

RECORD GROUP 26:

COURT OF OYER AND TERMINER RECORDS

GUIDE

Date Span: 1782-1784

.5 linear foot (1 box)

Historical Note

The full title of this court was the Court of Oyer and Terminer and General Gaol Delivery. The North Carolina General Assembly established the court in 1782. It was the oldest court above the level of county court established in what became Tennessee. Prior to this time, cases heard above the level of the County Court had to go before the Superior Court of Law and Equity at Morganton, North Carolina, a considerable distance from the Tennessee frontier. As the act creating the court noted, "...whereas the extensive mountains that lie desolate between the inhabited parts of Washington, and the inhabited parts of Burke counties, make the transportation of criminals from the former to the latter difficult and on the way may frequently find means to break custody and escape; wherefore that offenders in the said counties of Washington and Sullivan may be more easily and certainly brought to justice," a new court was needed in the west. (*State Records of North Carolina*, volume XXIV, Laws, 1777-1788, page 451.)

Oyer means to "to hear" and terminer means "to determine," so the court was to hear and determine cases that originated in Washington and Sullivan counties. The following year, when Greene County was created, it also fell under the court's jurisdiction. The terms originated in the medieval legal system of England taken from the Anglo-French "oyer et terminer." Court was held twice per year beginning on February 15th and August 15th at the Washington County Courthouse in Jonesborough. Spruce McCay was the judge, Waightstill Avery the attorney general, and John Sevier, in addition to his duties as clerk of the county's Court of Pleas and Quarter Sessions, was appointed clerk of the Court of Oyer and Terminer. McCay (c. 1755-1808) tutored a young Andrew Jackson in the law. Avery County, North Carolina is named for Waightstill Avery (1741-1821).

At the November 1784 session, the North Carolina General Assembly adopted a bill creating the Washington judicial district out of the District of Morgan and creating a Superior Court of Law and Equity. This court was to be held beginning on February 15th and August 15th of each year. (Sources: *State Records of North Carolina*, volume XIX, page 765 and volume XXIV, pages 689-690.) So, the first court session would have been on February 15, 1785. This court replaced the Court of Oyer and Terminer.

Scope and Content

The record group consists of one set of surviving minutes for August 1782 and documents for several surviving court cases that originated in Washington, Sullivan, and Greene counties, 1782-1784. Note: Based on the law creating the court, it should have met twice (February and August) in 1782, 1783, and 1784 before dissolving.

Arrangement

The record group is arranged into two series, as follows:

Series A: Minutes, 1782

Series B: Case Files, 1782-1784

Series A: Minutes, 1782

Series Description

The series consists of a handwritten set of minutes for the August 1782 session of court as recorded by John Sevier, Clerk of the Court of Oyer and Terminer. The document provides names and brief descriptions of court cases, names of witnesses and jurors, fines and court costs, and actions taken by the court.

DATE SPAN	RECORD	BOX/ FOLDER	NOTES
August 1782	Court of Oyer and Terminer and General Gaol Delivery for the Counties of Washington and Sullivan	1:1	

Series B. Case Files, 1782-1784

Series Description

Series B consists of 18 court cases in which actual documents survived. This is referenced by the check mark in the column titled "Case." There are an additional 13 court case titles mentioned in the minutes of August 1782 but for which no actual documents have been found. The location of these latter cases is given as Box 1, folder 1 under the Box/Folder heading to indicate these are found only in the minutes. The page numbers are given for any case mentioned in the court minutes. A variety of civil and criminal cases are documented, including damages, debt, defamation, assault, horse stealing, larceny, and murder. The cases are arranged chronologically by date and then alphabetically by the case title.

DATE SPAN	CASE NAME	BOX/ FOLDER	NOTES	MIN BOOK	CASE
15 Aug 1782 16 Aug 1782 20 Aug 1782	State vs. Jacob Brown, Samuel Hand, Martin Many and others	1:2	Trespass, V and A; John Nave, Gabriel Nave, John Clark, Jr. and John Clark (blacksmith) witnesses for the state.	p.6 p.9	√
15 Aug 1782	State vs. James Campbell	1:3			√
15 Aug 1782	State vs. Michael Drake and wife, Jane Drake	1:4	Failure to appear in court and a fi fa was issued.	p. 4	√
15 Aug 1782	State vs. Thomas Fain	1:5			√
15 Aug 1782	State vs. Stephen Jones	1:1	Killing a certain Captain John Nucleles	p.2	

15 Aug 1782	State vs. Matthew Leeper	1:6			√
15 Aug 1782	State vs. James Wyatt	1:7			√
15 Aug 1782	State vs. Samuel Wyatt	1:8	Warrant for his arrest		√
16 Aug 1782	State vs. Isaac Choate	1:1	Indicted for horse stealing; Isam Clayton, Jesse Holland and John Sutton witness for the state. Sentenced to death on 10 Sep 1782	p.5 p.10 p.17	
16 Aug 1782 1 Aug 1783	State vs. John Vann	1:9	Horse stealing; John McCain and Thomas Mitchel were witnesses for the defendant; found guilty; sentenced to death on 10 Sep 1782; warrant issued for his arrest 1 Aug 1783	p.5 p.10 p.17	√
16 Aug 1782 19 Aug 1782	State vs. Benedict Midleton	1:1	Assault and battery of Samuel Lyle, constable (guilty); assault of Jesse Gentry (not guilty); defendant pleads not guilty; John Slaughter, Charles Allison, John Newman, and William Clarke witnesses for the state; Smallwood Middleton and William Middleton witnesses for the defendant	p.6 p.9 p.11	
16 Aug 1782	State vs. Buckner Namee	1:1	This case is mentioned in the minutes, but only in the context of Benjamin Cobb and William Stone witnesses for the state.	p.7	
16 Aug 1782	State vs. Arthur Cobb, William Cox, Robert Been, Michael Massingill	1:1	Assault	p.9	
16 Aug 1782 19 Aug 1782	State vs. Abraham Anthony	1:1	Misdemeanor; defendant pleads not guilty; found guilty	p.9 p.12	
16 Aug 1782 19 Aug 1782	State vs. Joshua Baulding	1:1	Robbery; defendant pleads not guilty	p.10 p.13	
19 Aug 1782	State vs. Benedict Midleton	1:1	Assaulting James Cunningham; John Slaughter witness for the state; Smallwood Midleton and Nathaniel Evans witnesses for the defendant; found guilty	p.11	
19 Aug 1782 20 Aug 1782	State vs. William White, John White, et al	1:1	Horse stealing, they plead not guilty; William White found guilty, sentenced to death on 10 Sep 1782; John White found not guilty	p.13 p.14 p.17	
20 Aug 1782	State vs. John Clarke	1:1	Petty larceny; Henry Nave, Gabriel Nave and Jacob Collett witnesses for the defendant.	p.15	
20 Aug 1782	State vs. John Jordan	1:1	Petty larceny; James Hubbard and Joseph Bullard witnesses for the state.	p.15 p.17	
20 Aug 1782	State vs. James Gibson and others	1:1	Mary Dyches and John Evans witnesses for the state	p.15	
20 Aug 1782	State vs. Ezekiel Able	1:1	Horse stealing	p.17	

20 Aug 1782	State vs. James Gibson, Jesse Greene, James Turbett and others	1:1	Murder	p.17	
20 Aug 1782	State vs. Richard Minten and Luke Bowyer	1:1		p.17	
25 Jul 1783	State vs. John Chambers	1:10	Summons for Randolph Russel and James Russel		√
17 Aug 1783	State vs. William Murphy	1:11			√
15 Aug 1783	State vs. William Greer	1:12	Warrant for his arrest		√
20 Aug 1783	Clark, Nathaniel vs. George Birdwell	1:13	Costs and damages		√
20 Aug 1783	English, James vs. William Craig	1:14	Costs		√
20 Aug 1783	State vs. John Murphy	1:15	Costs		√
15 Nov 1783	Looney, Elizabeth vs. Agnes Gray	1:16	Defamatory words spoken. Case began in Court of Pleas and Quarter Sessions (March 1783), moved to Court of Oyer and Terminer (Nov 1783), back to Court of Pleas (Feb 1790)		√
3 Apr 1784	State vs. John Ward	1:17	Bond		√
7 Aug 1784	Cox, William vs. Benjamin Cobb	1:18	Bond		√
15 Aug 1784	State vs. John Shellom	1:19	Bond		√