

INTRODUCTION TO KENTUCKY COURT HISTORY

Jessica Herrington

Kentucky Dept for Libraries & Archives

March 2023



IMPORTANCE OF COURT RECORDS

- Can provide names, locations, relationships
- Add context to a person's life beyond basic information
- Commonly used: birth, marriage, death, census, tax, deeds
- Less used: order books, case files, depositions
- BUT court history is complex & records can be tricky to locate



Qut. (1) State your name, age, residence and occupation.

answ. My name is John H. Rice, age 28 years I live in Wayne County Ky and a farmer by occupation.

Q (2) Are you acquainted with parties to above mentioned suit & what is your relation to def. & how long have you known them?

answ. I am acquainted with the parties of the above mentioned suit, the Plaintiff to suit is my sister I have known def. ever since she was a child I have known defendant for fifteen years or more.

Q (3) Are def. & def. above mentioned married & if so, about when did marriage occur & how long did they live together as husband & wife?

Ans. def. and defendant are married - I think they married in the year 1875. They lived together as husband and wife about three years.

EXAMPLE:

"My name is John H. Rice, age 28 years. I live in Wayne County Ky and a farmer by occupation."

"I am acquainted with the parties of the above-mentioned suit. The plaintiff to such is my sister. I have known def. ever since he was a child have known defendant for fifteen years or more."

"I think they married in the year 1875. They lived together as husband and wife about three years."

Wayne County Case 580. Circuit Court Equity Case Files. Hannah Frost vs. H. Campbell Frost. 1882.





COMMON COURT TERMS

Plaintiff

- first party to bring a dispute to court

Defendant

- defending against dispute or charge

Jurisdiction

- Location and type of cases a court has legal power to hear

Appeal

- if a party is unhappy with a decision, they can ask a higher court to reconsider the decision

A diagram illustrating the relationship between different court levels. At the center is a large brown circle labeled "Circuit Court". To its left is a smaller dark red circle labeled "County Clerk". To its right is another smaller dark red circle labeled "Higher Courts". The "Circuit Court" circle is surrounded by several smaller, semi-transparent grey circles of varying sizes. A small dark red circle with a white border is located in the bottom right corner of the page.

County
Clerk

Circuit
Court

Higher
Courts



COUNTY COURT

- Records exist for nearly entire history of state
- Mostly administrative & financial records
- Usually recorded in books
 - Specific-purpose books (wills, deeds, marriages, etc)
 - County Order Books
- Records created & controlled by County Clerk



NAVIGATING COUNTY COURT RECORDS

- Books are kept by year & entries are chronological
- Entries are usually very short and concise
- Indexes usually available for records
 - Front or back of each book
 - Larger indexes sometimes cover multiple volumes
- Indexes may not cover everything



ORDERS } FAYETTE COUNTY COURT.

December TERM, *15th* DAY OF *December* 18*86*

cop =

On Motion of C. W. Foushee Mayor, It is ordered by the Court that Charlotte Moor be and she is hereby admitted to the County Poor House on a/c of the City of Lexington.

cop =

It is ordered by the Court that ^{Almond} Almond be and he is hereby admitted to the County Poor House.

cop =

*On Motion of C. W. Foushee Mayor
It is ordered by the Court that Robt. Jackson be and he is hereby admitted to the County Poor House on a/c of the City.*

COUNTY COURT ORDER BOOK

“On motion of C. W. Foushee, Mayor. It is ordered by the Court that Charlotte Moor be and she is hereby admitted to the County Poor House of the City of Lexington.”

“It is ordered by the Court that David Almond be and he is hereby admitted to the County Poor House.”



CIRCUIT COURT

- Longest running lower court with trial jurisdiction
 - Replaced earlier courts with similar jurisdiction
 - Other courts had overlapping jurisdiction historically
- 1977: Judicial reform transferred all trial jurisdiction to Circuit Court & control of all court records to Circuit Clerk
 - Organization & storage varies by county
 - Many counties chose to send records to KDLA
 - Important to know time period & type of case



TYPES OF COURT CASES

- **Criminal cases: government (Commonwealth) vs defendant**
 - Misdemeanor: lesser charge, usually punishable by a fine or short-term imprisonment
 - Felony: more serious charge, usually punishable by longer imprisonment, up to a death sentence
- **Civil cases: person or group against another**
 - Can have other names (Equity/Chancery, Ordinary/Common Law)
 - More complex to research, historically had many different courts



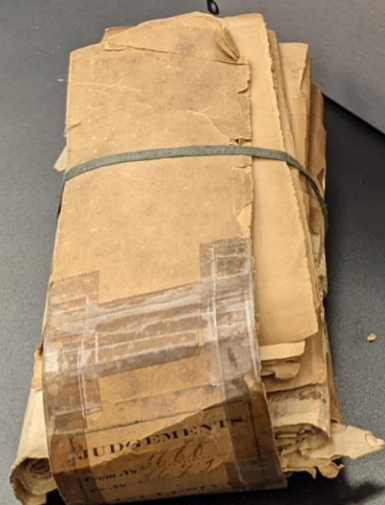
NAVIGATING CIRCUIT COURT RECORDS

- Case files (Civil, Criminal, etc)
 - Original records only
 - Usually indexed by plaintiff & defendant
 - Organization varies widely by county
- Circuit Court Order Books
 - Kept by year and entries are chronological
 - Usually indexed by name
 - Available consistently for entire history of most counties
 - Good alternative resource if cases are missing
- Other record types may not be as easy to search or access



GENERAL CROSS INDEX TO SUITS,

Style of Action	PLAINTIFF	VS.	DEFENDANT	DATE
Petition	Mobley Ida		W.B. Brown	1904 Feb
	Blumfeld John		Leavell & Gray	" "
Equity	Moss Jas. H.		Rubella Moss	" "
Equity	Moayer Hannah's Exr (Ech)		Fidelity Trust & S. Co Trustees	" "
"	Moore Humph. Jr.		Jennie & Carter	" "
"	Miles Lucinda		Spencer Mills	" "
Petition	Miller G. S.		J. E. Robinson	" "
Equity	Moayer Hannah's Exr (Ech)		Hattie North & Co Wallace	June
Equity	Martin Francisco		B. F. Hammonds	" "
"	Moayer Bencie M.		Sam D. Redford	" "
Petition	Meadus, Harriet E.		Jas. E. Cooper	" "
"	Mauzy Clara Fox		W. B. Fox	" "
"	Milton & Hart		Pauline Postell	" "
"	Morton Miss Frances P.		Phenix Insurance Co.	" "
"	Minor W. B.		L. & R. R. Co	" "
"	Major Kittie H.		Forbes & Bro	" "
Equity	Mercer Prudis		S. B. Mercer Jr.	" "
Petition	Major John H.		Job Sumner	Sept
"	Messers J. M.		W. H. Beermann	" "
"	Mason W. D.		Western Sewing Co	" "
"	Major M. S.		C. R. Boyd	" "
Equity	Mayer & M.		Estma Mayer	" "
"	Morris Charlie		Sarah Morris	" "
Petition	McClain Charles Willie		Tex Central R.R. Co	" "
Equity	Morley Edward		Emily Majors	1905 Feb
Equity	Murphy Peter		Willie Murphy	" "
"	Moore Henry		Bell Moore	" "
"	Morris Fannie		Green Morris	" "
"	Moy and Hanna Est		Bertie & Leanne Morgan	" "
"	Morris John M.		Geo. M. Reynolds	" "
"	Major Gelay		Whayman Major	" "
"	Major Mary W. re.		Samuel Fitchfield & wife	" "
"	Majors H. N.		Fedora Majors	" "
Petition	Murray Tom		L. & N. R.R. Co.	" "
"	Morrow Mrs. G. M.		Crescent Milling Co.	" "
"	Morrow Fannie		Crescent Milling Co.	" "
"	Moore W. D.		Wester Sewing Co.	" "
"	Moore Sus. re. p. H. A. Fox		Francis P. Mortan	" "
Equity	Martin Francisco		B. F. Hammonds	1905 June
"	Marshall May		Henry Marshall	" "
"	Moore Charlie		Maggie Moore	" "
"	Mossie Edward		Tom Merritt & Marie	" "
"	Mubray Albert		H. H. Pryor	" "
Petition	Marrlow Samuel		T. W. Pryor	" "



ORDERS

WARREN CIRCUIT COURT

Term,

Day,

Day of

COMLTH. KY. VS. BILL RICHARDSON

FORGERY

#

It is ordered that Doxie Satterfield is hereby appoint to represent th
and in the trials of these cases. The Court notes that Mr. Satterfield was
orally some months ago and has been advised and assisting the defendant and
the cases but no written order was entered and is now being entered to make
record complete.

This July 6, 1971.

COMLTH KY. VS. BILL RICHARDSON

FORGERY

#

The defendant being present, and represented by Dixie R. Satterfield, a
having motions in chambers, the Court ^{took} ~~under~~ to select a jury for the trial
case. Whereup the following jury was selected: JURY: Wanda McCloud, Joe Mas
Mrs. Willie Gossom, Michael Goodwin, Mrs. Elliott James, Myrtle White, Mart
Mary Hockersmith, Elizabeth Almond, Mrs. Andrew Koostra, B.J. Henry, Joan Ca
The oath to qualify a jury was administered, and after filling the jury box
ere admonished not to discuss the case, and to appear at 9:00 A. M. on Jul
971, at which time they would be sworn to try the case.

This July 6, 1971.

Thomas W. Jones

WARREN CIRCUIT COURT DIV. II

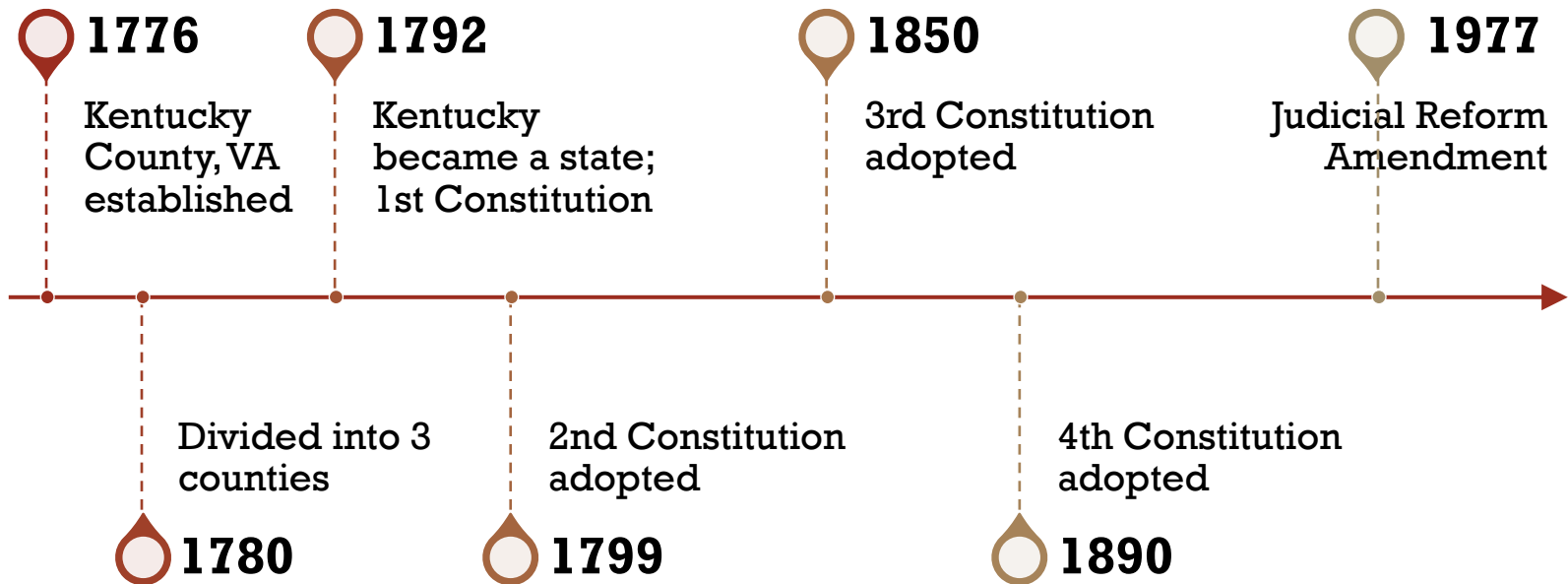
CRIMINAL ORDERS

25

WARREN
WARREN

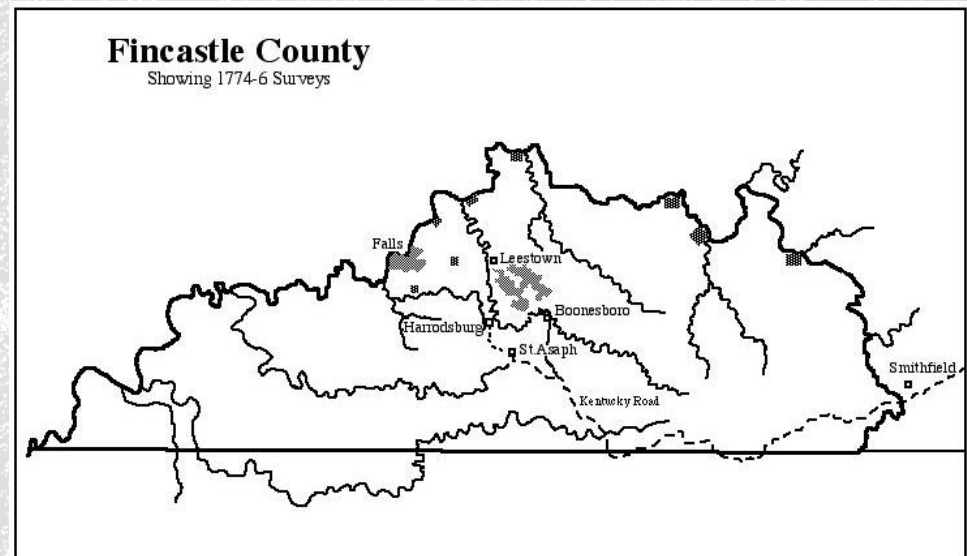
WARREN CO., INC.

BUT HOW DID WE GET HERE?



RECORDS BEFORE 1792

- Part of Virginia
 - Kentucky Territory
 - West Fincastle County
 - Kentucky County
- 1776: first court held for Kentucky County in Harrodsburg



KENTUCKY COUNTY, VA

- 1776: VA granted county status, establishing 2 courts
 - Court of Quarter Sessions: misdemeanors, civil cases
 - County Court: administrative & financial matters
- 1780: divided into Fayette, Lincoln, & Jefferson counties
 - Each vested with its own Court of Quarter Sessions & County Court
- 1783: Kentucky became a district
 - VA established Supreme Court for the District of Kentucky
 - Jurisdiction over all criminal & civil cases
 - BUT any appeals had to be made to Virginia Court of Appeals in Williamsburg



LOCATING PRE-1792 RECORDS

- Local court records stayed in the county
- (VA) Supreme Court for District of Kentucky
 - Jurisdiction moved to Kentucky Court of Appeals after 1792
 - Also any pending cases in Virginia Court of Appeals



FIRST CONSTITUTION 1792-1799

- Most delegates lacked political experience
- Heavily based on Pennsylvania constitution
- Main Points:
 - Established Court of Appeals
 - Legislature could establish other inferior courts it deemed necessary
 - Continued local courts from Virginia
 - Provided for future constitutional changes

COURT OF QUARTER SESSIONS

- Local court in each county, held quarterly
- Staffed by 3 Justices of the Peace appointed from county
- Trial jurisdiction:
 - All civil cases
 - Misdemeanors & minor criminal cases
- Justices Court: could settle minor civil matters & determine if criminal charges were necessary
 - Civil appeals were made to County Court
- 1802-1803: slowly dismantled & replaced by Circuit Courts



COUNTY COURTS

- Local court in each county, held monthly except during Court of Quarter Session
- Staffed by Justices of the Peace from county
- Jurisdiction: administrative & financial matters
 - Property & Inheritance: wills & estates, deeds, marriages, taxes
 - Public Welfare: apprenticeships, bastardy, poorhouses; issue bonds & licenses; appoint public officers
 - Public Infrastructure: build & maintain mills, roads, ferries, jails, public buildings



COURT OF APPEALS

- Highest court for Kentucky
- Primarily handled civil appeals & all land dispute cases
 - Cases from VA Supreme Court for District of Kentucky
 - All cases still pending in VA Court of Appeals
- No option for criminal appeals
- 1795: jurisdiction limited to major civil appeals only
 - Land dispute cases moved to District Courts



COURT OF OYER & TERMINER

- Only court with felony criminal trial jurisdiction
- Held in Lexington twice annually
- Local Justices could hold special Examining Courts to determine if criminal charges were valid
 - Held in county jail until next Court of Quarter Sessions
 - Held in state jail until next Court of Oyer & Terminer
- All decisions were final; no option for appeal
- Unsuccessful; judges were “mediocre” & underpaid
- 1795: replaced by Franklin District Court
- Very few records still exist



DISTRICT COURTS

- 1795: KY divided into several geographic areas
- Trial jurisdiction:
 - major civil cases
 - Land disputes from Court of Appeals
- Franklin District Court also replaced Court of Oyer & Terminer
 - Only criminal court, with statewide jurisdiction
- 1796: criminal trial jurisdiction granted to all District Courts
 - Lack of local jails & prisons
 - Difficult to hold accused for long periods of time
- 1802: replaced by Circuit Courts



**Nelson
District** **Jefferson, Nelson, Washington,
Hardin, Logan, Green counties**

**Franklin
District** **Shelby, Franklin, Woodford
counties**

**Mason
District** **Mason & Campbell counties**

**Bourbon
District** **Bourbon & Harrison counties**

**Lincoln
District** **Lincoln & Mercer counties**

**Fayette
District** **Fayette, Scott, Clark, Madison
counties**

**Logan
District** **added 1798; Logan, Christian,
Warren counties**

DISTRICT COURTS



(DISTRICT) GENERAL COURT

- aka Court of General Sessions
- 1795: coordinating body for all District Courts
- Jurisdiction:
 - Claims against public treasury
 - Cases against public officers or judges
 - New or difficult questions of law
 - Matters involving non-residents
 - Some land disputes, if both parties agreed
- 1802: replaced by General Court



FIRST CONSTITUTION 1792-1799

1792-1795

- Local Courts:
 - Court of Quarter Sessions
 - County Court
 - *Examining Court*
 - *Justice's Court*
- Higher Courts:
 - Court of Oyer and Terminer
 - Court of Appeals

1795-1799

- Local Courts:
 - District Court
 - Court of Quarter Sessions
 - County Court
 - *Examining Court*
 - *Justice's Court*
- Intermediate Courts:
 - Court of General Session
- Higher Courts:
 - Court of Appeals



SECOND CONSTITUTION 1799-1850

- Gave legislature power to abolish District & Courts of Quarter Sessions for Circuit Courts (enacted in 1802)
- Continued County Court & increased their power over county officer appointments
- Made it more difficult to make constitutional changes

CIRCUIT COURT

- 1802-1803: replaced District Courts
 - Courts of Quarter Sessions were also replaced gradually as Circuit Courts were established in each county
- Held 3 times annually
- 1 judge & 2 assistant judges from each circuit
- Jurisdiction same as Court of Quarter Sessions & District Court
 - All civil & criminal cases, unless very small
 - All records from these courts were transferred as well



GENERAL COURT

- Coordinating body for Circuit Courts
- Met twice annually in Frankfort
- Jurisdiction same as old General Court
 - Claims against public treasury
 - Cases against public officers or judges
 - New or difficult questions of law
 - Matters involving non-residents
 - Some land disputes, if both parties agreed
- All records from old General Court transferred to



OLD COURT / NEW COURT

- 1820s, after major economic depression in 1819:
 - Pro-debtor “Relief Party” was elected as majority to legislature & passed debt relief laws
 - Court of Appeals decided the laws violated both federal & state constitutions
 - Legislature tried several times to remove justices from Court
- 1824: finally abolished the old Court of Appeals & created new Court of Appeals with their own judges
 - But Old Court officials refused to vacate their offices
- 1824-1826: KY had 2 operating supreme courts rendering decisions that the other refused to recognize
- 1826: anti-relief party took back control of legislature & abolished new Court, invalidating its decisions



SECOND CONSTITUTION 1799-1850

- Local Courts:
 - District Court (until 1802)
 - Court of Quarter Sessions (until 1804)
 - Circuit Court (1802+)
 - County Court
 - *Examining Court (until 1809)*
 - *Justice's Court*
 - *Other Courts: Police, City, Chancery, etc*
- Intermediate Courts:
 - Court of General Session (until 1802)
 - General Court
- Higher Courts:
 - Court of Appeals



THIRD CONSTITUTION 1850-1890

- Continued Court of Appeals & County Courts
- Made Circuit Courts constitutional
- Created County Judge position
- Made nearly all state & local official elected positions, not appointed
- Required judges to be lawyers
- 1854: granted Court of Appeals appellate jurisdiction over felony criminal cases

COUNTY JUDGE

- Presided over both Quarterly Court & County Court
- With Justices, made up Court of Claims for tax & fiscal matters
- Became most powerful position in county
 - Held political, judicial, & financial power



QUARTERLY COURT

- Similar to old Court of Quarter Sessions
- Local court, held quarterly by County Judge
- Jurisdiction overlapped between County Court & Circuit Court
 - Misdemeanors, smaller civil & criminal cases



SUPERIOR COURT

- Court of Appeals had a huge caseload and massive backlog of cases
 - Felony criminal appeals added to caseload after 1854
- 1882: Superior Court established between Circuit Court & Court of Appeals to help lessen the workload
 - Largely ineffective
- 1890: abolished and all cases returned to Court of Appeals



MORE COMPLICATIONS

- Legislature devoted to much time to special, specific legislation rather than general public & Commonwealth as a whole
- Every town/city had to obtain its own charter from legislature
 - Charters were not consistent & varied in powers & limitations
- Sheriffs requested special laws to extend periods of tax collection
 - Taxes were collected by sheriff, in person, on horseback
- No married women's property act
 - Wives needed to petition legislature to control their own property
- Individual counties wanted special permission to punish certain crimes in special ways
 - Ex. whipping for petit larceny
- Even lawyers weren't sure of the law on many subjects



EVEN MORE COURTS

- Constitution also limited number of Circuit Courts
- Legislature established special criminal & civil courts in some areas
- Intended to help pick up the slack & speed up the legal process
- Only added to confusion of legal system & was ineffective



THIRD CONSTITUTION 1850-1890

- Local Courts:
 - Circuit Court
 - Quarterly Court
 - County Court
 - *Justice's Court*
 - *Other Courts: Police, City, Common Pleas, etc*
- Intermediate Courts:
 - Superior Court (1880-1890)
- Higher Courts:
 - Court of Appeals



FOURTH CONSTITUTION 1890-PRESENT

- Prohibited most local & special legislation
- Creation of more circuit courts
- Eliminated Superior Court & reorganized Court of Appeals
- Constitutional amendments made easier

MINOR JUDICIAL CHANGES

- Established specific jurisdictions for various courts based on city size
- Not all courts were established, or continued, in every county though
- Court of Appeals was reorganized into 2 divisions
 - Increased number of judges
 - Restricted jurisdiction to larger cases or specific criteria
 - But workload continued to grow



JUDICIAL REFORM AMENDMENT

- Complaints about judicial system were common in 1960s
- Constitutional reform attempts kept failing
- Took several studies & a massive informational campaign to pass 1976 Constitutional Amendment
 - Reorganized entire judicial system
 - Made legal system consistent throughout state
 - All local case records are managed by Circuit Clerks



SUPREME COURT

- Kentucky's final interpreter of state law
- 7 justices, one elected from each geographic area
- Held in Frankfort
- Appellate jurisdiction:
 - Cases of constitutional or high significance referred from Court of Appeals
 - Cases involving death penalty or imprisonment for more than 20 years go directly to Supreme Court for review



COURT OF APPEALS

- 14 judges, 2 elected from each district
- Can divide into panels of 3+ judges & move to various locations throughout state
- Appellate jurisdiction:
 - Review cases appealed from Circuit Court
 - Review decisions of administrative agencies



CIRCUIT COURTS

- Majority of all cases
- Circuits follow county lines, but some judges may serve up to 4 counties, others in one-county districts, or multijudge circuits in urban districts
- Trial court jurisdiction:
 - Civil & criminal cases
 - Contested Probate
 - Domestic relations (divorce, etc)
 - Review cases appealed from District Court & administrative agencies
- All records managed by Circuit Clerk of county



DISTRICT COURTS

- Limited jurisdiction:
 - Preliminary felony hearings
 - Mental inquests
 - Probate
 - Misdemeanors
 - Juvenile matters
 - Minor civil cases
 - Small claims court (informal, no lawyers required)
- All records managed by Circuit Clerk



FOURTH CONSTITUTION 1890-PRESENT

1890-1977

- Local Courts:
 - Circuit Court
 - Quarterly Court
 - County Court
 - *Justice's Court*
 - *Various other courts*
- Higher Courts:
 - Court of Appeals

1977-Present

- Local Courts:
 - Circuit Court
 - District Court
- Higher Courts:
 - Supreme Court
 - Court of Appeals



FEDERAL COURTS

- Jurisdiction over:
 - federal crimes
 - admiral or maritime cases
 - land laws
 - revenue cases
- 1789: US Court for the District of Kentucky established
 - Held both district and circuit court status because so remote at time
- 1807: new US 7th Circuit Court created, separate from District Court
- 1901: District Court divided into eastern & western districts



FEDERAL COURT RECORDS

- All cases originate in federal District Court
 - KDLA does not hold any federal records
 - Visit www.uscourts.gov for more information
- Older records (1790-1979): National Archives in Atlanta
- Bankruptcy cases: National Archives in Kansas City
- Recent records: court clerk for each district
- Appeals: 6th District Court of Appeals in Cincinnati



COLLECTIONS & ARCHIVES

- **KY Dept for Libraries and Archives**
 - Most court records since founding of state
 - 2 locations:
 - Archives Center: up to ~1980s
 - State Records Center: ~1980s-2000s
- **County Clerk & Circuit Clerk Offices**
 - Some counties retained part or all of their records
 - May have originals or copies
 - Must contact Circuit Clerk first for all cases after 1977





Archives & Reference

[Visiting the Archives](#)

[Resources for Researchers](#)

[Requesting Records from the Archives](#)

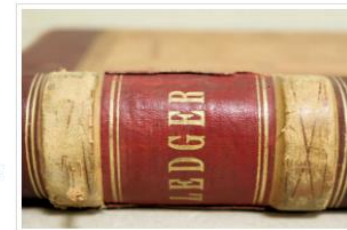
Research Guides

The following handouts and guides detail KDLA resources for specific record types or topics. Refer to them to learn more about our holdings, methods of access, and to plan your research accordingly.

Records Inventory

- [County Records Inventory](#) (PDF)

The inventory lists some of the most regularly used resources at KDLA including: birth, marriage, death, county order books, wills, deeds, and civil and criminal cases. Records vary greatly by County and type. Consult this list for a better idea of the availability of records for your research interests when planning to visit KDLA or when considering placing a records request order with us. This is not a comprehensive inventory, questions about the records listed, or other material not included here, should be directed to staff at KDLA.Archives@ky.gov or at (502) 564-1770.



Genealogy:

- [Birth and Death Records](#) (PDF)
 - [Vital Statistics \(Birth, Marriage, Death\) 1852-1910. Microfilm Rolls by County.](#) (PDF)
 - [Vital Statistics \(Birth and Death\) Pre-1911. Microfilm by City. \(Covington, Lexington, Louisville, and Newport\)](#) (PDF)



QUESTIONS?

Jessica Herrington
KDLA Archives Research Room
Jessica.Herrington@ky.gov

*What do lawyers wear to court?
--A lawsuit.*



**Thank you to the
Institute of Museum and Library Services (IMLS)
for sponsorship of this webinar.**

