

No. 3336

WHARTON COUNTY

VS.

COLORADO COUNTY

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IN THE DISTRICT COURT

OF

JACKSON COUNTY, TEXAS

JUDGMENT

On the 15th day of May, 1950, came on to be heard in its regular order the above styled and numbered cause wherein Wharton County is Plaintiff and Colorado County is Defendant, and came both parties by and through their attorneys of record and announced ready for trial; whereupon the Defendant submitted to the Court the exceptions to Plaintiff's Original Petition contained in its Original Answer, and the Plaintiff having stated that it believed such exceptions to be good, and the Court, having duly heard and considered the same, is of the opinion that said exceptions, and each of them, should be, and the same are hereby, sustained; and thereupon a jury of twelve good and lawful men was duly empaneled and sworn, and said cause proceeded to trial before said jury, and the parties read their pleadings and introduced their testimony; and, at the close of all testimony, both the Plaintiff and the Defendant in open court moved for an instructed verdict, each for such a verdict in favor of itself, and the Court having heard and considered the motion of the defendant, is of the opinion that such motion should be, and the same is hereby, overruled, to which action and ruling the Defendant then and there in open court duly excepted; and the Court having heard and considered the motion for instructed verdict of the Plaintiff is of the opinion that as a matter of law and under the undisputed facts, the Plaintiff is entitled to judgment, and the Court did on the 18th day of May, 1950, in lieu of granting Plaintiff's motion for instructed verdict, withdraw the case from the jury and dismissed the jury; and

The Court being of the opinion and finding and concluding that the boundary line hereinafter defined has been a recognized and

Wharton Co Edry Line 1

No. 5330

IN THE DISTRICT COURT OF JACKSON COUNTY, TEXAS
vs
CORPORATE ENTITY

On the 15th day of May, 1950, came on to be heard in the presence of the Court the above styled and numbered cause wherein Plaintiff County is Plaintiff and Defendant is Defendant, and case being parties by and through their attorneys of record, and announced ready for trial; whereupon the Defendant admitted to the Court the exceptions to Plaintiff's Original Petition contained in her Original Answer, and the Plaintiff having stated that it believed such exceptions to be good, and the Court, having duly heard and considered the case, is of the opinion that said exceptions, and each of them, should be, and the same are hereby, overruled; and thereupon a jury of twelve good and lawful men was duly empaneled and sworn, and said cause proceeded to trial before said jury, and the parties read their pleadings and introduced their testimony; and in the course of all testimony, both the Plaintiff and the Defendant in open court moved for an instructed verdict, each for such a verdict in favor of itself, and the Court having heard and considered the motion of the Defendant, is of the opinion that such motion should be, and the same is hereby, overruled, to which motion and during the Defendant then and there in open court duly excepted; and the Court having heard and considered the motion for instructed verdict of the Plaintiff, is of the opinion that such motion should be, and the same is hereby, overruled, to which motion and during the Plaintiff then and there in open court duly excepted; and under the stipulated facts, the Plaintiff is entitled to judgment, and the Court thereon the 15th day of May, 1950, in lieu of granting Plaintiff's motion for instructed verdict, withdrew the case from the jury and dismissed the jury; and

of the opinion and finding and concluding that whether or not there has been a recognized and

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established boundary line between Wharton County and Colorado County since the year 1846, that such line was the recognized and established boundary line between said Counties in the years 1895, 1911 and 1925, and that it is the true and lawful boundary line between such Counties under and by virtue of Article 1606 of the Revised Civil Statutes; and the Court being further of the opinion and finding and concluding that the post of railroad iron hereinafter mentioned marks the corner which was referred to as the northeast corner of the Thomas Cartwright League in the Act of the First Legislature of the State of Texas, approved April 3, 1946, same being the Act creating the County of Wharton, and in Chapter 38, Acts of the 29th Legislature of the State of Texas, page 49, same being the Act re-defining the boundaries of the County of Colorado, and that both of said statutes should be construed, and are here construed, as calling for the corner marked by the post of railroad iron when they call for the northeast corner of the Thomas Cartwright League; accordingly,

IT IS ORDERED, ADJUDGED AND DECREED by the Court that the true and lawful boundary line between Wharton County and Colorado County in the area between the Colorado River and the San Bernard River, in which area said Counties have a common boundary, is, and the same is hereby confirmed and reestablished by this Court, a line defined and identified as follows:

BEGINNING at the lower Southeast corner of the Thomas Cartwright League on the Colorado River;

THENCE along the Southeastern boundary of said Thomas Cartwright League in a Northerly direction to where such boundary joins the Northwest boundary of the Morris & Cummings Survey No. 23;

THENCE continuing in a Northerly direction along the Northwest boundary of said Morris & Cummings Survey No. 23 to a post of railroad iron, said post marking the present common corners of Morris & Cummings Survey No. 23, E.L. & R.R. Ry. Company Section No. 1, G.H. & H.Ry. Company Section No. 1 (being the Section No. 1 which adjoins the E.L. & R.R. Ry. Company Section No. 1) and Francis Blundell State Grant, said common corner being the corner established as the South corner of said G.H. & H.Ry. Company Section No. 1 by a survey of the Francis Blundell State Grant made by D. W. Jackson on May 30, 1882, and said common corner having also been

marked and established by a survey of the Morris & Cummings Survey No. 23 by G. H. Schley, dated August 24, 1875, and by a survey of said G.H. & H.Ry. Company Section No. 1 made by A. T. C. McCarty, dated October, 1873;

THENCE with the now recognized southeast boundary lines of the G.H. & H.Ry. Company Section No. 1 (being the Section which adjoins the E. L. & R. R. Ry. Company Section No. 1), the P. Brophy Section No. 2, the G. H. & H. Ry. Company Section No. 3 (being the Section which adjoins the C. E. Hodson Section No. 18), the R. M. Moore Section No. 4 (being the Section which adjoins the G. H. & H. Ry. Company Section No. 17), the G. H. & H. Ry. Company Section No. 5, the R. M. Moore Section No. 6, the G. H. & H. Ry. Company Section No. 7, the Wells Thompson Section No. 8, the G. H. & H. Ry. Company Section No. 9, the Wells Thompson Section No. 10, the G. H. & H. Ry. Company Section No. 11 and the Mrs. M. E. Conlee Survey; and with the now recognized northwest boundary lines of the E. L. & R.R. Ry. Company Section No. 1, the J. Linderholm one-half Section, the G. G. Kelly one-quarter Section, the C. E. Hodson Section No. 18, the G. H. & H. Ry. Company Section No. 17, the A. J. Fry Section No. 16, the G. H. & H. Ry. Company Section No. 15, the City of San Antonio Survey, the A. J. Fry Section No. 10, the G. H. & H. Ry. Company Section No. 1 (being the Section which adjoins the Wells Thompson Section No. 8), the Charles Boyd Section No. 2, the G. H. & H. Ry. Company Section No. 3 (being the Section which adjoins the Wells Thompson Section No. 10), the R. M. Moore Section No. 4 (being the Section which adjoins the G. H. & H. Ry. Company Section No. 11), and the C. W. Fritz Survey to the San Bernard River.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that nothing in this judgment shall in any way affect any determination of the true boundary lines of the private surveys hereinabove referred to, and that the now recognized boundary lines of such surveys are referred to herein for the sole purpose of aiding in the identification of the recognized and established county boundary line, without regard for whether such now recognized boundary lines of such private surveys are in fact the true boundary lines of such surveys.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the now recognized southeast and northwest boundary lines, respectively, of the above-mentioned private surveys, same being the lines whereon the recognized and established county boundary line is here fixed and determined, are as follows:

BEGINNING at the post of railroad iron hereinabove identified and located;

THENCE North 45 deg. 24 min. East at a distance of 9,582.4 varas to a large sandstone buried near the center of a public road;

THENCE North 45 deg. 16 min. 30 sec. East at a distance of 11,483.7 varas (continuous chaining from the post of railroad iron at the point of beginning) to an eight inch in diameter concrete post buried in the center of two intersecting public roads;

THENCE North 45 deg. 14 min. East at a distance of 17,204.7 varas (continuous chaining from the post of railroad iron at the point of beginning) to a fence corner post in the Northeast right-of-way of a public road running South 45 deg. East;

THENCE North 45 deg. 18 min. 15 sec. East at a distance of 20,993.9 varas (continuous chaining from the post of railroad iron at the point of beginning) to a three-quarter inch iron pipe in a fence line at the most westerly corner of the C. W. Fritz Survey, Abstract No. 584 in Wharton County, Texas;

THENCE continuing the same course, North 45 deg. 18 min. 15 sec. East a distance of 21,710.9 varas (continuous chaining from the post of railroad iron at the point of beginning) to a one and one-quarter inch by one and one-quarter inch galvanized angle iron driven on the South bank of the San Bernard River, being eight varas from the water's edge of said River.

It is further ORDERED, ADJUDGED AND DECREED by the Court that said boundary line, having heretofore been established by the law in force, is hereby re-established and declared to be the true boundary line between the two Counties in the area between the Colorado River and the San Bernard River, and the Court orders and directs the County Surveyor of Wharton County and the County Surveyor of Colorado County, jointly, at a date not later than one year from the date of this judgment, to resurvey the boundary line herein established and determined, according to the description of said line as herein contained, and to mark same in such manner as they shall decide, or, if the County Surveyors be unable to so decide, in the manner provided by Article 1583 of the Revised Civil Statutes, with the cost of such resurveying and marking being paid, and being hereby ordered to be paid, in equal shares by Wharton County and Colorado County.

It is FURTHER ORDERED, ADJUDGED and DECREED by the Court that, upon the completion of said resurveying and marking, duplicate copies of the field notes and map of said survey shall be duly certified by the two County Surveyors, and one copy thereof shall be returned to the County Court of Wharton County and the other copy

THESE North 1/4 Sec. 10 min. 30 sec. East at a dis-
tance of 11,500.7 varas (containing chains from the
post of railroad from the point of beginning) to
an eight inch in diameter concrete post buried in the
center of two intersecting public roads;

THIRD North 1/4 Sec. 10 min. 30 sec. East at a distance of
17,500.7 varas (containing chains from the post of
railroad from the point of beginning) to a fence
corner post in the Northwest right-of-way of a public
road running South 1/4 Sec. 10 min. 30 sec. East;

THESE North 1/4 Sec. 10 min. 30 sec. East at a distance
of 20,000.7 varas (containing chains from the post of
railroad from the point of beginning) to a three-quarter
inch iron pipe in a fence line at the most westerly corner
of the C. W. Fritz Survey, Abstract No. 501 in Wharton
County, Texas;

THIRD containing the same course, North 1/4 Sec. 10 min.
30 sec. East a distance of 21,710.7 varas (containing
chains from the post of railroad from the point of
beginning) to a one and one-quarter inch iron pipe in a fence
line on the East side of the San Bernard River, being eight varas from the
water's edge of said river.

It is further ORDERED, ADJUDGED AND DECREED by the Court that
said boundary line, having heretofore been established by the law
in force, is hereby re-established and declared to be the true
boundary line between the two Counties in the area between the
Colorado River and the San Bernard River, and the Court orders and
directs the County Surveyor of Wharton County and the County Sur-
veyor of Colorado County, jointly, at a date not later than one
year from the date of this judgment, to re-survey the boundary line
herein established and determined, according to the description of
said line as herein contained, and to mark same in such manner as
they shall decide, or, if the County Surveyors be unable to so de-
cide, in the manner provided by Article 1583 of the Revised Civil
Statutes, with the cost of such re-surveying and marking being paid
and being hereby ordered to be paid, in equal shares by Wharton
County and Colorado County.
It is further ORDERED, ADJUDGED AND DECREED by the Court that,
upon the completion of said re-surveying and marking, duplicate cop-
ies of the field notes and map of said survey shall be duly certi-
fied by the County Surveyors, and one copy thereof shall be re-
turned to the County Court of Wharton County and the other copy

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shall be returned to the County Court of Colorado County, and said County Courts are hereby ordered to forward to the Commissioner of the General Land Office of the State of Texas certified copies of such field notes and map of said survey, together with certified copies of this judgment.

It is FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff recover all costs of suit herein, for which let execution issue, and that all other and further relief sought by either party and not granted herein be, and the same is hereby, denied.

To which action and judgment of the Court the defendant, in open court, duly excepted.

RENDERED on May 18, 1950, and ENTERED on this the 17th day of July, 1950.

Howard P Green
JUDGE PRESIDING

APPROVED AS TO FORM:

R. Dean Moorhead
Attorney for Plaintiff

Otto Moore Jr
Attorney for Defendant

APPROVED AS TO TECHNICAL ASPECTS OF
BOUNDARY DESCRIPTION:

Bascom Giles
Bascom Giles
Commissioner of the General
Land Office

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shall be returned to the County Court of Colorado County, and
said County Courts are hereby ordered to forward to the Commission-
er of the General Land Office of the State of Texas certified copies
of such field notes and map of said survey, together with certified
copies of this judgment.

the Plaintiff recover all costs of said herein, for which let exe-
cution issue, and that all other and further relief sought by
either party and not requested herein be, and the same is hereby

denied.
To which action and judgment of the Court the defendant, in
open court, duly assented.

ENTERED on May 18, 1950, and RETURNED on this the 17th day
of July, 1950.

Edward F. Green
JUDGE PRESIDING

APPROVED AS TO FORM:
H. Dean Woodhead
Attorney for Plaintiff

Udo Moore Jr.
Attorney for Defendant

APPROVED AS TO TECHNICAL ASPECTS OF
BOUNDARY DESCRIPTION:

Rayson Giles
Rayson Giles
Commissioner of the General
Land Office

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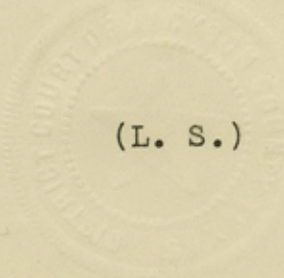
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THE STATE OF TEXAS, |
COUNTY OF JACKSON. |

I, Gena Lee Lawrence, Clerk of the District Court in and for Jackson County, Texas, hereby certify that the above and foregoing is a true and correct copy of the Judgment in the Suit styled Wharton County vs. Colorado County, Numbered 3336, recorded in Volume "M", Pages 35-38, District Court Minutes, Jackson County, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This the 4th day of March, A. D. 1954.

(L. S.)


Gena Lee Lawrence
Gena Lee Lawrence,
Clerk of the District Court in and for
Jackson County, Texas.

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Part of Wharton
and Colorado County
Line
Judgement, District
Court, Jackson
County, Cause No. 3336
Filed, March 9, 1954
R.C.W.



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Case No. 59850