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Book 184 SW Reporter

In the District Court of El Paso County, Texas,
Forty-First Judicial District,
March Term, A.D. 1915.

Lamar Davis,
Plaintiff,
vs.
C. M. Newman, et al,
Defendants.

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No. 9841.

Comes now the plaintiff Lamar Davis in the above entitled and numbered cause, and would show to the Court that on April 14th, 1915, all the parties appeared by attorneys and announced ready for trial, and thereupon came a jury of good and lawful men, to-wit, A. Bargeman and eleven others, who being duly impanelled and sworn, and after hearing the pleadings, evidence and charge of the court, did on the 28th day of April, A. D. 1915, (said case having continued from day to day) return into Court the following verdict, in the form of answers to special issue submitted to them by the said Court, which verdict is substantially as follows:

"We, the jury in the above numbered and entitled cause return the following answers to the respective questions submitted to us by the Court.

Question No. One: Do you find from a preponderance of the evidence that the Northern boundary line of said survey number 77, as surveyed on the ground by J. A. Tivey, is coincident with or South of the Northern boundary of said survey as located and marked by Murray Harris, and delineated on the map of the said Harris introduced in evidence?

Answer: Yes."

Said plaintiff further says, that under the answer to said special issue returned to said Court by said jury, the plaintiff is entitled to a judgment for the land sued for;

Said plaintiff, Lamar Davis, therefore, moves this honorable Court, that it enter a judgment for him against the defendants for the land sued for, and against the defendants on

their cross-action in the form of a judgment attached hereto and marked "Exhibit A."

Winter, McBroom & Scott,
Attorneys for Plaintiff.

In the District Court of El Paso County, Texas, 41st
Judicial District, March Term, A. D. 1915.

Lamar Davis,

vs.

No. 9841.

C.M. Newman, et al.

BE IT REMEMBERED, that on the 14th day of April, A. D. 1915, at the regular term of the court, came all the parties, plaintiff and defendants by their attorneys, and the defendant Fannie Maple, a minor, by her guardian ad litem, C. M. Newman, and announced ready for trial; and thereupon came a jury of good and lawful men, to-wit, A. Bargman and eleven others, who being duly empaneled and sworn, and after hearing the pleadings, evidence, charge of the Court, which submitted said case on special issues, and arguments of counsel, did on the 28th day of April, A. D. 1915, said cause having continued from day to day, duly return into court the following verdict:

"We, the jury in the above numbered and entitled cause return the following verdict and make the following answers to the respective questions submitted to us by the Court.

Question No. One: Do you find from a preponderance of the evidence that the Northern boundary line of said survey number 77, as surveyed on the ground by J. A. Tivey, is coincident with or South of the Northern boundary of said survey as located and marked by Murray Harris, and delineated on the map of the said Harris introduced in evidence?

Answer: Yes."

Question No. Two: Do you find from the evidence that the Northern boundary line of said survey No. 77, as surveyed on the ground by J. A. Tivey, is coincident with or North of the Northern boundary line of said survey as located and marked by R. E. Hardaway, and delineated on the map of the said Hardaway introduced in evidence?

Answer: _____.

Question No. Three: Where do you find from the evidence J. A. Tivey located on the ground, the Northern Boundary line of survey No. 77?

Answer: _____.

A. Bargman, Foreman,	C. H. Golle
Chas. T. Nagle	J. H. Talpis
E. Blum	Herbert Morris
A. E. Schutz	A. Waugh
E. E. Northrop	Wm. R. Blair
	Frank C. Hecox

During the trial of said case by consent of all parties one of the jurors was excused, and an agreement made in open court that the remaining eleven should return a verdict in said case.

That thereafter, to-wit, on the 30th day of April, 1915, the plaintiff filed herein in his motion for a judgment on the findings of said jury on said special issue.

Said motion and verdict having been duly considered by said Court, it is, one the first day of May, 1915, considered, ordered, adjudged and decreed by the Court that the plaintiff, Lamar Davis, recover of and from the defendants, C. M. Newman, individually and as independent executor of the estate of E. S. Newman, deceased, and as guardian ad litem of Fannie Maple, a minor, Myra N. Maple and her husband, C. J. Maple, Fannie Maple, W. Tooley, J. H. Nations, James G. McNary, and John T. McElroy, the land and premises described in the plaintiff's second amended original petition, filed in said cause on April 14th, 1915, said land being situated near Fort Hancock Station in the County of El Paso, State of Texas, and known as Texas & Pacific Railway Company Survey No. 7, in Block A, it being the tract of land surveyed by virtue of land certificate No. 7039 issued by the said Texas & Pacific Railway Company by the Commissioners of the General Land Office of the State of Texas, October 6, 1876, and patented to the Texas & Pacific Railway Company on the 4th day of May,

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1883 by Patent No. 425, Volume 68, which said land is fully described as follows:

"Beginning at a stone set for the south corner of said survey 7, being also the east corner of survey 77 in the name of M. Dugan, thence North 45° east crossing the public road (formerly the old G. H. & S. A. grade) at 360 varas and at 369 varas a point south 45° east 48 varas from a fence post and corner in what is known as the Newman fence, 1900 varas to a stake, the east corner of said survey, thence north 45° west 1900 varas to a stake, the north corner of this survey, thence south 45° west crossing the above public road at 1850 varas 1900 varas to a stone and west corner of this survey, thence 45° east crossing the east end of the old parade ground at Fort Hancock 1900 varas, the place of beginning.

for which said plaintiff may have his writ of possession and restitution and all costs of court in this behalf expended, for which he may have his execution.

It is further ordered, adjudged and decreed by the Court that the defendants take nothing on their cross-action, and as to said cross-action the plaintiff be permitted to go hence without day and recover his costs.

It is further ordered, adjudged and decreed that execution may issue in favor of the officers of Court against each of the parties hereto for all costs by them respectively incurred.

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THE STATE OF TEXAS, |
COUNTY OF EL PASO... |

I, C. W. Harper, Clerk District Court, in and for El Paso County, Texas, 41st Judicial District, do hereby certify that the foregoing is a true and correct copy of the original judgment rendered and entered in cause No. 9841, wherein Lamar Davis is Plaintiff and C. M. Newman, et al, are Defendants, as the same appears of record in the Minutes of said Court in Volume 11, at page 585 thereof.

Given under my hand and the seal of said Court, this the 12th day of September, A. D. 1928.

C. W. Harper, Clerk District Court,
El Paso County, Texas, 41st
Judicial District.

By

John R. Cobb
Deputy.

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