be revived because they say that heretofore to wit on the first day of October in the year eighteen hundred and eighteen the said Josiah sued out of the Clerk's Office of the Supreme Court for the Northern circuit, an execution upon the said judgment directed to the Sheriff of the County of St Louis whereby the said Sheriff was commanded that of the goods and chattly lands and tenements of the said James and Walter, he should cause to be made the said damages, and costs, and for want of sufficient goods and chattly, whereon to levy and make the same the said Sheriff was by the said writ commanded to take the said James and Walter and them safely keep, so that he should have their bodies before the judges of the said Superior Court on the fourth monday of March then next, and that he should then there have this said writ and the said McClenahan afterwards to wit upon the day and year first aforesaid at the County aforesaid delivered the said writ to John W. Thompson then Sheriff of the said County, And the said James and Walter in fact say that afterwards and before the return day of the said writ, and while the said Thompson was Sheriff as aforesaid to wit on the day and year first aforesaid at the County aforesaid the said James and Walter Wilkinson paid and satisfied to the said Sheriff the said

damages & costs, and this they are ready to verify, wherefore they pray judgment &c

Geyer

Josiah Willenahan

v James & Walter Wilkinson

Rea

Filed 12th Novr 1825

T. Douglass Clk

Josiah McClanahan
vs
Walter Wilkinson
& James I Wilkinson

In Supreme Court 3 District
Scire Facias to revive Judgt.

This day personally appears Walter Wilkinson before me a Justice of the peace within and for the county of St Louis and makes oath that in the year of our Lord Eighteen hundred and eighteen, the plaintiff sued out of the Superior court of the territory of Missouri, a writ of execution upon the judgment in the scire facias in this case mentioned, which execution was delivered to John W Thompson then sheriff of the county of St Louis to be executed, that said Thompson levied said Execution upon the property of James I Wilkinson, of which he said Thompson informed this affiant by letter, that this affiant then paid to said Thompson the amount of said Judgment and confidently expected that the execution would have been returned satisfied But since he was served with the scire facias aforesaid, he has examined the office of the Clerk of the Supreme Court for the third district and upon such examination it appears that the said execution was never returned or if returned cannot now be found And this affiant further states that he verily believes that he can prove the facts aforesaid, by one Samuel Hammond who was a witness to the satisfaction of

said Judgment made as aforesaid, and who has lately, before the suing out said Sieri Facias removed from this State, and now resides as this affiant is informed and believes in the State of Georgia, and this affiant knows of no other witness by whom he can prove the same facts, this affiant verily believes that he can have the deposition of said Hammond to be read at the next term of this court, and that he cannot safely go to trial with out said testimony—

M. Wilkinson

Sworn to and subscribed before me this 7th October AD 1825

(Lawrence B Pearson

(Justice of the Peace)

said Judgment made as aforesaid, and who has lately, before the suing out said Sieve Facias removed from this State, and now resides as this affiant is informed and believes in the State of Georgia, and this affiant knows of no other witness by whom he can prove the same facts this affiant verily believes that he can have the deposition of said Hammond to be read at the next term of this court, and that he cannot safely go to trial with out said testimony.

Wm Wilkinson

Sworn to and subscribed before me this 7th October AD 1825

(Lawrence B Pearson

Justice of the Peace)

McClenahan

affidavit Defts

vs

J. W. Wilkinson

filed 14th Novr 1825

H. Douglass Clk

County of St. Louis
To wit

In the Supreme Court
Third Judicial District

Josiah McClenahan
vs
Walter Wilkinson

And the said Josiah for to the plea of the said Walter by him above pleaded saith that the same and the matters therein contained in manner and form as the same are above pleaded and set forth are not sufficient in law to bar or preclude him the said Josiah from having or maintaining his aforesaid action thereof against him the said Walter and that he the said Josiah is not bound by the law of this land to answer the same and this he the said Josiah is ready to verify wherefore for want of a sufficient plea in this behalf he the said Josiah prays Judgment and his debt aforesaid together with his damages by him sustained on occasion of the detention thereof to be adjudged to him

Magoun
Atty
for Plaintiff

McClenahan
v
Wilkinson

Demurrer
to plea —

Magenis
att for Dft —

filed 23d Decr 1825
Th. Douglass Clk

Josiah McClenahan } In the Supreme Court -
vs } Third Judicial District -
Walter Wilkinson } May Term 1826

And the said Josiah as to the plea of the said Walter by him above pleaded says that he the said Josiah by any thing therein contained ought not be precluded from renewing said judgment because he says that neither the said Walter nor any one for them nor said James did well and truly pay to the said Sheriff of the County aforesaid the said damages and cost as in said plea is alledged and this he prays may be inquired of by the Country -

Magenis
Atty for Plff

Josiah McClenahan
v
Walter Wilkinson
~~pl Replication~~

Magenis

atty for pltff

filed May 3d 1826
Th Douglass Clk

Jonah McClenahan
vs
James & Walter Wilkinson

Walter Wilkinson being duly sworn saith that since the last term of this Court he has discovered that George Hammond a resident of Jefferson County in this State has in his possession two receipts given by John W Thompson to Samuel Hammond this affeant's agent for money to be credited upon the execution issued upon the judgment in the said scire facias mentioned, the one receipt for the sum of nine hundred dollars. and the other for the sum of eight hundred dollars, both bearing date upon the eighteenth day of February in the year eighteen hundred and nineteen, and that the said receipts are material for this affeant's defence upon the trial of the said cause

Sworn to and subscribed before me this 1st day of May AD 1826

Clement A. Pierron
justice of

J. H. Pearce

W Wilkinson

Jonah McClenahan

vs affidavit Defts

J & W. Wilkinson

Filed May 4th 1826

T. Douglass Clk

The State of Missouri

To the Sheriff of Jefferson County. Greeting

We Command you to Summon George Hammond that all excuses and delays setting aside, he be and appear before our Supreme Court to be held at the City of St. Louis within and for the Third Judicial District, on the first Monday of November next, then and there to testify the truth of his knowledge touching a certain matter of Controversy therein pending between Josiah McClanahan Plaintiff, Walter Wilkinson and James J Wilkinson Defendants on the part of the said Defendants. And the said George Hammond is also Commanded to bring with him into Court at the time and place aforesaid two Certain receipts given by John W Thompson former Sheriff of St. Louis County to Samuel Hammond agent for Walter Wilkinson, dated on the eighteenth day of February in the year eighteen hundred and nineteen, one for the sum of nine hundred dollars the other for the sum of eight hundred dollars, which sums were to have been Credited on an Execution in favour of the said plaintiff against said defendants then in the hands of the said Sheriff. hereof he is not to fail. and fail not you and have you then there this writ.

Witness Thompson Douglass Clerk of our said Court. Given under my hand and seal of office this twenty first day of October eighteen hundred and twenty six —

H. Douglass Clk

Nov. Term 1826

Josiah McClanahan

vs Subpoena

James I & W Wilkinson

for Defendant

George Hammond

Served the within Sms on George Hammond by Reading to him in the County of Jefferson October 28th 1826

Wm Ellis Shff

fees $0 50

~~Served the~~

Josiah McClanahan
vs
Walter Wilkinson
impleaded

In Supreme Court

To my fee as attorney for defendant
for obtaining judgt for defts 5 Dollars } $5.00.

[illegible]

6
5

Stff Perry	1. 50
" Jefferson	50
	13.00