

Step 14: Court Records — Terry and Jim Willard

EDITOR'S NOTE: This article is the fourteenth in our continuing series "Family History Made Easy: Step by Step." Watch for more articles in this series to be posted in coming weeks.

<http://ancestry.com/library/view/ancmag/2082.asp>

Thus far in this series, we've introduced you to the basics of beginning a research project. Now we want to take you even further along your ancestral paper trail.

There are several reasons why you might choose to pursue additional sources of information. You may have hit the proverbial "brick wall" and need additional direction. You may want to continue learning about the people who came before you. Perhaps you've gathered key pieces of genealogical data and could stop if you chose, but you want one more piece of data to prove conclusively that your research is accurate.

Any of these reasons could be your rationale for turning to another potential source of information—court records. In some ways, you've already learned about court records in earlier articles in this series. Naturalization and probate records, for example, are court records. However, these are major types of court records that should be considered individually. In this article we want to turn our attention to a collection of other court records that are sometimes overlooked as potential sources of family history data.

Existing Court Records

While the word miscellaneous is sometimes used to describe various court records, we want to list them individually. Each of these record types represents some sort of legal action; and some type of genealogical information, however small, can be gleaned from each category of records.

Adoption

Perhaps the most frustrating brick wall in genealogical research is discovering an adopted ancestor. In most cases, adoption records are sealed. This means that the information is only available to the adoptee when he or she has reached legal age and has secured a court order to access the records. Some courts allow sealed records to be viewed by others when good cause can be proven (such as the need to learn about a genetic medical condition), but this is rare and very difficult to accomplish.

Remember that prior to the twentieth century, it was common for adoptions to be handled quietly, within the family, and outside of the legal system. Thus you may not find a record of the adoption at all. In our research, we encountered such a situation, but we were fortunate to find that the local parish priest had made a handwritten notation in the birth register, naming the biological parents of the individual who had been adopted by her aunt.

Bankruptcy

Several periods of economic hardship have marked America's history, and it was during such times that bankruptcies were common. Bankruptcies are filed in federal court and are intended to protect the individual from creditors while his or her debt is restructured.

Civil Proceedings

While property disputes can be considered civil proceedings, other cases may have been brought before a court that were not property-related. Court records are filled with cases involving small claims, slander, false accusations, etc. These records provide a peek into the daily lives of our ancestors. Even if the case does not involve one of your own ancestors, it will show the mood of the community in which your ancestor resided.

Criminal Proceedings

It is possible that an ancestor may have been involved in a criminal proceeding. These records are referred to as case files and can yield interesting information. We uncovered a case in our research regarding the murder of a great-grandfather. While the details were far from glamorous, the information made for interesting stories in conversations with our relatives.

Divorce

While less common before 1900, divorce is a legal action that has occurred for many years. Divorce papers were filed at the local court level. In some cases, the divorce proceedings were initiated, but never completed. But even in such a case, documents can be found that may contain some useful genealogical information.

Guardianships

While guardianship records may seem unusual, they are more common than you might expect. In many cases, a widow could not always care for her children. If she could not remarry, she may have had to make her children wards of the state. They would most likely be placed in an orphanage, but it is also possible that the court appointed a guardian. Also, guardianship might have been arranged in a man's will (so that his children would be taken care of after his death). In any case, the court would have documentation of the guardianship. Related documents may come from what some regions refer to as Orphan's Court, so be sure to determine what such a court might be called in the area you are researching.

Mortgage

In many communities in the United States, a mortgage is a legal document filed in a local court, particularly when the lender is an individual or a government agency.

Property Disputes

Throughout much of our nation's history, many communities have been without a police force, so the courts assumed the role of keeping the peace. If there was a property dispute, it was resolved in the local court.

Court Locations

Essentially, courts in the United States are divided into three levels. The lowest level is the local court or the county court. Researchers will most likely discover valuable information at this level. Study the area before you check the court records. Determine what court(s) exist, where courts are located (remember that town, county, and even state boundaries have changed over time), and what information is available. Also determine research hours, and copying fees (in addition to the photocopying charge).

The next level is the state court, or the state supreme court. While it is unlikely that you will find much genealogical information at this level, it should not be overlooked.

Finally, there are federal courts. Depending on the time period and geographic area you are researching, federal courts may be an excellent resource. Bankruptcy information, for example, could be found at this level. Currently, there are eighty-nine federal district courts, plus the U.S. Circuit Court of Appeals and the U.S. Supreme Court. Any or all of these may provide information.

Using Court Records

Fortunately, most court records are indexed. In many areas, there are two separate indexes: one for the plaintiffs and one for the defendants. Once you have determined that a particular court might have useful information, learn how that information is organized and accessed. If a visit to the court is not practical, you might be able to access some of the records another way. The Church of Jesus Christ of Latter-day Saints, for example, has microfilmed hundreds of rolls of court records which are accessible by visiting one of the more than 1,500 Family History Centers located throughout the world. Check your local phone book for the Center nearest you. Also, some counties are making their court records available online through local or county Web sites. Check referral Web sites such as RootsWeb to determine what might be available in your geographic area of interest.

Pitfalls and Limitations

Remember that there are limitations to any of these court records. First, the indexes—if there are indexes—are not the complete record. They are secondary sources, transcribed by a clerk to serve only one purpose: to lead you to the actual record itself. Also, not all court records have been fully indexed. Should you encounter such a set of records, roll up your sleeves and be prepared for some old-fashioned detective work.

Second, the original source might be difficult to locate but *Ancestry's Red Book* (Ancestry, 1992) should prove helpful. Towns and counties have changed significantly over the decades in terms of the records they keep. How the records are stored in that community is no exception.

Third, the personnel in some of the court offices may be of limited help. We have been in several facilities where fellow researchers have actually been more knowledgeable than the staff because they have spent more time combing the records. Don't be afraid to ask for help.

By now you realize that genealogical research can be a very time-consuming activity. Keep in mind the following tips as you utilize court records in your research:

1. Have a specific objective in mind.
2. Schedule enough research time.
3. Learn what records are available and how to use them.
4. Learn as much as possible about the people you are researching before you turn to court records.

Terry and Jim Willard hosted the ten-part PBS series "Ancestors." They have researched their

genealogy fifteen generations back on both sides.