St. Louis Circuit Court
Circuit - Civil - Case Files
July Term 1839, No. 116

Box 23 Folder 84

Endicott, Charles, by next friend
Bird, Gustavus A.
v.
Clapp, Benjamin

Trespass, assault and battery, false imprisonment
Freedom Suit

Plaintiff a slave; kidnapped by Samuel Gray and sold to Benjamin Clapp of St. Louis; plaintiff from Sicketts Harbor, New York, his father, a free man, kept a barber shop there; includes depositions

Deft attys: Bogy, Lewis
Hunton, Logan

County of St. Louis, ss.

THE STATE OF MISSOURI,

To the Sheriff of St. Louis County—GREETING:

We command you to *Summon Benjamin Clapp if he be found in your County*

that he be and appear

before the judge of our Circuit Court, on the first day of the next term thereof, to be held at the City of St. Louis, within and for the County of St. Louis, on the third Monday of *July* next, then and there to answer unto *Charles Endicott who sues by his next friend Gustavus A Bird of* a plea of trespass

~~to the damage of said plaintiff~~ ~~dollars.~~ And have you then there this writ.

Witness, *JOHN RULAND*, Clerk of our said Court, with the seal thereof hereto affixed, at office, in the City of St. Louis, this *sixth* day of *May* in the year of our Lord eighteen hundred and thirty-nine.

John Ruland CLERK. *by*
Geo A Ayde Dep

I acknowledge myself bound for all costs that may accrue in the above cause.

Witness my hand and seal, at St. Louis, this day of 18

SEAL.

No 116

St Louis Circuit Court

September Term 1839

Charles Ewbank by his next friend Richard Ewbank

vs

Benjamin Clapp

Suit for freedom. Summons

Filed 8th May 1839

Wm Glasgow Jr Clk

Executed this writ in the county of St Louis on the Seventh day of May 1839 by offering to read it and the petition and declaration and also the order made by the honorable Judge to Benjamin Clapp the defendant. all of which he said defendant refused to hear

Marshall Brotherton

Sheriff

Service $1.00

To the Honorable Luke E Lawless Judge
of the Saint Louis Circuit Court for
the State of Missouri

The Petition of Charles
Endicott a Mulatto Boy ages about eighteen
years respectfully Sheweth unto your
Honor that he is free Born & lawfully
entitled to his liberty although he is held
& claimed as a Slave by Benjamin
Clapp of St Louis in the town of
St Louis and State of Missouri - Your
Petitioner, has lived many years in
Sackets Harbour in the State of New-
York where his father & mother
formerly were held Bound as free
persons & he prays he may be Set & Bound free &
be permitted to sue as a free person
to obtain his freedom in behalf of the Petitioner

Wm Wm Nelson & Wm Perry on their
oath say that that they well know the
Petitioner at Sackets Harbour in the State
of New York and his parents for about three or four years
years when the petitioner & his parents acted
& were generally reputed to be free Persons
and these affiants are fully persuaded that
said petitioner is entitled to his freedom
They saw the Petitioner on the Lake last
March & readily recognized him as the same
person they knew in the State of New York
They have understood that he was
born free near Brockville in
Upper Canada The Petitioner tells
the following circumstances which they

believe to be true – that the ~~Prisoner~~ Petitioner was persuaded to leave his father & Mother by one Samuel Gray who afterwards Kidnapped him & sold him as a Slave to Benjamin Clapp of St Louis On friday & Saturday last the prisoner was endeavoring to find counsel to assist him in procuring his freedom & called with affiants at the office of Geo Bond who was not found there The Prisoner seemed to be alarmed for fear he might be Remanded from St Louis to prevent his obtaining his freedom Said Bond informs the affiants that he promised to prepare his Petition & affidavit to make the petitioner to sue for freedom yesterday & that the Petitioner agreed to call on Said Bond last night & make the necessary affidavit but did not do so from which the affiants think they have reason to believe that the Petitioner has been prevented from making said affidavit by Said Clapp or Some one else

Wm S Wilson

Sworn to by Wm S Wilson
this 6th day of May 1839
Before me
D G Lakeamse
Justice of the

I Luke E Lawless Judge of the Said Lawless
Circuit Court and State of Missouri do
hereby order that the Petitioner Charles
Named be allowed to sue as a pauper pursuant
to establish his right to freedom and I hereby appoint
G H Bird as next friend & appoint him as
counsel of the petitioner And I further
order that Said petitioner have reasonable
liberty of attending his counsel & the court
as occasion may require; that he be
not removed out of the Jurisdiction of
the court, and that he be not subject
to any Security on account of his application
for freedom

Luke E Lawless

Petition of Charles
Endorsed for Leave
to Sue for his freedom
Order of the Judge

State of Missouri Saint Louis Circuit
Court July Term A.D. 1839

Charles Endicott an infant under twenty
one years of age a Mulatto complains of
Benjamin Clapp of a plea of trespass
for that on the first day of January in
the year eighteen hundred & thirty nine the
the said defendant at St Louis in said
County ~~Beg~~ with force & arms then &
there beat & wounded the said plaintiff
and then & there unlawfully & without
any reasonable or probable cause imprisoned
him & hath kept him there imprisoned
from the day last aforesaid to this day
& other wrongs then & there did
and the plaintiff avers that before
& during the time of committing said
grievances the said plaintiff was and
still is a free person and the defendant
kept & detained & still does keep and
detain the plaintiff in slavery wherefore
he brings suit &c Charles Endicott
by G & Bird his
next friend & counsel

Chals Endecott by
G A Bird his next
friend vs
Benjamin Clapp

Sent for Freedom
in an Action of Slander
The Clerk will please
issue a Summons.

G A Bird
next friend of
Plaintiff

In the case of Charles [redacted] endicott a man of
color against Benjamin Clapp the said
defendant having declined to enter into
recognizance in such case made and
provided It is hereby ordered that the Sheriff
of St Louis county take possession of
said Charles who has sued for his freedom
and hire him out to the best advantage
from time to time during the pendency of
his suit for freedom and that he take bond
from the hirer payable to the State of Missouri
in the sum of five hundred Dollars &
such security such as said Sheriff shall approve
conditioned according to the second
section of the act entitled "An act to
enable persons held in Slavery to sue for
their freedom approved January 24th 1835
St Louis May 18th 1839

[signature]
Judge Circuit Court
County of St Louis

C Endicott

vs

Benj Clapp

Benjamin Clapp
ads. } Plea

And the said defendant by
his attorneys comes & defends the wrong and
injury, when &c and says that he is not guilty
of the said supposed grievances above laid to his charge,
or any or either of them, or any part thereof, in man
-ner & form as the said plaintiff hath above com
-plained against him. And of this he the said
defendant puts himself upon the Country.

Bogy & Benton
attys for defd.

No 116 July T

Benjamin Clopp
adv. Ex. suit for freedom
Charles Endicott

Plea not guilty

R. S. Hunton
atty.

Filed November 27th 1839
W. Rutland Clerk

Charles Indicott

vs

Benjamin Clapp } Case for Injunction

It is agreed that depositions may be taken in this cause by each party at the office of Joseph Walsh Esquire in the City of St Louis on Saturday next between 3 & 6 o'clock P.M. to be read in evidence in said cause saving all exceptions as to relevancy

July 30 1840

G.A. Bridgeland
for Pltf

J.W. Risque atto:
for defendant

I acknowledge legal

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Depositions of witness produced sworn & examined
before me Joseph Walsh a Justice of the peace
within & for St Louis County at my office in the
City of St Louis on the first day of August
in the year of our Lord eighteen hundred &
forty between the hours of three & six o'clock
in the afternoon of that day taken on the
part of the plaintiff to be read in evidence
in a certain cause pending in the Circuit
Court of St Louis & State of Missouri in
which Charles Endicott is plaintiff & Benjamin
Clapp is defendant -

Chester Mellen of lawful age being produced
sworn and examined deposes & says. I know the plaintiff
Charles Endicott who is here present & have known him since
the year 1830 or 1831 when he was quite small at Sacketts Harbor
(when I resided Since 1825 to 1 May last)
Jefferson County State of New York & I now said Negro
attention but have seen him about the Village several
times & saw him there ~~last fall~~ two years ago last fall
(or three)
& do not recollect seeing him afterwards until to day.

The father of the plaintiff lived at Sacketts Harbor in 1830
& 1831 & perhaps before, & lived there about a year since, he
passed as a free man & kept a barber shop there (when I left
there in May last) he was reputed a free man & acted as such.

Cross Examined -

Have you any personal knowledge or to whether the father
of the plaintiff was or was not a free man?

Answer I have not, he acted there as a free man like all other
men & I never heard the matter canvassed as to whether he ever
had been a slave or not — and further this deponent
saith not —

Chester Mellen

Sworn to and subscribed before me on the
day between the hours and at the place
in that behalf aforesaid -
Jos. Walsh Justice

Calvin Case of lawful age being produced and sworn and
Examined deposeth and saith, I have known the plaintiff
Charles Endicott occasionally since the year 1830 or 1831

at Sacketts Harbor where I then resided, & when I last saw him in 1835. I did not see him again until I saw him in St Louis in June 1839. I have no doubt as to his Identity. I also knew his reputed father who kept a barber shop there, & passed for a free man & acted as such, in the years 1830 & 1831, & occasionally went on Steamboats, he had several Childrens —

Question — Was the father of the plaintiff acting as and considered a free man & did you ever know of his being claimed as a slave?

Answer — He did act as a free man there, as all other Colored persons do, and I never knew of his being claimed as a slave

Question. Did you also know the mother of Plaintiff & did she act, and was she reputed to be a free woman, & did you ever know of her being claimed as a slave?

Answer. I knew the reputed mother of the plaintiff, or the woman who lived with his reputed father as his wife, who acted & was considered as a free woman as all other Colored persons there did —

Question. Are you acquainted with Christen Mellen the last witness, & what was his business & standing at Sacketts Harbor —

Answer. I have known him there since 1826 when I went to Sacketts Harbor to live, until the Spring of 1837. & have not seen him since until to day, he was Engaged in the Mercantile business & his Character was as good as that of any man there.

Cross Examined —

Question — Have you not reason to believe that there are many runaway slaves living on the line between Canada & New York who pass themselves off as free persons & upon the Community there?

Answer. I have never known any as low down as Sacketts harbor higher up About Buffalo & on the lake there are —

Re-examined —

Question — Did you ever hear ~~anyone~~ while living in New York, ~~question~~ right to the freedom of the plaintiff or of his father or

Mother questioned?

Answer Said not.

Re cross Examined -

Question - Have you any personal knowledge whether the Plaintiff or his father or mother were free or Slaves?

Answer. I know only from the Circumstance of their living there, for the length of time, as I have stated?

Re Examined

Question - When you knew them in New York were they acting under the Control of any person or as Servants?

Answer - they were not, they lived in a house by themselves

Sworn to and subscribed before me on the day at the place & between the hours in that behalf aforesaid

Calvin Case

Jos Walsh Justice

State of Missouri
County of St Louis } ss

I Joseph Walsh a Justice of the peace in and for said County do Certify that Chester Mullen & Calvin Case the deponents were by me severally Sworn to testify the whole truth of their knowledge touching the matter in Controversy aforesaid that they were Examined & their Examination reduced to writing & by them Subscribed in my presence on the day between the hours and at the place in that behalf aforesaid -

Given under my hand this 1st day of August A D 1840

Jos Walsh Justice

(Fee $2.00 paid by Gott & Bird Esq)

No

St Louis Circuit Court,
November Term 1840

Charles Lindenette

vs } Depositions for pltff

Benj Clapp

Depn of Pltff by G. A. Bird Esqr
$2.

Filed November 13. 1840.
Wm. Ruland Clerk

(Fees pd & pltff by G A Bird Esq)

County of St. Louis, sct.

STATE OF MISSOURI,

To the Sheriff of St. Louis County,—Gree ting:

You are hereby commanded to summon Albert C Griffin

that setting aside all manner of execuse and delay, he be and appear in proper pe rson before the Judge of our Circuit Court, on the County Eighth day of January 1841. at the City of St. Louis, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein Charles Indecott is plaintiff and Benjamin Clapsaddle defendant on the part of plaintiff

and have you then there this writ.

Witness, *JOHN RULAND,* Clerk of our said Circuit Court, at the City of St. Louis, this 26th day of January — in the year of our Lord eighteen hundred and forty one

J W Ruland CLERK, C. C.

Chs Indicutt

vs

Benjamin Chapp

Sale for

Attnt & Griffin

for Plff

Jan the 25th

Issued this writ on 25 Jan 1841

Dec 58

Wm. Brookerson Clk

County of St. Louis, sct.

STATE OF MISSOURI,

To the Sheriff of St. Louis County,—Greeting;

You are hereby commanded to summon Capt. Calvin Case William Nelson, Solomon H. Robbins Chester McMillan — — — —

that setting aside all manner of execuse and delay, he be and appear in proper person before the Judge of our Circuit Court, on the 28th day of January A. D. 1841 — — at the City of St. Louis, then and there to testify, and the truth to say in a certain matter of controversy now pending in our said Court, wherein Charles Endicott is — — — plaintiff and Benjamin C Clapp — — — defendant on the part of pltff — — — — — and have you then there this writ.

Witness, *JOHN RULAND*, Clerk of our said Circuit Court, at the City of St. Louis, this nineteen th day of January in the year of our Lord eighteen hundred and forty one

J W Ruland CLERK, C. C.

Subpœna

Charles Indicott

vs

Benjamin C. Clapp

for plaintiff

Capt. Calvin Cade

William Nelson

(both of the above live near the big mound, a little back of it, in a white house)

Solomon K. Robbins

Chester McMillan

for 21st Jan. 1841

Served this writ on Capt. Calvin Cade & Wm. Nelson the within named defendants this 8th day of Jan. 1841 — Solomon K. Robbins Dep. Sheriff

We the Jury find for the Plaintiff

Jas G Brown

Foreman