

1266

COUNTY OF PANOLA

STATE OF TEXAS

RECEIVED

APR 24 1935

REFERRED TO MAP

W. R. NELSON
County Judge

COMMISSIONERS:

W. M. RISINGER
Precinct No. 1

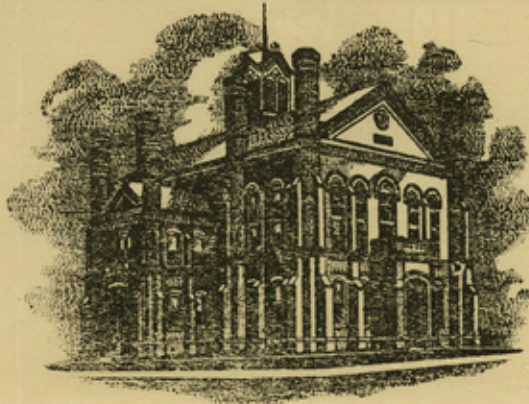
S. B. SHIVERS
Precinct No. 2

E. E. HILL
Precinct No. 3

JIM KYLE
Precinct No. 4

L. M. HUNT
Sheriff

J. M. GRIFFIN
County Surveyor



W. D. ANDERSON
District Clerk

A. J. HOLMES, JR.
County Clerk

J. A. BROWNING
County Supt.

H. B. WILLIAMS
County Treas.

W. S. CHADWICK
Tax Ass'e'r-Collector

FRED WHITAKER
County Attorney

CARTHAGE, TEXAS

Hon. J. H. Walker,
Comr, Genl Ld Office.

April 23rd 1935

Dear Mr. Walker; I wrote you yesterday for instructions relative to corrected field notes of Tex. Cent. R.R. No. 28; and I made two Carbon Copies, one for each Claimant of Sec. 28, and Thos. H. Hull survey. In mailing out these I am fearful that I failed to sign the Original sent you, and perhaps sent the one signed and sealed to one of the Claimants. So if I did not sign the letter & plat, please permit this to be my signature, and file this with the one I mailed yesterday. I should have stated also if I did not, that the S.W. Corner of Sec. 28 where I reached the river is on the North bank, as the River here runs East for several hundred Yards, both above and below. Please give my letter your earliest consideration possible, and let me hear as soon as possible. Obidiently yours
R.W. Priest
L. St. Ld. Surveyor

F

R. W. PRIEST
ATTORNEY AT LAW
AND
STATE LICENSED
LAND SURVEYOR
CARTHAGE, TEXAS

1260
RECEIVED
APR 23 1935
REFERRED TO MAPS
Carthage, Texas, April 22nd, 1935.
Hon. J. H. Walker,
Commissioner, General Land Office
Austin, Texas.

Dear Mr. Walker: Mt. E. L. Burnett, the claimant and equitable owner of Tex. Cent. R. R. Survey, No. 28, has applied to me for a resurvey and corrected field notes of said Survey, in order to obtain patent on same, informing me that he has paid it out, and that a re-survey and corrected field notes have been required by the Land Office before Patent could issue.

It is to this end that I am writing you, for information, advice and instructions; and am herein enclosing you a rough plat or sketch of the surveys as I find them on the ground, and with this statement, that you may be able to give me proper instructions as to what course to pursue.

The location of the abandoned Matt Finch Survey, the Tex. Cent. R. R. No. 28 and the Thos. F. Hull 169 acre surveys are involved in this controversy; and, on August 9th, & 10th, 1934, I resurveyed and corrected the field notes of the Thos. F. Hull, 169 acres, finding only 151.53 acres, and forwarded same to you, after their record in Vol. W. page 238, Surveyor's Records, and have been informed by the attorney of the claimant of the Hull Survey, Dr. Woolworth of Shreveport, that these field notes of the re-survey have been by you approved, and the survey now subject to patent.

At the date of this resurvey I did not know that I was conflicting with the Tex. Cent. R. R. Survey No. 28; but I find in a resurvey of Sec. 28, that the Hull resurvey is in conflict with Sec. 28, and that Sec. 28 is in conflict with the old abandoned survey of Matt Finch.

In surveying the Thos. F. Hull 169 acres, made by A. W. Smith, Co. Surveyor, on the 12th of Sept. 1911, and recorded Aug. 8th, 1912 in Vol. 1-R, page 312, I concluded by its calls that the intention of the Surveyor was to cover the abandoned Matt Finch Survey. While he did not call for the Finch Survey, he called for the same bearing trees, courses and distances of the lines and river meanders; therefore, I sought to locate the original Matt Finch abandoned survey, as shown in the statement attached to the corrected field notes of the Hull Survey.

I have surveyed the abandoned Finch Survey with Mr. Crawford, of Beekville, Mr. Carroll, of Marshall, Co. Surveyor, J. M. Griffin, Co. Surveyor here; and we all agree as to the correct location of the old Finch Survey, beginning down the river 370 varas below the mouth of Eight Mile Cree, and following its calls around, finding the old marked lines, as shown in my statement attending the Hull Corrected Field-notes. So there is no question as to the location of the abandoned Finch Survey on the ground.

The three Surveyors above mentioned, with whom I was with on the ground, all agree with me in the opinion that the Tex. Cent. Survey No. 28, and Thos. F. Hull original Survey as made by Smith, were both office surveys, and never made on the ground. The original Survey of Thos. F. Hull, calls to begin at the N.W. corner of Tex. Cent. No. 28, and to run N 51° E with its north line 1735 varas to its ell corner, and on around with its calls to the beginning; and here lies the trouble; the claimants of Sec. No. 28 contending that the calls for the Survey No. 28 by the Hull field notes, showing it to be the junior survey, we must first locate Sec. 28, giving it its area, and then locate the Hull on what may be left; while the claimant of the Hull Survey contend that as it was and is evident that the intention of the Surveyor was to cover the abandoned Finch Survey, that my Survey of the Hull and corrected field-notes are correct, no matter where the Tex. Cent. No. 28 may be located.

Patented T. C. R. R. No. 27 shows to have been made Aug. 17th, 1881, and Sec. No. 22, its alternate was made in 1882, and its calls for the course of the river in its meanderings, and other inconsistent calls, shown that it must have been merely an office survey. Not being able to locate this survey by its calls, I resort to other calls in its field-notes, which seem to be equally inconsistent; and, so I made a survey from the call on Abbie Collier's south line.

The S.E. corner of Abbie Collier Survey, is well recognized, and not disputed. This corner was pointed out to me by the owner of the Ed, Marlow survey, on the east of Collier. He told me that this had always been recognized as the Collier and Maelow corner, and that Mr. Behn Cook, then Co. Surveyor of Harrison County, recognized this corner; here I find a Post oak and Pine marked with very old X, and Mr. Carroll of Harrison County, also recognizes this as the true corner of these two surveys. The original bearings called for in the notes are gone. From this corner we ran North 1080 varas, finding the north or N.E. corner, following an old well marked line to the corner. Thence with the N.E. line, N 8¹/₂° W 1292 varas, following a well marked old line, to another corner, recognized by the Harrison County Surveyor, and the land owners. Continuing with its N.E. line, N 85° W 441 varas to another well defined corner that is recognized by the land owners as the N.W. corner of the Collier Survey! from its N.E. corner to this N.W. corner we follow a well marked old line. Thence running South following an old marked line 1069 varas to a point a few varas west of an old stake planted for corner and two oak trees marked X; This stake is out of position for the marked line, being east of the line, and the two Post oaks are of more recent markings than the other corners found. However, I searched south, continuing the line but could find no marks south of its distance, 1069 varas.

From this point, which calls for the County line, I ran S 73° W 898 varas, as called for in T.C. No. 28 field notes, and placed a stake, and marked temporary bearings; finding no marks at all on this line. But, at 172 varas I cross the east line of the Matt Finch abandoned survey, being the east line of my re-survey of Thos. F. Hull 151.53 acre Survey, and I cross this line only a few feet north of a large oak with the Finch marks on as a line tree of the Finch survey. This corner places me 91 varas N 39° W from the present County line. Thence S 35° E at 81 varas I cross the County line, and at 238 varas set a stake for corner, marking temporary bearings. I find no indications of a marked line. Thence S 51° W at 817 varas I reach the bank of Sabine river; finding no marks on this line, and no evidence of a corner on the river, This point on the river places me 205 varas S 39° E from the Finch north line. From this point on the river I measured S 39° E and at 394 varas I am on the south line of the abandoned Matt Finch Survey, a short distance east or N 51° E from its S.W. corner. Mr. Carroll, Co. Surveyor of Harrison County, traced the County line from the mouth of Eight Mile Creek, N 78° E to a point 109 varas south of the S.W. corner of Abbie Collier, as established by distance,

I then returned to the S.E. corner of Abbie Collier, which appears undisputed, and ran N 83° W 1041 varas, establishing another temporary corner for Collier, in the center of a tram road in an old Mill yard, where all timber is cut. I find no evidence of corner, and found no marked line, though this timber has been closely cut. From this point in Mill yard, I ran West 689 varas for the S.W. corner of Abbie Collier, finding no marks on line thus run, and at 689 Vrs I find myself 5 varas west and 81 varas south of the S.W. corner of Collier above located by distance 1069 varas from its N.W. corner. Between this point and the above corner, 83 varas, I find no marks at all, although trees large and old enough stand along the line, but no marks south of the 1069 varas. you will note that the easting and westings of the Collier is a balance, but the northings and southings has a discrepancy of 81 varas. The south line being the closing line of the Collier, it may not have been run; and if so, then it would take N 83° 15' W instead of West, 689 varas to close. This County line was run by the County Surveyors some twenty years ago, and Mr. Carroll tells me that Mr. Cook and Mr. Voorhies, the surveyors, ran north of the S.W. corner of Collier when they ran the County line, and that they figured the difference in degree so as to put the line at the corner of Collier. As a matter of course the County line called for by Collier and T.C. No. 28 was the line existing more than 20 or 25 years ago, and these corners could not be located by a county line run 25 years ago, unless it was known that they followed the original County line.

After making the test above outlined, I returned to the south corner of the Collier Survey, in the Mill yard, and ran S 3° W 91 varas, placing another temporary corner for Sec. 28, but found no evidence of corner. Thence running S 49° 30' W, at 2256 varas I find myself on the bank of the river before I reach the 2933 varas called for in field notes, making this line 677 varas short of its call. At this point I find myself to be just one out or 400 varas S 39° E from the south line of the abandoned Mat Finch Survey; and at a point down the river, S 39° E from Matt Finch south line I find no evidence of a line or corner. The distance across the Tex. Cent. No. 28, S 39° E

(3)

should be about 748 varas, being a 6" angle; and at 750 varas S 39°E fr^m Finch South line we find no evidence of corner or line. If Tex. Cent. No. 28 is located from the Finch Survey, then it would east as badly in conflict with the Collier Survey, and then into the Williamson Survey. If it is located from its calls for the Collier, then it is in conflict with the abandoned Finch, and Thos. F. Hull Survey, as resurveyed by me will be in conflict with No. 28.

This appears to me to be purely a legal question, as to its location. The abandoned Matt Finch Survey is the oldest on the ground, and the only one that seems to have been made on the ground. The Tex. Cent. No. 28 comes next, and then the Thos. F. Hull, in their order in point of purchase from the State, and both of these two latter surveys, evidently were made in the office and not on the ground. Now, the question, if this conflict exists, which of these two surveys shall obtain, or have precedent?

From the T. T. Williamson Survey to the river, or from Collier's S. E. corner to the river, there is not space or ground room for the Tex. Cent. No. 28 and the Thos. F. Hull survey. I am of the opinion that all of these R. R. Surveys are or were office surveys, and it may be that running from the Needom Yates on the south, north, and from T. T. Williamson on the east, west, an area may be found in excesses as to place the Sec. 28 out of conflict with Finch, and take Hull out of conflict with No. 28; but it is hardly possible, and I do not believe it probable, and the possibility is so remote that I could not suggest this extra surveying, as they both have been at such expense, unless such suggestion should come through your office; for otherwise, they may think that I was after a continued job of surveying.

I believe, Mr. Walker, that I have given you all the facts on the ground as I find them, and this conflict actually exists as shown on plat attached, if located by calls of the Abbie Collier Survey; and I will very much appreciate instructions from you, and your advice as to my duties in the premises. With best wishes, I remain,

Very obediently yours,

Sketch File No. 21

Panola County

R.W. Priest's Statement

Thos. F. Hull Survey (F. 104165)
SF. 2743.

Filed April 23rd 1985

J. H. Welker, Comm.

C. F. Blucher

File Clerk

Descriptive: See No. 20 for
surveyor's sketch.

conflict with No. 38.
the abandoned Kline, and Thos. F. Hull Survey, as resurveyed by me will be in
It is located from the corner for the collier, then it is in conflict with
partly in conflict with the collier survey, and then into the Williamson survey.
It is located from the corner of the Kline survey, then it would east as
south line we find no evidence of corner or line.
should be about 45 degrees, being a 90 angle; and at the same 2 300 ft line.

This appears to me to be purely a legal question, as to the location.
The abandoned Kline Survey is the oldest on the ground, and the only
one that seems to have been made on the ground. The Thos. F. Hull Survey
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