

# Dallas County, Texas Probate Cases 1846 – Early 1900's

Case Number 1714

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1714

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THE STATE OF TEXAS, } County Court May Term, 1895  
County of Dallas }  
In the Estate of Milton Rush Deceased.

On this the 8<sup>th</sup> day of June, A. D. 1895, personally appeared in open court W. M. Crow who, being duly sworn, deposes and says, that on the 7 day of November, A. D. 1894, he was present and saw Milton Rush sign the instrument filed in this court on the 3<sup>d</sup> day of April, A. D. 1895, and now shown to him ~~himself~~, bearing date on the 7<sup>th</sup> day of November, A. D. 1894, and purporting to be the last will of him the said Milton Rush and heard him publish and declare the same to be his last will and testament; that at the time of signing and publishing the same, the said Milton Rush was over twenty-one years of age, and of sound and disposing mind; that this affiant and J. R. Sharp whose signature appears on said instrument, on said 7 day of November, A. D. 1894, then being credible witnesses above the age of fourteen years, subscribed their names as witnesses to the same, in the presence and at the request of said testator, and in the presence of each other.

That afterwards, on ~~or about~~ the 12<sup>th</sup> day of December, A. D. 1894, said Milton Rush died in said county of Dallas in which he had his domicile at and before his death, and without revoking said will, so far as known to affiant W. M. Crow

Sworn to and subscribed in open Court before me this 8<sup>th</sup> day of June, A. D. 1895  
L. H. Hughes  
County Clerk Dallas County, Texas  
By Jackson Deputy

EXECUTOR'S BOND

The State of Texas, } No. 2016  
County of DALLAS, } Estate of Milton Rush Deceased

~~KNOW ALL MEN BY THESE PRESENTS, That we, as Principal, and as Sureties, are hold and firmly bound unto the County Judge of said County of Dallas, and his successors in office, in the sum of \_\_\_\_\_ Dollars; conditioned that the above bound \_\_\_\_\_ who has been appointed \_\_\_\_\_ shall well and truly perform all the duties required of him under said appointment.~~

WITNESS our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ 1895  
(SEAL)  
(SEAL)  
(SEAL)

I DO SOLEMNLY SWEAR that the writing which has been offered for probate, is the last will of Milton Rush deceased, so far as I know or believe; and that I will well and truly perform all the duties of Executor of said will

M. J. Hall,  
sworn to and subscribed before me this 1 day of July, 1895  
W. M. Crow Notary Public  
County Clerk, Dallas County, Texas.  
By \_\_\_\_\_ Deputy

No. 2016

ESTATE OF

Milton Rush

Deceased.

PROOF OF EXECUTION

OF LAST WILL OF DECEDENT.

Filed in open Court on the 4<sup>th</sup> day

of June A. D. 1895

L. H. Hughes

County Clerk Dallas Co.

By A. Jackson Deputy

Recorded in Probate Minute Book

on page

Dorsey Printing Co. Stationers, and Printers, Dallas, Tex.

Recorded 2-465

No. 2016

COUNTY COURT,  
DALLAS COUNTY.

EXECUTORS BOND.

ESTATE OF

Milton Rush

Filed July 2<sup>d</sup> 1895  
L. H. Hughes Clerk

By A. Jackson Deputy

Approved this day of

189

County Judge, Dallas County.

A. D. Altridge & Co., Stationers, Printers and Binders, Dallas

Recorded

FILED BY THE DALLAS GENEALOGICAL SOCIETY-1977

The State of Texas, } No. 2016  
COUNTY OF DALLAS. } Estate of Milton Rush

KNOW ALL MEN BY THESE PRESENTS, That we veed  
~~as Principal, and~~ ~~and~~  
~~as Sureties, are held and firmly bound unto the County Judge of said County of Dallas, and~~  
~~his successors in office, in the sum of~~ Dollars;  
~~conditioned that the above named~~ who has  
~~been appointed~~  
~~shall well and truly perform all the duties required of him under said appointment.~~

WITNESS our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_  
(SEAL)  
(SEAL)  
(SEAL)

I DO SOLEMNLY SWEAR that the writing which has been offered for probate is the  
last will of Milton Rush deceased, so far as I know or  
believe; and that I will well and truly perform all the duties of Executor of said will

D. J. Looney.

Sworn to and subscribed before me this 18 day of June 1895

W. W. Cushman J. P. & Ex-officio  
County Clerk, Dallas County, Texas  
Notary Public Ellis Co. Texas Deputy

THE STATE OF TEXAS.

To all Persons Interested in the Estate of Milton Rush deceased:

Mrs M. J. Neal and Mrs D. J. Looney have filed, in the County Court  
of Dallas County, State of Texas, an application for the Probate of the last Will of said  
Milton Rush deceased, and for Letters Testamentary, which  
application will be heard and acted upon by said Court, at the next term thereof, to be held at the  
Court House in the City of Dallas, County of Dallas, State aforesaid, and commencing on the  
first Monday in May A. D. 1895, at which time and place all persons interested  
in said Estate shall appear and contest said application, should they desire to do so.

WITNESS: L. H. HUGHES, County Clerk of Dallas County, Texas.

GIVEN under my hand and the seal of said Court at office in the City of

Dallas, this 3<sup>rd</sup> day of April A. D. 1895

L. H. HUGHES,  
County Clerk, Dallas Co., Texas.

By A. Jackson Deputy.

No. 2016  
COUNTY COURT,  
DALLAS COUNTY.

EXECUTIVE BOND.

ESTATE OF

Milton Rush

Filed July 1<sup>st</sup> 1895  
L. H. Hughes, Clerk.

By W. Jackson Deputy.

Approved this \_\_\_\_\_ day of \_\_\_\_\_

189

County Judge, Dallas County.

A. D. Aldridge & Co., Stationers, Printers and Binders, Dallas.

Recorded

No. 2016  
COUNTY COURT.

ESTATE OF

Milton Rush

Deceased.

Notice of Application for Probate of  
Will and Letters.

Issued this 3<sup>rd</sup> day of

April 1895

L. H. HUGHES, COUNTY CLERK.

By W. Jackson Deputy.

SHERIFF'S RETURN.

Came to hand the 3<sup>rd</sup> day of April  
1895 and executed the 3<sup>rd</sup> day of April

1895 by posting up three copies of this Writ at  
three public places in Dallas County, one of which  
was at the Court House door of said County, and  
no two of which were in the same town or city.

DeW. Hobbs  
Sheriff, Dallas County.

By J. Jackson Deputy.

Just \$3.00  
Recorded

Estate of Milton Rush,  
Deceased.  
M.J.Hall and D.J.Looney /  
Ex'ts

In Probate Court, Dallas County, Texas.

To the Honorable Probate Court of said County:

Now comes Susana

Rush, surviving wife of Milton Rush, deceased, and represents and shows to the court that she was the wife of Milton Rush, at the time of his death and is a legatee under the will of said Milton Rush, deceased; that at the time of the death of said Milton Rush, deceased, he had no homestead and no exempt property in this state or elsewhere and his estate was utterly and wholly insolvent, and is now utterly and wholly insolvent; that your petitioner had no homestead and no exempt property, in this state or elsewhere at the time of said decedent's death and now has no homestead and no property exempt under the constitution and laws of the State of Texas; that the only property belonging to said estate at the time of said Milton Rush's death was to wit, 400 acres of land situated in Anderson County, Texas, on which land there was a vendors lien then existing for \$930.00 besides interest and attorneys fees said land being of the value of \$2.00 per acre, or a total of \$800.00 six personal promissory notes given by Harrison Williams, each for eight bales of cotton, payable in cotton, and six personal promissory notes each for seven bales of cotton, payable in cotton, given by Larkin and all payable to Milton Rush said notes having been given to Milton Rush as part of the purchase money of certain land in Anderson County, Texas, sold to said Harrison Williams and said Larkin respectively, to wit, 200 acres sold by said Milton Rush, joined by your petitioner to Harrison Williams, known as the "Home place," and 204 acres sold to said Larkin and known as the "Larkin place", a more complete description of which

IN PROBATE COURT OF DALLAS COUNTY, TEXAS

TO THE HONORABLE PROBATE COURT OF SAID COUNTY:

EX. EXE  
MILTON RUSH AND D. J. LOONEY  
DECEASED  
ESTATE OF MILTON RUSH

your petitioner cannot now give but a full description will hereafter be filed in this court and made a part hereof.

That said M.F.Hall and D.J.Looney, executrixes, have duly qualified herein and are acting as such executrixes:

That your petitioner was entitled to have set apart to her in lieu of a homestead other property or money not to exceed in value \$5000.00, and in lieu of exempt personal property other property or money not to exceed in value, \$200.00 and that no allowance whatever of any character has been made to her, in lieu of said homestead and exempt personal property, by this court or otherwise and she has received nothing whatever in lieu thereof; that she has never waived or abandoned her right to have such allowances made to her and has always claimed and demanded such allowances, as well as an allowance for her support for one year, no such allowance for support for a year having been made to her or received by her;

That at the time of said Milton Rush's death said notes given by Harrison Williams were in the possession of one R.W.Calhoun of Anderson County, Texas, who claimed to hold them as collateral for a debt due by him to Milton Rush to him; that if said Calhoun had any right or interest in such notes it was by a verbal agreement made with said Milton Rush to collect the same and apply the proceeds to the payment of such debt and it was only a lien on personal property and your petitioner never and said Calhoun did not have a lien on said notes given under Article 2503 of Sayles Texas Civil Statutes, of 1897, and your petitioner never gave any lien on said notes, in any way and never acknowledged any lien on said notes as the law requires; that said notes were non-negotiable and there was no consideration for the assignment to said Calhoun of the same;

Petitioner charges that she is informed and believes that said Harrison Williams on to wit the \_\_\_\_\_ day of \_\_\_\_\_, 1898,



abandoned the said tract of land sold to him and on which said note constituted a vendors lien and that said Calhoun is now in possession of the land and by reason thereof such land has become and is a part of the estate of said Milton Rush, deceased and is subject to petitioners claim for an allowance of money or property in lieu of a homestead and exempt personal property;

That at the time of the death of said Milton Rush, deceased, said notes given by Larkin, were in the possession of one B.H. Gardiner, of Anderson County, Texas, who claimed to hold them as collateral for a debt claimed by him against Milton Rush of about \$300.00; that if said Gardner had any right or interest in said note it was by a verbal agreement made with Milton Rush to collect the same and apply the proceeds to the payment of such debt due to him and had, if any thing at all, only a verbal lien on personal property to wit on said notes; and your petitioner never gave to said Calhoun any lien on said notes, in any way, and never acknowledged a lien thereon under Article 2503 of Sayles Texas Civil Statutes, of 1897, and neither said Calhoun nor said Gardner had or has a lien on said notes as against the right of your petitioner to have the same or the proceeds thereof set apart to her in lieu of a homestead and in lieu of exempt personal property or in lieu of a year's allowance for support; said notes given by said Larkin were non-negotiable and there was no consideration for the assignment thereof to him, if they were assigned to him.

Petitioner says that she is informed and believes that said Larkin abandoned said land and surrendered the same to said Gardner on to wit the day of 1898, that is to say the land on which said notes in Gardner's possession constituted a lien and that said Gardner is now in possession of the same and by reason of the premises said land has become and is a part of the estate of said Milton Rush, deceased and is subject to petitioners claim for the allowance of

ers claim for allowances in lieu of a homestead and exempt personal property and for a years support.

Petitioner is not able to give a complete description of said land and notes at this time nor to state the exact nature under which said land was abandoned and surrendered by the said purchasers because she has not the sufficient information in her possession;but she states that she claims and demands her allowance allowed by law in lieu of a homestead and of exempt personal property and her allowance for a years support;and she avers her willingness to take and accept the said notes belonging to the estate of said Milton Rush,deceased,or if said ~~1~~ notes have been converted as aforesaid into the land,towit,if said land has been surrendered and abandoned by the said purchasers thereof and has become the property of the estate as aforesaid,or if held by said Calhoun and Gardner,respectively,under any contract or agreement with said Harrison Williams and Larkin,or otherwise held in trust for said estate,then she avers her willingness to take and accept said two tracts of land in lieu of such allowances. That the value of said land is towit \$2.00 per acre or a total of \$806.00,that being the reasonable market value thereof.

Petitioner avers that said tract of 400 acres above menioed is no part of the estate now of said Milton Rush deceased,because the said vendors lien thereon has been foreclosed and the land sold said indebtedness against it being greater than the value thereof and the vendors lien being a first and superior lien on said 400 acres.

Wherefore petitioner prays that on hearing she have judgment setting apart to her in lieu of said allowances to which she is entitled,towit an allowance in lieu of a homestead,an allowance in lieu of exempt personal property,and and allowance for a years support,the said notes,if the same still constitute a part

...of this case...  
...petitioner is not...  
...to be set apart to her in lieu thereof; that the court hear evidence upon the matters and things set up herein and on hearing that she have judgment awarding to her said allowances out of said notes or land, and that such orders be entered as will fully award to her out of any property subject to being set apart to her for such allowances, the allowances to which she is entitled; that all relief both general and special to which she may be entitled be granted to her.

E. O. Horne  
Atty for Petitioner.

1414  
2016

Estate of Milton Rush,  
Deceased.

Application of Susana Rush,  
surviving widow, for allowances  
in lieu of homestead, exempt per-  
sonal property and a years allow-  
ance.

Filed April 3-1849  
A. Jackson cash  
Wm. M. Kellum

A. W. Gregg      B. H. Gardner.  
 -Office of-  
 Gregg & Gardner,  
 Attorneys at Law.

Palestine, Texas, 12/9-95-

County Clerk  
 Dallas Tex

Dear Sir:- Has any  
 administration ever been taken  
 out on the estate of  
 Milton Rush? He died  
 a year or two ago.  
 Inclosed find P.C. for  
 reply. If letters have been  
 taken out please give name  
 of Adm or Ex and date  
 of issuance of letters.

Yours  
 Gregg Gardner

Estate of } In County Court, Dallas  
Milton Rush } County, Texas

to the Honorable judge of said Court:  
Now come the executors of the estate  
of Milton Rush, deceased & the appraisers  
heretofore appointed by the court & report  
the following property as belonging to  
said estate - all the common <sup>property</sup> of  
Milton Rush, deceased & of his <sup>surviving</sup> wife, who  
survives him, to-wit:

All that certain lot, tract or parcel of land  
lying, being and situated in the County of Anderson  
on the waters of Otter Creek known and  
described as follows, to-wit: Being 400 acres  
more or less, out of the West one half of the  
Wm. Chairs survey in Anderson County  
Texas ~~this land is to convey~~ - all the West  
one half of the said Wm. Chairs survey  
except the 200 acres conveyed to  
W. D. Davis -

Said land is of the value of \$2<sup>00</sup> per  
acre - being 100<sup>acres</sup> in cultivation & the  
balance in the woods as timber land  
that there is an incumbrance in the  
shape of a mortgage on said land  
of about \$934. credited with about  
\$74. held by Robert Calhoun -

A. Livingston and W. L. Deamond  
appraisers appointed by the court being each sworn say  
the above & foregoing is a true & correct inventory  
& appraisement of the estate of Milton Rush, deceased  
& include all his estate so far as it has come to our knowledge.

Subscribed & sworn to before

on this July 11, 1895 - Wm. C. ...  
Dallas County, Texas

A. Livingston  
W. L. Deamond

That the following claims are due the estate of Milton Rush:

1- Six notes of 8 bales of cotton each - total 48 bales given by Harrison Williams for the purchase money of the Milton Rush Homestead in Anderson County, Texas - credited with about 6 bales of cotton paid - said notes now held as collateral security by Robert Calhoun for about \$930. & interest due him by the estate of Milton Rush.

2 - Six notes for about \$ of 7 bales of cotton in each note given for payment of what is known as the Barkin Place in Anderson County Texas - these notes held as collateral security by lawyer H. Gardner living at Palestine in Anderson County, Texas for about \$300. -  
Said cotton notes have credited on them 5 1/2 bales of cotton or \$121 <sup>85</sup>.

3-

Wm. G. Hall, being sworn says the above foregoing is a full & complete inventory & list of the property and claims of Milton Rush deceased that ~~that~~ have come to her knowledge.  
M. G. Hall,

subscribed & sworn to before me  
this July 1<sup>st</sup> 1895-

Wm. Lerow Notary Public  
Dallas County Texas

Mrs. D. J. Looney being sworn says the foregoing inventory & list of claims of the estate of Milton Rush, deceased is a full & complete list inventory & list of ~~claims~~ the property and ~~and~~ claims of Milton Rush, deceased that have come to her knowledge

Mrs D. J. Looney.

Sworn and subscribed in before me this the 9th day of July 1895-

W. W. Cochran J. D. & Ex. Off.  
Notary Public Ellis Co. Texas

Estate of  
Milton Rush, Dec.

Inventory & Affirmament  
& List of Claims

FILED July 13<sup>th</sup> 1895  
L. H. Hedges, Sec. Clerk  
By A. S. Jackson

Examined and  
approved this 13<sup>th</sup>  
day of July 1895-

J. F. Nash  
H. C. Co. Judge

Recorded.



The State of Texas } In the County Court of  
County of Dallas } Dallas County, Texas - sitting in Probate  
May Term 1895.

To the Hon. Thomas F. Nash Judge of said Court

Your applicants Mrs. M. F. Hall and  
Caro. J. J. Dooney, the former of whom resides in  
Dallas County, Texas and the latter in Ellis County  
Texas allege & show to the Court:

1. That on or about the 1<sup>st</sup> day of December  
1894 Milton Rush departed this life in  
the City & County of Dallas, Texas leaving  
a last will and testament which is filed  
herewith, attached to this application and  
made part hereof hearing date Nov 7<sup>th</sup> 1894  
& which was executed by said Milton Rush  
on said date in the presence of J. R. Hark  
and W. M. Crow & they at his request &  
in his presence signed the same as  
attesting witnesses - by said will said Milton  
Rush bequeathed all his real & personal  
property at the time of his death to his  
wife Susanna Rush & constituted your  
applicants executrices of his estate & provided  
that no bond be required of them & no action had in  
the County Court except to probate this will &  
return an inventory, appraisement & list of claims

That prior to his death said Milton Rush resided  
in Dallas County, Texas where he had his fixed place  
of residence

That said estate owns real estate & notes & accounts  
& other personal property  
of the probable value of fifteen hundred  
dollars

That your applicants are the executrices named  
in said will & they reside as above shown &  
they are not disqualified by law from

accepting letters testamentary.

Wherefore your applicants pray that notice be posted as required by law & on final hearing that said will be admitted to probate, that appraisers be appointed & on final hearing that letters testamentary issue to your applicants & for general relief.

M. L. Morris  
Attorneys for Applicants

2016

Application of

Mrs. M. F. Hall

Mrs. D. J. Looney

Executors

to Probate Last Will

Testament of Milton Rush

FILED

APR 8 1895

L. H. WISER, County Clerk,

By *[Signature]*

Recorded *[Signature]*  
M. L. Morris  
for Applicants.

Instrument purporting to be last Will & Testament of Milton Rush - having been proven by the written testimony of W. M. Crow - one of the subscribing witnesses is adjudged to be the last Will and Testament of the said Milton Rush deceased & together with the probate thereof is ordered of Record <sup>thru</sup> M. F. Hall & Mrs. D. J. Looney are appointed Testamentary Executors & without Bond - W. L. Diamond - J. P. Vaughn and A. Livingston are appointed Appraisers  
June 8<sup>th</sup> 1895 - *[Signature]*  
J. P. Rush Co Judge

The State of Texas }  
County of Dallas }

Know all men by these presents  
that I Milton Rush of the County & City of  
Dallas, Texas, being of sound and disposing  
mind and memory, do make & publish this  
my last will and testament hereby revoking  
all Wills by me at any time heretofore  
made

First - I direct that all my just debts be paid

Second - I give & bequeath to my beloved wife  
Susanna Rush all my real & personal  
estate, notes & accounts and property of  
every description which I may own  
at the time of my death

Third - I constitute & appoint my daughters  
M. H. Hall and S. J. Looney, executrices  
of my estate and direct that no bond  
be required of them & that no action be  
had in the County Court in reference to  
my estate except to probate & record  
this will and return an inventory, apprais-  
ement & list of claims of my estate

Fourth - I further constitute & appoint said M. H. Hall  
& S. J. Looney, trustees of my estate and  
direct them to manage & control it & use  
said estate & the rents & revenues of same for  
the care & support of my said wife Susanna Rush  
& when necessary for that purpose to sell &  
convey any of said property & make good title  
to the purchasers & to sue & collect up said  
estate & in all respects to handle & care for & preserve  
& sell same as I could if living.

Fifth - I direct that M. H. Hall & S. J. Looney remain  
trustees of said estate so long as their said  
mother lives & after her death I direct

that any remainder of said estate be divided  
equally among all my children. I further  
direct that as my son B. M. Rush is "afflicted"  
that M. H. Hall & J. Looey be & they are  
constituted trustees & guardians of his  
estate, <sup>coming to him through me</sup> to handle, manage & control & sell &  
convey same & to collect up same & use  
the proceeds, rents & revenues for his care  
& support.

In witness whereof I have hereunto set  
my hand this the 7<sup>th</sup> day of November  
1894 in the presence of J. R. Sharp  
and W. M. Crow who attest the same  
at my request Milton Rush

The above instrument was now here subscribed by  
Milton Rush, the testator in our presence, and we at his  
request, and in his presence, sign our names hereto  
as attesting witnesses. J. R. Sharp  
W. M. Crow

Sat W. M. Crow  
of  
Milton Rush

FILED

APR 8 1895

L. B. HUGHES, County Clerk.

By *L. B. Hughes*

Recorded *15*