

# American Court Records

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## Why Court Records Are Essential for Tracing your Hard-to-Find Southern Ancestors

Too many genealogists avoid searching court records—they have a reputation for being poorly indexed, difficult to read, filled with unfamiliar terms and abbreviations, not yet generally available on the internet. Let me share just a few of the goodies you can expect when you invest the time and effort to read and study them:

\_\_Supply data often missing in Southern courthouses—  
acknowledging land deeds and personal property sales—especially slaves  
presentation of wills for probate  
posting commissions for civil officials and militia officers  
record contracting parties to agreements  
identify witnesses by name, occupation or status, and residence  
license lawyers, physicians, midwives, peddlers, clergy  
document implied marriages

While they may be abbreviated, these details name and identify many ancestors that would otherwise be lost!

\_\_Few people, male and female alike, escape mention in court records—witnesses, litigants, jurors, local officials, signers of petitions, appointees, bondsmen—ordinary citizens who live in that community.

\_\_Where two or more persons in a local area have the same name—very common in the South—court records often uniquely identify each one so you can tell them apart! The clerk of the court has to keep them straight, so he devises designations that separate them out from one another recording his system in the minutes or indexes or lists.

Legal documents were signed! Signature or mark. Clerks tried to copy the marks as closely as they could—when your documents were copied into the registers. Marks and signatures can be matched to other records.

\_\_Specific legal procedures were determined by law—passed on specific date, changed and abolished on specific date. Examples: until 1868 in North Carolina, a man had a life estate in all real property his wife brought to the marriage—this is called curtesy. The marriage Act of 1741 forbade mixed marriages in North Carolina. White man or woman intermarried with Indian, black, mustee, mulatto, mixed blood was illegal. This law was revoked in 1976.

\_\_*Non-jurors or non-swearers*, those who refused to take the oaths of allegiance, were Loyalists/Tories, Quakers, Mennonites, etc. They could be double-taxed and otherwise discriminated against before the court. Sometimes this is your only clue that your ancestor was different.

(See Jo White Linn, “Tips for Genealogists Working in North Carolina Records,” *Rowan County Register*).

\_\_Exemptions are usually “permits” issued by the court—and these help to explain what is happening in wills and deeds.

\_\_Court documents distinguish between new arrivals from Ireland and Germany from families who came over during the Colonial period. Court records do this better than any other record category. Ages of new arrivals are often stated by your ancestor in court! Consider John Wilkes who came into court and enumerated his family as follows:

Mary Wilkes, his wife, age 42

John Wilkes Jr age 18

Robert Wilkes age 15

Mary Wilkes age 12

James Wilkes age 9

Elizabeth Wilkes age 6

Martha Wilkes age 3

Negro Polly, age 37

Negro Sally age 48

Negro Saul age 53

Negro Tom age 39

Negro Nell age 16

Negro Susan age 14

Negro Jull age 6

Negro Dick age 9

If John did not report to the court within a specified period after arriving in the county, he had to pay taxes for all these persons, regardless of whether they were taxable age or not.

\_\_Court clerks record early vital records in the South—births, marriages, deaths, name changes, divorces, and even adoptions. The South followed the English pattern--the local church authority was responsible to record vital records. If there was no state church, the court recorded them.

\_\_Inventories of personal possessions, stock and fixtures of local business firms, lifestyles in small communities, and the hinterland within which your ancestors moved around.

\_\_Identity of kinship networks, commercial contacts, military buddies, neighborhood craftsmen, and skilled tradesmen.

\_\_How to detect falsified original records—fraudulent and false alterations made at the time the documents were created with the cooperation and collusion of clerks and agents.

\_\_Actual migration patterns for your ancestors and who they traveled with. All the way from Ireland, including stops along the way, and how long they tarried in each place.

\_\_Jurisdictions and records that by-pass the burned courthouse. Courts function at all jurisdictional levels—concurrently and simultaneously. You have other places to search when something happens to the records at one level. In North Carolina you have courts below the county, courts above the county, county courts, city courts, state and federal courts.

\_\_Essential importance of the law—understanding the law, rules in effect, regulations pressed on your ancestors.

\_\_The court, sitting as a legislative body, set age limits, boundary lines, requirements, personnel, etc.

Printed Court Records and How to Use Them to Advantage:

Extracts are short, abbreviated renditions of the original documents; no attempt is made to copy them in their entirety. Abstracts are short selections from the original documents and may even include unmarked words added by the abstracter. Verbatim transcriptions include every word with the original spelling and punctuation (or lack of it) as recorded by the clerk. The editor will indicate in [brackets] any additions, interpretations, or editorial comments made.

Supplemental transcriptions include records from other courts or from case files and court opinions to reconstruct the whole case. Rarely are all the papers in the file used. What appear to be the most important are selected for inclusion in the printed volume.

Use printed court records as an index—most printed volumes include indexes. The names of witnesses, jurors, court personnel, attorneys are indexed. The printed version may also include the original volume number, page, and even case number. So you find the entries easily.

Use printed court records to understand the contents and to read the abbreviations. Where the original may be difficult to read on your own, with a printed version to follow along providing translations of Latin and Law French, this printed copy becomes your guide through the files. And may save you hours pouring over hard-to-read stuff.

Use records printed before the fire to supply the missing contents. In spite of the fact that transcripts vary widely in quality, they may be the only surviving versions and you will be dependent upon these records.

**Study Bibliography: Some Key References You may not Know About**

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