

15099

County of Harris.

To the Honorable District Court of
Harris County.

W. G. Paigitt who is a resident citizen of Dallas County and Tom Paigitt who is a resident citizen of the County of McLennan, who are hereinafter styled plaintiffs, complaining of the City of Houston, a corporation duly incorporated under the laws of Texas, and of G. W. Landon the health officer of said city, respectfully represent:

That heretofore to wit, on the 18th day of July 1840, James S. Holman, as trustee, conveyed to the Mayor, Aldermen and the Citizens of Houston certain property in said city to wit, five acres of land situated between the waters of Buffalo Bayou and White Oak Bayou, which property is described in the deed from said Holman to the said City of Houston and citizens thereof, recorded in Book F p. 373 of the records of Harris County, to which reference is made as part hereof. That the parents of plaintiffs were at that time citizens of Houston as were their grand-parents.

Plaintiffs further represent that said lot or parcel of land described by metes and bounds as follows, -Five acres of land situated in the City of Houston between the waters of Buffalo and White Oak Bayous beginning at a stake on the West boundary line of a tract of land owned by Holman & Baker from which a white oak 18 inches in dia. sk'4. N. B. bears South 3 yards distant; also a pine bears North 4 yards. Thence East 28 1/3 rods to a stake from which a white oak bears South 20 degrees

2

West 2 1/2 yards distant, 24 inches in dia. Mk4. H. B. Thence South 28 1/3 rods to a stake from which a white oak Mk4. H. B. bears North 33 East 5 yards. Thence West 28 1/3 rods to a stake from which a white oak marked H. B. bears West 2 yards. Thence 28 1/3 yards with the East boundary line of the said Holman & Baker survey to the place of beginning has been used for a very long time to wit, for about the period of fifty years as a public burying ground by the citizens of Houston under and by virtue of said deed the same having been so conveyed by said trustee, as your petitioners are informed and believe, for the purpose of its being used as a cemetery, and that it was so used generally by all the citizens of Houston who desired to bury therein any member of their family or other person in whose interment they had an interest. That in the year 1855 the grandmother of plaintiffs, one Mrs. Bond, was buried in said plot of ground, and in the year 1854 one Robert Padgett, brother of plaintiffs, was buried in said plot of ground; in the year 1858 Jessie Bond a near relative of these plaintiffs was buried there; in the year 1859 the mother of these plaintiffs was buried there and in the same year a sister of these plaintiffs was also buried in said cemetery. That since these deaths and dates the plaintiffs, as the surviving representatives of the family, have kept the graves of the above named deceased persons properly marked and have endeavored to prevent any desecration of the same and they have been in continuous, notorious, exclusive and adverse occupancy of the said ground and said various lots and parcels of ~~XXXXXX~~ said cemetery in which their said kindred are buried as aforesaid, that the said ground has been for more than 50

years notoriously set apart and used by the citizens of Houston, who are grantees in said deed, as a cemetery and the graves of those therein buried have never been heretofore disturbed by the municipal officers of said city, nor has any attempt been made to disturb or interfere with them so far as these plaintiffs know or believe. That by virtue of the premises the plaintiffs are entitled to a peaceable and continuous use of the said lots and parcels of said cemetery where their kindred are buried as aforesaid and have the right in law and in equity to the peaceable enjoyment of the same; but they are advised and believe that the said H. W. Landon claiming to be the health officer of his co-defendant, the city of Houston, is threatening to remove the bodies of the said relatives of plaintiffs, deceased as aforesaid, and has announced through public prints that the bodies will be removed on February 1st, 1893, unless removed before that time by your plaintiff or some other party in interest.

Plaintiffs aver that the said removal is not attempted to be made by the exercise of the right of eminent domain, even if the same could be done in that way which they deny, nor on the ground that the same is in anywise a nuisance, or that the same is in anywise detrimental to public health, but solely on the ground, ^{as} that these plaintiffs are advised and believe, that the said City of Houston, herein styled defendant, desires to erect on said sacred ground some character of public building.

Plaintiffs further aver that to now interfere or endeavor to remove the bodies of the dead aforesaid would be but an attempt to remove the dust into which they must

THE EVIDENCE OF THESE FACTS, WHICH HAVE BEEN PROVED BY THE
HONORABLE JUDGE OF THE COURT IN THIS CASE, AS A CONSEQUENCE OF
SUCH EVIDENCE, THE COURT HAS ORDERED THAT THE CITY OF HOUSTON

4

long since have crumbled, and that such removal if permitted and the removal of the monuments or stone placed to mark their graves will not be an act demanded either by the public health or the public comfort or any reasonable cause, and the same would be an ~~unnecessary~~ unnecessary act of ~~violence and invasion~~ for desecration of the graves of the dead to whom when living these plaintiffs were bound by the closest ties of kindred.

Wherefore plaintiffs suing for themselves and in behalf of such others as are like interested and who may join in this suit pray that the said city of Houston, ^{and said John J. Brown} herein styled defendant, and the said G. W. Larenton, also styled defendant herein, who resides in the City of Houston, Harris County, Texas, be enjoined and restrained from in anywise interfering with the graves of those we buried in said cemetery as aforesaid, or from removing their bodies, or from removing or in anywise interfering with any monuments or stones or means of identification plaintiffs put on or about said graves.

Plaintiffs aver that they have no adequate remedy in law, because of the nature of the case they can ~~not~~ be awarded no proper or adequate compensation or money for such trespass of their rights.

Wherefore they pray your honor's most gracious writ of injunction restraining the said defendant, the said City of Houston, and the said G. W. Larenton from in anywise doing any act in the premises contrary to the prayer of this petition.

Katherine Allen
H. Wright
attys for Plffs

Before me the undersigned authority, this day personally appeared W. C. Padgett, who being by me duly sworn deposes and says that the statements in the above petition, so far as the same are stated as of his own knowledge, are true and as stated upon the information of others he believes them to be true.

W. C. Padgett

Witness to and subscribed before me
this 31st day 1893

J. H. Starnes Clerk Dist
Court District of Columbia
By F. H. Foster

from order
w²/w W

No 15599

IN DISTRICT COURT OF HARRIS COUNTY,

To April Term, 1893

McDargue et al

CITATION.

v.s.

The City of Houston
James D. Brewster
Mayor

Issued March 10th 1893

J. R. Martin
Clerk District Court, Harris Co., Texas.

By J. H. Pennington
Deputy Clerk.

RECEIVED this 10th day of March 1893 at 10 o'clock a. m., and executed
March 14th 1893 by delivering to Sumnering 1st City of
Houston by delivering to John. T. Brown 1st
Mayor of the City of Houston
the within named Defendant, in person, a true copy of this Writ.

Fee

\$11.50
1893

Mileage

\$1.65

Jes Ellis
Sheriff Harris County.

By

J. B. Parker Deputy.

THE STATE OF TEXAS.
HARRIS COUNTY.

In the District Court,
TO THE APRIL TERM, 1893

The State of Texas to the Sheriff or any Constable of Harris County, Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON

The City of Houston
Jake T. Bauman Mayor

if to be found in your County, to be and appear at the next regular term of the District Court, to be held in and for the County of Harris, at the Court House thereof, in the City of Houston, on the first Monday in April, 1893, being the 3rd day of April, 1893, then and there to answer the petition of

M. B. Padgett and Sam Padgett Plaintiffs
filed in this Court February 1st 1893 and is No 15099 on the Docket of said Court, exhibited against the said

The City of Houston
Jake T. Bauman Mayor wherein Plaintiffs sue and pray judgment for

Restraining *The City of Houston, Jake T. Bauman and Geo W. Paschall* from repossessing from the said Cemetery in the City First Ward of the City of Houston, the remains of their parents' skeletons, contrary to law, and to their irreparable injury, in which they have no adequate remedy, And that the Injunction issued from the 14th Judicial District of Texas and granted on January 31st 1893 be perpetuated

and for
general and special relief and costs of court.

A true copy of this writ you will deliver to said *The City of Houston*

Jake T. Bauman Mayor
Herein Fall Not, under penalty of the law, and of this writ make due return on the 3rd day of the next Term of this Court after the issuance hereof, same being 3rd day of April, 1893

ISSUED *March 10th*, 1893

WITNESS, *J. A. Waters*, Clerk of said Court, and the seal hereof,
at office in the City of Houston this 10th day of *March* 1893

J. A. Waters

Clerk District Court, Harris Co., Texas.

By *Y. H. Evans*

Deputy Clerk.

15099

W B Magill shales

as

The city of Houston

Answer

In Dist Court
To April term 1893

Fred
March 31st 1893
J. R. R. R.
C. W. R.
J. W. R.
D. R.

J. S. Stewart
att'y for D & R

W. C. Padgitt et als

vs

The City of Houston

In the District Court

1st April term 1893

W. C. Padgitt et als

vs

The City of Houston

The defendant appears by her city attorney and demurs to plaintiffs petition and says the matters and things therein alleged constitutes no cause of action against this defendant, and of this the defendant begs Judgment of the Court,

For further answer defendant denies all and singular the allegations made in the petition of plaintiffs

Geo S Stewart

City attorney for
the City of Houston

No. 15099.

W. C. Pasquini et al.

The City of Houston
et. al.

Information Bond

Filed
Feby 12th 1893

M. W. Adams
Clerk

County of Dallas, State of Texas, ss. I, L. H. HUGHES, County Clerk, do hereby certify that the Sureties on the within Bond are good for the amount there named, and that I would approve the same if presented to me. Given under my hand and Seal of Office at Dallas, this 3rd day of February, 1893.

L. H. HUGHES, County Clerk,
By L. H. HUGHES Deputy.

W. C. Padgitt, et al.,

Vs

-1-

City of Houston, et al.,

We, W. C. Padgitt and Tom Padgitt as principals and

and

as sureties, acknowledge ourselves ~~firmly~~ being jointly and severally indebted to the City of Houston and George W. Landon in the sum of *One Thousand Dollars*, conditioned, that the said W. C. Padgitt and the said Tom Padgitt, plaintiffs in the above entitled cause, will abide by the decision that may be entered therein and pay off all costs adjudged against them if the injunction be dissolved in whole or in part.

W. C. Padgitt
Tom Padgitt
E. Gammon
W. B. Goddard

Approved and filed Febry 1st 1893
J. W. Waters
clerk

SHERIFF'S RETURN.

Came to hand on the 1st day of February A. D. 1893, at 11 o'clock A.M., and executed on the 1st day of February A. D. 1893, by delivering to the within named John S. Brown and George W. Landonson each in person, a true copy of this writ.

Serving with 2 \$ 2.00
 Mileage miles
 Total \$ 2.00

G. E. Ellis
Harris

Sheriff,

County, Texas

By

Deputy.

Writ

No. 15099.

In District Court,

Harris County, Texas.

January Term, 1893

WRIT OF INJUNCTION.

W. C. Padgett et al.

vs.

The City of Houston et al.
John S. Brown and
George W. Landonson

Served 1st day of February 1893

Clerk,

G. E. Ellis
 County, Texas.

Deputy.

[Index & Garrett, 3 097 (Art. 2883, R. 8.)]

THE STATE OF TEXAS,

To John T. Brown and Geo. W. Landon Greeting:

WHEREAS, W. C. Pasquett and Tom Pasquett
 filed this petition in the District Court of Harris County, Texas,
 on the 1st day of January A. D. 1892, in a suit numbered 15099 on the Docket of said
 Court, wherein W. C. Pasquett and Tom Pasquett are

plaintiffs, and The City of Houston, John T. Brown
 and Geo. W. Landon are
 defendants, alleging that defendants are about to remove from
 the old cemetery in the first ward of the City of Houston
 the remains of the mother, sister and other relatives
 of plaintiffs, and to the irreparable
 injury of plaintiffs in which they have no adequate
 remedy at law

And whereas, the Hon. R. E. Burke -
 Judge of the District Court of Harris County
 has made upon said petition his order and fiat as follows:
 Upon plaintiffs entering into bond with official sureties in the
 sum of ~~one~~ thousand dollars payable and conditioned
 as required by law the clerk of the district court of Harris
 County Texas will issue an order temporarily restraining
 the defendant as prayed for. He will further cause the deft-
 to appear before the Honorable Judge of the 11th Judicial
 District of the State of Texas at the first day of the next term
 of the Dist Court of Harris County Texas - and they cause
 of way why said injunction should not issue as prayed
 for by plaintiffs
 before me
 Jany 21st 1892

R. E. Burke
 Judge 11th Judicial Dist. Texas

the of

And whereas, the said *W. C. Pasquie and Tom Pasquie*
has executed and filed with the Clerk of said Court a bond in the sum of *One Thousand*
Dollars,

made payable and conditioned as required by law and the fiat of the Judge:

and all acting by their authority
YOU ARE HEREBY COMMANDED *to desert from any attempt to remove or interfere with*
the remains of the parties named in said petition
until the further order of said Court, to be holden within and for the County of
Harris, at the Court House thereof, in *Houston Texas*
on the *1st* Monday in *April*, A. D. 1893, the same being the *3d* day
of *April*, A. D. 1893, when and where this writ is returnable.

What
and where you will appear and show cause if any why
this writ should not be made final in the removal of
the parties named in said petition being those of Mrs.
Anna Robert Pasquie - Jessie Paul - Mrs. Pasquie Mother
of Plaintiff and Mary Pasquie her sister of Plaintiff -

Witness:

Given under my hand and the seal of said court, at office in

this *1st* day of *April*

A. D. 1893

J. M. Watkins Clerk,
Dist. Court, Harris County, Texas.

By

Deputy.

15099.

W. C. Padgett et
al -

vs.

The City of Houston
et al.

Decree.

Accepted of
J. S. [unclear]
and [unclear]
objection
C. H. [unclear]

W. C. Padgett, et al.,

In the District Court of Harris
County, Texas.

Vs.

No. 15099.

The City of Houston, et al.,

On this the 30th day of November, 1893, came on for hearing the above numbered and entitled cause, and the Honorable S.H. ~~Thayer~~ ^{Thayer}, the Judge of the 11th Judicial District of Harris County, Texas, being disqualified to try this cause by reason of his having been of counsel in the same before he became Judge, and the said Judge having refused and declined to sit in this case as Judge, thereupon the parties to this suit in open court agreed upon W. H. Wilson, Esq., a practicing attorney at this bar, as special Judge to try this cause; and the oath required by law to be taken by special judges having been administered to said Wilson and the said Wilson having fully qualified as such Special Judge, called this cause in its regular order for trial, and the plaintiffs being present by their attorneys and the defendant, the city of Houston, being present by its attorney, and a jury being expressly waived by both parties, the matters in controversy of fact ~~and the Court having heard the pleadings, evidence and argument~~ ^{of counsel} as well as of law were submitted to the Court. And it appearing to the Court that this is a suit for ~~the~~ ^{an} injunction brought against the City of Houston by W. C. Padgett and ~~Wm~~ ^{John} Padgett, seeking to restrain the said city of Houston from in any manner interfering with the graves of the grandmother of said plaintiffs, to wit: one Mrs. ^{J. D.} ~~A.~~ ^{A.} Road, and the graves of Robert Padgett, brother of said plaintiffs, and Jesse Road, a near relative of these plaintiffs as well as the grave of the mother of these ^{and the graves of the sister of these plaintiffs, Mary Padgett} plaintiffs, which said graves are situated on that certain tract or parcel of land known and described by notes and bounds as follows:

Five acres of land situated in the City of Houston between the waters of Buffalo and White Oak Bayous, beginning at a stake on ^{the} ~~the~~ west boundary line of a tract of land owned by Holman & Baker from which a white oak 16 inches in diameter marked "H.B." bears south 3

yards distant, also a pine bears north 4 yards. Thence east 28 1/3 rods to a stake from which a white oak bears south 20 degrees West 2 1/2 yards distant, 24 inches in diameter marked "H.R.". Thence South 28 1/3 rods to a stake from which a white oak marked "H.R." bears north 30 degrees east 5 yards. Thence west 28 1/3 rods to a stake from which a white oak marked "H.R." bears west 2 yards. Thence 28 1/3 rods south with the east boundary line of said Holman and Baker survey to the place of beginning; said land being the same land conveyed by James G. Holman, trustee, on the ^{26th} day of July 1840, to the Mayor, Aldermen and ^{Mayor} ~~which was recorded in Volume 11 page 273 of the records~~ and citizens of Houston, and to said deed special reference is here made for a more particular description of said land.

And it appearing to the Court that said tract or parcel of land has been for many years, to wit: since the date of said deed, used as a public burying ground by the City of Houston, and that the bodies of said persons and many others have lain there for a great many years, to wit: 30 years or more, without molestation or attempted molestation on the part of the authorities of the City of Houston; and it further appearing to the Court that said City of Houston through its Mayor and its health officer, George W. Lavendon, were about to remove the bodies of said persons and the tomb-stones and other marks at and near the graves of said persons in order to use said ground for the purpose of erecting a public school house ~~thereon, and the Court finds that the land conveyed in said deed was conveyed to the City of Houston for the purpose of a grave yard and place for burial of the dead, and that the same has for many years been used for such purposes only, to wit: as a place to deposit said bodies; and it appearing to the Court that the purpose for which the city was to remove said bodies was not such as was necessary to protect the health of the public of the City of Houston nor any attempt on the part of said City to remove its~~

police power in the premises, but that it was solely to remove said
dead bodies and said tomb-stones to the end that the said city might
appropriate the ground for ~~public use~~, to wit: ~~the erection of~~
~~a school house thereon.~~ *in all the circumstances and facts* It is the opinion of the court that the City of

Houston has no authority or power to remove said bodies ~~to the end~~
~~that said ground may be appropriated for another and different public~~
~~use and that in the opinion of the court, the temporary injunction~~
~~heretofore issued should be made permanent.~~ *for this purpose indicated and in the manner in which it was acting and it is considered that* *against its further acts.* It is therefore considered

by the court, ordered, adjudged and decreed that the defendant, the City
of Houston, and its corporate officers, servants and agents, including
its health officer, H. W. Jarbohn, be and they are hereby perpetually
enjoined from in any manner interfering with the removal of the
bodies of said Mrs. J.D. Road, said Robert Padgett, said Jessie Road
and the mother of said plaintiffs and the said sister of plaintiffs May
Padgett, and also from in any manner interfering with tombstones or
other marks and insignia at or about said graves, as well as from re-
moving or in any manner interfering with any fence or enclosures that

surround the same, under the authority and provisions under
which the said city was acting in its attempted removal.

It is further the opinion of the court that the costs of
this proceeding should be taxed against the defendant, which is accord-
ingly done.

City of Houston v. Jarbohn

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W. C. Padgett, et al.,

In the District Court of Harris

Vs.

No. 15089.

County, Texas.

The City of Houston, et al.,

On this the 20th. day of November, 1893, came on for hearing the above numbered and entitled cause, and the Honorable S. H. Brannan, the Judge of the 11th. Judicial District of ~~Harris County~~ ^{Texas}, being disqualified to try this cause by reason of his having been of counsel in the same before he became Judge, and the said Judge having refused and declined to sit in this case as Judge, thereupon the parties to this suit in open court agreed upon W. R. Wilson, Esq., a practicing attorney at this bar, as special Judge to try this cause; and the oath required by law to be taken by special judges having been administered to said Wilson and the said Wilson having fully qualified as such special Judge, called this cause to its regular order for trial, and the plaintiffs being present by their attorneys and the defendant, the city of Houston, being present by its attorney, and a jury being expressly waived by both parties, the matters in controversy of fact ~~and the Court having heard the pleadings, evidence, argument~~ ^{of counsel} as well as of law were submitted to the Court. And it appearing to the Court that this is a suit for ~~the~~ ^{Town} an injunction brought against the City of Houston by W. C. Padgett and ~~Wm~~ Padgett, seeking to restrain the said City of Houston from in any manner interfering with the graves of the grandmother of said plaintiffs, to wit: one Mrs. ^{J. D.} ~~A~~ BORD, and the graves of Robert Padgett, brother of said plaintiffs, and Jesse BORD, a near relative of these plaintiffs as well as the grave of the mother of these ~~plaintiffs, which said graves are situated on that certain tract or parcel of land known and described by metes and bounds as follows:~~ ^{and the Grant of the wife of these plaintiffs, Mary Padgett}

Five acres of land situated in the City of Houston between the waters of Buffalo and White Oak Bayous, beginning at a stake on ^{East} the east boundary line of a tract of land owned by Holman & Baker from which a White Oak 16 inches in diameter marked "H.B." bears south 3

yards distant, also a pine beam north 4 yards. Thence east 28 1/3
 rods to a stake from which a white oak beam south 20 degrees West 2 1/2
 yards distant, 24 inches in diameter marked "H.B.". Thence south 28 1/3
 rods to a stake from which a white oak beam north 28
 degrees east 5 yards. Thence west 28 1/3 rods to a stake from which
 a white oak marked "H.B." beam west 2 yards. Thence 28 1/3 rods ^{North}
 with the east boundary line of said Holman and Baker survey to the
 place of beginning; said land being the same land conveyed by James J.
 Holman, trustee, on the ^{15th} day of ^{May} July 1840, to the Mayor, Aldermen
 and citizens of Houston, and to said special reference is here
 made for a more particular description of said land.

And it appearing to the Court that said tract or parcel of
 land has been for many years, to wit: since the date of said deed, used
 as a Public burying ground by the City of Houston, and that the bodies
 of said persons and many others have lain there for a great many years,
 to wit: 20 years or more, without molestation or attempted molestation
 on the part of the authorities of the City of Houston; and it further
 appearing to the Court that said City of Houston through its Mayor and
 its health officer, George W. Davidson, were about to remove the bodies
 of said persons and the tombstones and other marks at and near the
 graves of said persons in order to use said ground for the purpose of
 erecting a public school house thereon, ~~and the Court in the said~~
~~last-mentioned case held that the City of Houston, for the~~
~~purpose of a grave yard and place for burial of the dead, and that the~~
~~said land for more than thirty years had been used for such purposes only,~~
~~to wit: as a place to deposit dead bodies; and it appearing to the Court~~
~~that the purpose for which the City was to remove said bodies was not~~
~~such as was necessary to protect the health of the public of the City~~
~~of Houston, the only attempt on the part of said City to remove the~~

police power in the premises, but that it was solely to remove said
dead bodies and their tombstones to the end that the said city might
appropriate the ground for ~~public use~~, to wit: ~~the erection of~~

~~a school house thereon.~~ *on all the circumstances and facts for this*
it is the opinion of the court that the City of
Boston has no authority or power to remove said bodies ~~to the end~~
~~that said ground may be appropriated for another and different public~~
~~use and that in the opinion of the court, the temporary injunction~~
purpose indicated and in the manner in which it
was acting and is considered that
against its further extension

under
It is therefore considered
by the court, ordered, adjudged and decreed that the defendant, the City
of Boston, and its corporate officers, servants and agents, including
its health officer, H. W. Landon, be and they are hereby perpetually
enjoined from in any manner interfering with the removal of the
bodies of said Mrs. J.D. Rood, said Robert Pedgitt, said Jessie Rood
and the mother of said plaintiffs and the said sister of plaintiffs May
Pedgitt, and also from in any manner interfering with tombstones or
other marks and insignia at or about said graves, as well as from re-
moving or in any manner interfering with any fences or enclosures that

surround the same, under the authority and jurisdiction under
which the said city was acting in its attempted removal.
It is further the opinion of the court that the costs of

this proceeding should be taxed against the defendant, which is accord-
ingly done.

City of Boston v. Rood et al.

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15099.

W. C. Padgett &
al -

v.

The City of Louisville
& al.

Decree.

After perusal of
the report of the
Commissioner of
the Board of
Education
of the City of Louisville

THE STATE OF TEXAS,

To John T. Brown and Geo. W. Larendon Greeting:

WHEREAS, W. C. Pasqire and Tom Pasqire
filed this petition in the District Court at Harris County, Texas,
on the 1st day of January, A. D. 1893, in a suit numbered 15099 on the Docket of said
Court, wherein W. C. Pasqire and Tom Pasqire are

plaintiffs, and The City of Houston, John T. Brown
and Geo. W. Larendon are

defendants, alleging that defendants are about to remove from
the old cemetery in the first ward of the City of Houston
the remains of the mother sister and other relations
of plaintiffs and to have and to the irreparable
injury of plaintiffs in which they have no adequate
remedy at law

And whereas, the Hon. R. E. Burke
Judge of the District Court at Harris County, Texas
has made upon said petition his order and do as follows:

Upon plaintiffs entering into bond with approved sureties in the
sum of ~~the~~ ^{one} thousand dollars payable and conditioned
as required by law the clerk of the district Court of Harris
County Texas will issue an order temporary restraining
the defendant as prayed for. He will further cause the deft-
to appear before the Honorable Judge of the 11th Judicial
District of the State of Texas at the first day of the next term
of the Dist Court of Harris County Texas - and there cause
of way why said injunction should not issue as prayed
for by plaintiffs
before the
Judge of the Dist. Court
Jany 21/1893

R. E. Burke
Judge of the Dist. Court

the of

And whereas, the said W. C. Pasquie and Tom Pasquie
has executed and filed with the Clerk of said Court a bond in the sum of One Thousand
Dollars,

made payable and conditioned as required by law and the fiat of the Judge:

and all acting by their authority
You are HEREBY COMMANDED *to desist from any attempt to remove or interfere with*
the remains of the parties named in said petition
until the further order of said Court, to be holden within and for the County of
Harris, at the Court House thereof, in Houston Texas
on the 1st Monday in April, A. D. 1893, the same being the 3d day
of April, A. D. 1893, when and where this writ is returnable.

What
And where you will appear and show cause if any why
this writ should not be made void in the remains of
the parties named in said petition being those of Mrs.
Anna Robert Redfitt - Jessie Paul - Mrs. Redfitt Mother
of Plaintiff and Mary Redfitt their sister of Plaintiff -

Witness:

Given under my hand and the seal of said court, at office in

this 1st day of

J. M. Waters Clerk
Dick Court, Harris County
Houston
Feb 27 A. D. 1893
J. M. Waters Clerk
Dick Court, Harris County, Texas

By

Deputy

SHERIFFS RETURN.

Came to hand on the 1st day of February A. D. 1893, at 11 o'clock A. M., and
 executed on the 1st day of February A. D. 1893, by delivering to the within named
John S. Brown and George W. Landon each
 in person, a true copy of this writ.

FEE:

Serving writ 2 \$ 2.00
 Mileage
 Total \$ 2.00

J. E. Ellis Sheriff,
Harris County, Texas.
 By _____ Deputy.

In District Court,

Harris County, Texas.

January Term, 1893.

WRIT OF INJUNCTION.

W. C. Padgett, et al.,

The City of Houston, et al.,
John S. Brown and
George W. Landon

Issued 1st day of Feb 1893

J. E. Ellis Sheriff,
Harris County.

Deputy.

W. C. Padgitt, et al.,

Vs

-1-

City of Houston, et al.,

We, W. C. Padgitt and Tom Pad-

gitt as principals and

and

as sureties, acknowledge our-

selves ~~firmly~~ being jointly and severally indebted to the

City of Houston and George W. Laramon in the sum of *One*

Thousand ~~and no~~ ^{no} conditioned, that the said W.C.

Padgitt and the said Tom Padgitt, plaintiffs in the above

entitled cause, will abide by the decision that may be

entered therein and pay off all costs adjudged against them

if the injunction be dissolved in whole or in part.

W.C. Padgitt
Tom Padgitt
E. J. Sammon
W. H. Goddard

Approved Filed Febry 1st 1893
J. H. Watkins
clerk

No. 15099.

to C. Parqin et al.

The City of London
et. al.

Information Bond.

Filed
Febry 12th 1893

M. W. Adams
Clerk

County of Dallas, Texas. I, Clerk, do and say that
County do hereby certify that the Sheriff on 11th day of Feb-
ruary 1893, Bond are good for the amount there-
in, and that I shall approve the same if pre-
sented to me. Given under my hand and Seal of
Office at Dallas, this 31st day of January 1893.
L. H. HUGHES, County Clerk.
By A. J. Bell, Deputy.

W. C. Padgitt et als

vs

The City of Houston

In the District Court
So April term 1893

W. C. Padgitt et als

15024

vs

The City of Houston

The defendant appears by her city attorney
and demurs to plaintiffs petition and
says the matters and things therein
alleged constitutes no cause of action
against this defendant, and of this the
defendant prays judgement of the Court,

For further answer defendant
denies all and singular the allegations
made in the petition of plaintiffs

Geo S Stewart

City Attorney for
The City of Houston

15099

W B Magill shales

vs

The city of Houston

Answer

In Dist Court
To April term 1898

Filed
March 31st 1893
J. P. R. v. S.
A. M. S.
J. P. R. v. S.
S. P. S.

L. S. Sheward
att'y for D & S

THE STATE OF TEXAS,
HARRIS COUNTY.

In the District Court,
TO THE APRIL TERM, 1893

The State of Texas to the Sheriff or any Constable of Harris County, Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON

The City of Houston
J. G. Brown Mayor

if to be found in your County, to be and appear at the next regular term of the District Court, to be held in and for the County of Harris, at the Court House thereof, in the City of Houston, on the first Monday in April, 1893, being the 3rd day of April, 1893, then and there to answer the petition of

Mc Padgett vs. Sam Padgett Plaintiffs
filed in this Court February 1st 1893 and is No 15099 on the Docket of said Court, exhibited against the said

The City of Houston
J. G. Brown Mayor wherein Plaintiff sue and pray judgment for

Restraint of *The City of Houston, J. G. Brown* and *Geo W. Lascannon* from removing from the aid Cemetery in the City First Ward of the City of Houston, the remains of their parents' relations, contrary to law, and to their irreparable injury, in which they have no adequate remedy. And that the Injunction issued from the 10th Judicial District of Texas and granted on January 31st 1892 be perpetuated

and for general and special relief and costs of court.

A true copy of this writ you will deliver to said *The City of Houston*

J. G. Brown Mayor
Within Fall Not, under penalty of the law, and of this writ make due return on the first day of the next Term of this Court after the issuance hereof, same being 3rd day of April, 1893

ISSUED *March 1st*, 1893

WITNESS, *J. R. Waters*, Clerk of said Court, and the seal hereof,
at office in the City of Houston this *1st* day of *March* 1893

J. R. Waters
Clerk District Court, Harris Co., Texas.

By *Y. H. Evans* Deputy Clerk.

No 10099
IN DISTRICT COURT OF HARRIS COUNTY,

To April Term, 1893

McDargrett et al

CITATION.

The City of Houston
John D. Brown
Mayor

Issued March 10th 1893

J. A. Matis

Clerk District Court, Harris Co., Texas.

By J. P. Pearson

Deputy Clerk

RECEIVED this 10th day of March 1893 at 10 o'clock a. m., and executed
March 14th 1893, by delivering to Sumnering 1st City of
Houston by delivering to John D. Brown 1st
Mayor of the City of Houston
the within named Defendant, in person, a true copy of this Writ.

Fee

11.50
1.50

Mileage

1.00

Geo C. Ellis
Sheriff Harris County.

By

J. B. Pearson

Deputy.

State of Texas.

County of Harris.

To the Honorable District Court of
Harris County.

W. C. Padgett who is a resident citizen of Dallas County ^{Deputy} and Tom Padgett who is a resident citizen of the County of ^{Lewis} McClellan ~~McClure~~ who are hereinafter styled plaintiffs, complaining of the City of Houston, a ^{of which corporation John T. Brown is mayor} corporation duly incorporated under the laws of Texas, and of G. W. Laramon the health officer of said city, respectfully represent:

That heretofore to wit, on the 18th. day of July 1849, James S. Holman, as trustee, conveyed to the Mayor, Aldermen and the Citizens of Houston certain property in said city to wit, five acres of land situated between the waters of Buffalo Bayou and White Oak Bayou, which property is described in the deed from said Holman to the said City of Houston and citizens thereof, recorded in Book F p. 373 of the records of Harris County. to which reference is made as part hereof. That the parents of plaintiffs were at that time citizens of Houston as were their grand-parents.

Plaintiffs further represent that said lot or parcel of land, described by metes and bounds as follows, - Five acres of land situated in the City of Houston between the waters of Buffalo and White Oak Bayous beginning at a stake on the West boundary line of a tract of land owned by Holman & Baker from which a white oak 18 inches in dia. sk'd. H. B. bears South 3 yards distant; also a pine bears North 4 yards. Thence East 28 1/2 rods to a stake from which a white oak bears South 20 degrees

West 2 1/2 yards distant, 24 inches in dia. mkd. H. B. Thence South 28 1/8 rods to a stake from which a white oak Mk'd. H. B. bears North 38 East 5 yards. Thence West 28 1/8 rods to a stake from which a white oak marked H. B. bears West 2 yards. Thence 28 1/8 yards with the East boundary line of the said Holman & Baker survey to the place of beginning; has been used for a very long time to wit, for about the period of fifty years as a public burying ground by the citizens of Houston under and by virtue of said deed the same having been so conveyed by said trustee, as your petitioners are informed and believe, for the purpose of its being used as a cemetery, and that it was so used generally by all the citizens of Houston who desired to bury therein any member of their family or other person in whose interment they had an interest. That in the year 1855 the grandmother of plaintiffs, one Mrs. Bond, was buried in said plot of ground and in the year 1858 one Robert Padgett, brother of plaintiffs, was buried in said plot of ground; in the year 1858 Jessie Bond a near relative of these plaintiffs was buried there; in the year 1859 the mother of these plaintiffs was buried there and in the same year a sister of these plaintiffs was also buried in said cemetery. That since these deaths and dates the plaintiffs, as the surviving representatives of the family, have kept the graves of the above named deceased persons properly marked and have endeavored to prevent any desecration of the same and they have been in continuous, notorious, exclusive and adverse occupancy of the said ground and said various lots and parcels of ~~ground~~ said cemetery in which their said kindred are buried as aforesaid. That the said ground has been for more than 50

years notoriously set apart and used by the citizens of Houston, who are grantees in said deed, as a cemetery, and the graves of those therein buried have never been heretofore disturbed by the municipal officers of said city, nor has any attempt been made to disturb or interfere with them so far as these plaintiffs know or believe. That by virtue of the premises the plaintiffs are entitled to a peaceable and continuous use of the said lots and parcels of said cemetery where their kindred are buried as aforesaid and have the right in law and in equity to the peaceable enjoyment of the same; but they are advised and believe that the said D. W. Landon claiming to be the health officer of his co-defendant, the city of Houston, is threatening to remove the bodies of the said relatives of plaintiffs, deceased as aforesaid, and has announced through public prints that the bodies will be removed on February 1st, 1893, unless removed before that time by your plaintiff or some other party in interest.

Plaintiffs aver that the said removal is not attempted to be made by the exercise of the right of eminent domain, even if the same could be done in that way which they deny, nor on the ground that the same is in anywise a nuisance, or that the same is in anywise detrimental to public health, but solely on the ground, ^{as} ~~that~~ these plaintiffs are advised and believe, that the said City of Houston, herein styled defendant, desires to erect on said sacred ground some character of public building.

Plaintiffs further aver that to now interfere or endeavor to remove the bodies of the said aforesaid would be but an attempt to remove the dust into which they must

long since have crumbled, and that such removal if permitted and the removal of the monuments of stone placed to mark their graves will not be an act demanded either by the public health or the public comfort or any reasonable cause, and the same would be an ~~unwarranted~~ unnecessary act of vandalism and uncalled for desecration of the graves of the dead to whom when living these plaintiffs were bound by the closest ties of kindred.

Wherefore plaintiffs suing for themselves and in behalf of such others as are like interested and who may join in this suit pray that the said city of Houston, ^{and Paul John J. Brown} herein styled defendant, and the said G. W. Larenton, also styled defendant herein, who resides in the City of Houston, Harris County, Texas, be enjoined and restrained from in anywise interfering with the graves of those we buried in said cemetery as aforesaid, or from removing their bodies, or from removing or in anywise interfering with any monuments or stones or means of identification plaintiffs put on or about said graves.

Plaintiffs aver that they have no adequate remedy in law, because of the nature of the case they can ~~not~~ be awarded no proper or adequate compensation or money for such trespass of their rights.

Wherefore they pray your honor's most gracious writ of injunction restraining the said defendant, the said City of Houston, and the said G. W. Larenton from in anywise doing any act in the premises contrary to the prayer of this petition.

*Katherine Allen
H. Wright
attys for Plffs*

Before me the undersigned authority, this
day personally appeared W. C. Padgitt, who being by me duly
sworn deposes and says that the statements in the above
petition, so far as the same are stated as of his own
knowledge, are true and as stated upon the information
of others he believes them to be true.

W. C. Padgitt

Known to and subscribed before me
this day 31st 1893

J. H. Starnack Clerk District
Court District of Columbia
By J. H. Starnack

Upon Ruffs entering into bond
with approved Sureties in the sum
of one thousand Dollars payable
and conditioned as required by
Law the clerk of the Dist. Court
of Harris County Texas will
issue an order temporarily
restraining the Debt as prayed
for. He will further cause the
Debt to appear before the Hon
Judge of the 11th Judicial
Dist. of the State of Texas on
the first day of the next term
of the Dist. Court of Harris
County Texas, and show cause
if any, why an injunction
should not issue as prayed
for by Ruff - } R E Burks
Dallas Texas } Judge 14th Judicial
July 31st 1893 } Dist. of Texas.

No. 15099

W. C. Packer ad.

v.

The City of Houston -
Taka Robinson & Co.
ad. Defendants.

Petition for In-
junction.

FILED
JULY 1st 1893
J. H. Wallis
Clerk District Court Harris Co.
91 Kansas City

NOT RECORDED
RECORDED
FILED
JULY 1st 1893
J. H. Wallis
Clerk District Court Harris Co.