

## Southern Campaign American Revolution Pension Statements & Rosters

Pension application of David Ivey W26156

f28NC

Transcribed by Will Graves

rev'd 11/28/12

[Methodology: Spelling, punctuation and/or grammar have been corrected in some instances for ease of reading and to facilitate searches of the database. Where the meaning is not compromised by adhering to the spelling, punctuation or grammar, no change has been made. Corrections or additional notes have been inserted within brackets or footnotes. Blanks appearing in the transcripts reflect blanks in the original. A bracketed question mark indicates that the word or words preceding it represent(s) a guess by me. Only materials pertinent to the military service of the veteran and to contemporary events have been transcribed. Affidavits that provide additional information on these events are included and genealogical information is abstracted, while standard, 'boilerplate' affidavits and attestations related solely to the application, and later nineteenth and twentieth century research requests for information have been omitted. I use speech recognition software to make all my transcriptions. Such software misinterprets my southern accent with unfortunate regularity and my poor proofreading fails to catch all misinterpretations. Also, dates or numbers which the software treats as numerals rather than words are not corrected: for example, the software transcribes "the eighth of June one thousand eighty six" as "the 8<sup>th</sup> of June 1786." Please call errors or omissions to my attention.]

State of Tennessee, Davidson County

On this 2<sup>nd</sup> day of December 1820 personally appeared in open Court of the Circuit Court of the United States for the District of West Tennessee, David Ivy, aged 60 years, who being first duly sworn according to law, doth, on his oath, in the following declaration in order to obtain the provision made by the act of Congress on the 18 of March 1818 and the 1<sup>st</sup> of May 1820, that the said David Ivy enlisted for the term of three years on the 10<sup>th</sup> or 11<sup>th</sup> day of April or May in the year 1777 in the State of North Carolina, in the Company commanded by Captain James Wilson in the Regiment Commanded by Colonel Abraham Shephard, in the North Carolina line, the 10<sup>th</sup> Regiment – on the Continental establishment: that he continued to serve in the said Corps until 1778, when the North Carolina line was reduced to two regiments at Valley Forge and the said David Ivy was placed in the first Regiment commanded by Colonel Clark. That he served as a drummer about one year and the balance of the time as a Wagoner; that he continued in the Service until the year 1783 when he was discharged from the said Service at Hillsborough in the State of North Carolina by General \_\_\_ [blank in original] which is lost. That he was not in any battle in consequence of his being a Wagoner, and that he has no other evidence now in his power of his said Services; except that of David Passmore<sup>1</sup> and that of John McAlister.<sup>2</sup>

And in pursuance of the Act of the 1<sup>st</sup> May 1820, I do solemnly swear that I was a resident Citizen of the United States on the 18<sup>th</sup> of March 1818 and that I have not since that time by gift, sale or in any manner disposed of my property or any part thereof with intent thereby so to diminish it as to bring myself within the provisions of An Act of Congress entitled "An Act to provide for certain persons engaged in the land and naval Service of the United States in the Revolutionary War," passed on the 18<sup>th</sup> day of March 1818; and that I have not, nor has any person in trust for me, any property or securities, contracts or debts due to me, nor have I any income other than what is contained in the Schedule hereto annexed and by me Subscribed, Viz:

one washing tub valued to	.50
one mare	20.00
one cotton wheel	1.50
one small skillet	1.00
two sitting chairs	1.00
one Dish	.50
one water Pail	.37 ½
one man's saddle	5.00
	<hr/>
	\$27.87 ½

The said David Ivey doth further make oath that he has put full valuation on the Schedule of his

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1 [David Passmore S1924](#)

2 [John McCallister S36111](#)

property as above which amounts to twenty nine dollars and eighty Seven and a half cents. The said David Ivey doth make oath that he is by occupation a farmer, and that he is Scarcely able to pursue his occupation from age and infirmities, that he only has living with him a wife whose name is Nancy, aged 60, who is not more unhealthy than people are generally at her age and a daughter of my wife's, whose name is Lydia Kelly aged 25, and is as healthy as people are generally.

S/ David Ivey, X his mark

Sworn to and Declared on the 2<sup>nd</sup> day of December 1820 in open Court of the District Court of the United States for the District of West Tennessee before me.

S/ N. A. McNairy, Clerk

State of North Carolina, Secretary's Office 11<sup>th</sup> of January 1821

I William Hill Secretary of State in & for the State aforesaid do hereby certify that it appears from the muster rolls of the Continental line of this State that David Ivey a [illegible word] and Captain will as Company of the 10<sup>th</sup> Regiment was mustered on the 12<sup>th</sup> May 1777 for three years or the war, and that he is was a Wagoner in 1781.

Given under my hand the date above.

S/ Wm Hill

[On December 26, 1853, Nancy Ivey filed in Perry County, Tennessee for a widow's pension stating that she is 91 years old, that she is the widow of David Ivey, a revolutionary pensioner, that David died in Anderson County, Tennessee on November 27, 1828. Other affidavits attest that Nancy's maiden name was Nancy Kelly, that she married David in Anderson County, Tenn. In November 1814; that David died in Davidson County, Tenn., (not Anderson County as Nancy said in her application). In a later application, Nancy says David died on November 29, 1827.]

[f p. 26]

State of Tennessee, Davidson County

On this 2<sup>nd</sup> day of December 1820, personally appeared and came to before me John McNairy a Judge of the district Court of the United States for the District of West Tennessee, John McAlister who being first duly sworn according to law, doth on his oath make the following declaration, That, David Ivey did enter in the year 1777 Captain James Wilson's company in the State of North Carolina, commanded by Colonel Abraham Shephard, North Carolina line, on the Continental establishment – that he served in the same company regiment and line with the said David Ivey about one year, and then the said David Ivey was appointed a waggoner; the declarant doth further state that in the year 1778 that he was discharged, and that he left the said David Ivey in the Service, in the capacity of a waggoner and how much longer the said David Ivey did Served he is unable to say. Furthermore this declarant saith not.

Sworn to and Declared on the 2<sup>nd</sup> day of December 1820 before me in open court.

S/ John McNairy, District Judge

S/ John McCallister



[f p. 27]

State of Tennessee, Davidson County

On this 2<sup>nd</sup> day of December 1820 personally appeared and came before me John McNairy a Judge of the District Court of the United States for the District of West Tennessee David Passmore who being first duly sworn according to law, doth on his oath, make the following declaration – That David Ivey was an enlisted Soldier, and did enlist in the year 1777 in the State of North Carolina in Captain James Wilson's company, 10<sup>th</sup> Regiment commanded by Colonel Abraham Shephard North Carolina

line in the Continental establishment, that they both served in the same company, Regiment and line for about one year, at which time the said David Ivey was appointed a Waggoner and continued in that capacity until the year 1779, at which time they were separated at Charlestown [sic, Charleston] in the State of South Carolina at which time they were separated and how much longer at the said David Ivey served or in what capacity this deponent is unable to say. Furthermore this deponent saith not.

Sworn to and declared on the second day of December, 1820 before me in open court.

S/ John McNairy, District Judge

S/ David Passmore



[Veteran was pensioned at the rate of \$8 per month commencing December 2, 1820, for service as a private for 3 years in the Maryland [sic, North Carolina] Continental line. His widow was pensioned at the rate of \$96 per annum commencing February 3, 1853.]

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Renee Newman has generously allowed us to include the following transcription she made from *Reports of Cases Argued and Determined in the Supreme Court of Tennessee [1818-1837] Vol 9*. By George Shall Yerger. The case offers additional evidence given under oath in a court of law regarding the veteran's services and it makes a very valuable contribution to our database.

Supreme Court of Tennessee

Nathan G Penson & Daniel Harkins, plaintiffs in error, v David Ivey, Defendant in error.  
Nashville, January, 1830

This case was argued at a previous term of the court, no judgment was given, because the judges disagreed.

“The facts of the case are set forth with accuracy in the opinions delivered and has rendered it unnecessary to state them again”.

Smith, Special Judge. “Complainant, David Ivey, alleges in his bill, that North Carolina has issued the president and trustees of the University of said state, a military warrant for one hundred and fifty acres of land, to be laid off within the limits of land reserved by law for the officers and soldiers of the continental line of said state, which warrant recites, “that it was for the services of David Ivey (a balance) a musician in the line aforesaid, in the revolutionary war, who died in the service of the United States, or since the close of said war, without issue or heir and whose real estate became thereby escheated and belongs to the president and trustees of the University”.... “That a certificate has been issued thereon, specifying the number and location they were entitled to make by virtue thereof, dated Wednesday in November 1820; that said warrant was assigned to Samuel Dickens, who had authority to do so”..... “to the defendant Nathan G Pinson; that on the 19th day of June, 1821, said Pinson made an entry founded on said warrant, in the county of Madison”.... “Alleges that plaintiff is the David Ivey mentioned in the said warrant; that he is in full life, entitled to said warrant, and never has transferred his interest therein to any' states he did not apply for said warrant because it has been many years since he left the state of North Carolina, and is poor, ignorant, illiterate and old; that he is necessitous and a pensioner of the United State; prays that said Pinson may be enjoined from getting a grant for said land on said warrant, and that the said land may be decreed to him”. Defendant, Pinson “admits said

warrant was assigned to him by said Samuel Dickens, for said president and trustees”.... “alleges that he does not know whether complainant performed services in the North Carolina line or not, and requires strict proof and by no means admits said Ivey is the person for whose services said warrant issued” .... “that complainant is barred by his neglect in not applying for his warrant, and by the lapse of time and the adjudication of said board of commissioners, from claiming the warrant”

“The testimony, which, besides the copy of the warrant, consists of the depositions of John M'Callister and David Passmore, I consider it unnecessary to detail minutely but shall merely say, if it be admissible in point of quality or degree, it satisfactorily establishes, that complainant, David Ivey, did enlist as a soldier in the continental line of the state of North Carolina, in 1777; that he remained in the army until 1780, the siege of Charleston, when the witness was taken prisoner and saw him no more until the end of the war; that during his service he acted at one time as a drummer for something less than a year; was subsequently an artificer and then a wagoner. Witnesses saw him directly after the war, and understood from him that he had served during its continuance. The Witnesses depose to such intimacy of acquaintance with him, that all question of identity is at rest if they are to be credited, and nothing is offered to impeach their veracity.” .... “It has, however, been strongly urged by defendants that the testimony offered upon the present occasion, being that by depositions, is insufficient in point of quality; that it is against the rule which requires that the best attainable evidence shall be adduced to prove every disputed fact, alleging that the muster rolls in the archives of North Carolina would be better evidence of the fact, if true. And certainly no rule of evidence can be more firmly established, or upon better reason, than that which requires a party to adduce the best evidence”.... “The parties agree in their pleadings that David Ivey, a musician, did serve in the continental line of the state of North Carolina, and by such service became entitled to the warrant in question. The whole controversy, then, is about the identity of the plaintiff. Is he the David Ivey who actually performed the service? And it seems to me this is a question in the solution of which the muster-roll could afford no aid, and would be wholly useless; it is a question which, from the very nature of it, cannot be so well investigated in any other way as by parol proof. I am therefore of the opinion, that the testimony offered is sufficient in degree and establishes, in fact, that the complainant is the David Ivey for whose services the warrant issued.” [The defendants then argued that since the lapse of time David Ivey was barred, however the justice cited the fact that no adverse claim was made until August 1820 and Ivey filed this bill in September 1822. ] .. “I am of the opinion that neither the statute of limitations, properly so called, nor lapse of time, by analogy thereto, will operate to prevent recovery.” “It becomes, then important to decide upon the power and authority intended to be given to the commissioners by the act of North Carolina, passed 25th December, 1819.” .... “This law was passed to carry into effect the power which was reserved to North Carolina in what is usually called the compact act, passed 1804 ch.14, by which it stipulates that North Carolina reserves, exclusively, the right of issuing military land warrants. It is one of a series of acts on the same subject”.... [Goes on to cite various laws enacted by NC, throughout the years prior to 1819] “I think from the recited acts, it is established that North Carolina was, at and previous to the cession of 1789, a trustee for the officers and soldiers of the continental line, for the quality of land they were respectively entitled to by those acts”.... “A majority of this court is of opinion that complainant, David Ivey, is entitled to the land warrant described in the pleadings in this suit; and the entry and survey founded thereon and to the land covered thereby, and direct that a decree be entered, divesting the right, title and interest of the said Nathan G Pinson and Daniel Harkins thereto, and vesting the same in the said David Ivey.”

Page 313-314 Whyte, Judge [First recites basic information, about the case] Plaintiff Ivey “says he always understood that he was entitled to a larger warrant than 154 acres, and he does not understand what is meant by calling it, on the face of the warrant, a balance. He never received any portion of a warrant for his military services, or any compensation in lieu thereof, and avers that if any part of the

warrant, thus due for his military services, has been drawn by any person, it is a fraud upon his rights, as he solemnly declares he never received it himself, or disposed of it. He further states he never applied for his warrant, because it is many years since he left the state of North Carolina. He is poor, ignorant and illiterate, old and infirm, and had confidence that the public authorities would do, sometime or other, what justice and law required then to do. He further states that he is very poor, and is a pensioner of the United States in consequence of the performance of said military service. He prays an injunction against issuing the grant to the defendants” .... Defendant states “by way of defense, upon the act of Tennessee passed the 14th of August 1822, ch 3, p. 8, entitled an act concerning certain lands claimed by the trustees of the University of North Carolina, and the proceedings under it, the title to the land located by virtue of said warrant is vested in defendant by virtue of the assignment of the president and trustees. He says that the warrant was issued by the secretary of state of North Carolina to said president and trustees at their expense, by virtue of the laws of this state, and that plaintiff has no equitable claim to the same; that if he is entitled to a warrant from the state, the issuance of this warrant will not deprive him from obtaining the same upon application for it.” ....“John M'Callister, in his deposition, proves that he is acquainted with David Ivey of Davidson County; that he first became acquainted with him in the year 1777, while they were in the army, in the 10<sup>th</sup> regiment of the North Carolina continental line; that he enlisted in the fall of 1777 but does not recollect under whom, but was attached to Capt James Wilson's company. To the question, What battalion was he in, and what marches did he make in company with Ivey? He answered “we rendezvoused at Halifax, North Carolina; from thence we marched to Richmond, in Virginia; halted there some time, and were inoculated for the small-pox; thence, in the year 1778, to Valley Forge, in the state of Pennsylvania, where we halted some time; thence to Monmouth, in the state of New Jersey, where we fought the battle of Monmouth; thence to the White Plains, in the state of New York, where we continued, till in the fall I was discharged, and during the whole of the above campaign, David Ivey was in the army as a regular soldier”. To sundry interrogatories put to this witness he made the following answers “When he (Ivey) first entered the army he performed duty as a musician, and as after transferred to the wagon department. I knew him after the war, in Orange County, North Carolina, where he lived. I lived in about twelve miles of him before the war for two years, and after the war, in about 100 miles of him, where I remained till about 12 years ago, when I removed to western county. I was at his house about five years ago, in Dickson County, in the state of Tennessee, which was the first time I knew of his removal from North Carolina. I know not at what time he removed from North Carolina. I know him to be the same David Ivey that served in the North Carolina line. I did not know any other David Ivey. I always considered the said David Ivey to be a very weak-minded, ignorant man. I have understood that he is a revolutionary pensioner of the United States.”

“David Passmore, a witness, in answer to sundry interrogatories, says “I am well acquainted with David Ivey, of Davidson County, Tennessee, and have been since August, 1777, we enlisted together, in Orange County, North Carolina, in Capt James Wilson's company. Ivey served as a soldier in the revolutionary war, in the North Carolina continental line, and tenth regiment, and marched to the east to Valley Forge; when the regiments were reduced, he fell into the 1st or 2nd regiment, I forget which. These two regiments, after the reduction, constituted a brigade commanded by Gen. Hogan, in which David Ivey and myself continued two years and six months. The brigade was only in one battle in that time – the battle of Monmouth. I was in the battle. As well as I remember, Ivey about that time was in the service incident to a wagoner or artificer. Ivey served as a drummer, as an artificer and as a wagoner, but how he enlisted I do not know. He enlisted for three years; we served together 2 ½ years, when I was taken prisoner at the siege of Charleston, and I saw Ivey no more till the end of the war. After the end of the war in 1784 or 4 we lived in the same neighborhood, 4 miles or something less apart. He told me he served throughout the war, and after his three years were out he enlisted again in the service of the continental. We lived neighbors as aforesaid after the termination of the war, for about twenty years, during all which time I was well and intimately acquainted with him. I then moved

to this western country. Since then I have frequently seen him in North Carolina, during my visits to that country, before he moved out to this country. I have frequently seen him in this state; staid all night at his house several times on the waters of Harpeth river, in Davidson County, where he now lives, or did a few years ago, and I know him to be the same David Ivey who served with me in the revolutionary war, and of whom I have been speaking, and I never knew any other David Ivey that served in the North Carolina line. I think he is a very weak-minded, ignorant man, and very unfit for business. This was always my opinion of him. He used to gamble, and was apt to be imposed on and cheated out of what little he made, by which he was always very poor. I do not know that he ever drew any warrant or portion of a warrant for military services. One John M'Callister, who lives in Kentucky, I believe, any myself were called upon to establish some facts, relative to the service of the said Ivey, rendered in the revolutionary war, for the purpose of identifying him, that he might be placed on the pension list, which we did, and I was informed he was placed on the pension list, and now draws a pension." "The testimony of these two witnesses sufficiently proves the identity of the plaintiff Ivey, that he is the man spoken of in the warrant referred to in the pleadings in the cause, and for whose services the warrant issued. That he performed the services alluded to and other services as a soldier in the North Carolina Continental line in the revolutionary war, from August, 1777, during the three succeeding years, at least, and more than probable, to the end of the war. This testimony is indeed, so satisfactorily evincive of the truth of the facts, required by the answers to be proved, that no opposing evidence has been offered to controvert it. I, therefore, consider it an established fact, that the military warrant NO. 456, for 154 acres in the pleadings, is the warrant issued for the services of the plaintiff David Ivey, in the North Carolina continental line in the revolutionary war."

"This warrant has been issued to the president and trustees of the University of North Carolina on the 21st August, 1820, upon a recital that the plaintiff, David Ivey, died in the service of the United States or since the close of the war of the revolution, without issue or heirs, and whole real estate thereby became escheated, and belongs to the president and trustees of the University of North Carolina. The first observation occurring here, is, that from the proofs in the cause, the issuing the warrant to the president and trustees is predicated upon a mistake; upon the supposed existence of a fact which did not the, and does not yet exist; or, according to the language in the books, upon a false suggestion, the death of the plaintiff Ivey. It therefore conclusively follows, that Ivey is injured, that the president and trustees have obtained the warrant for his military services, to which they had no right, and by a title which did not exist, that is, by escheat.

Justice Catron "Taking, then, to be true what the argument claims, that the claim for the warrant could not and did not escheat on the death of the soldier without heirs, it results, as has been shown, that no obligation rested upon North Carolina to issue the warrant to the university, which corporation took no title under the act of 1789, ch. 21; that that state transferred her western territory to the United States, subject only to the existing claims of her officers and soldiers, their heirs and assigns, without reserving power to appropriate any part of the ceded territory on the pretense of claims having escheated to her, and which had been assigned to the university before the cession; that for want of power to issue the warrant, the same and the entry grounded thereon are void, as if North Carolina had caused to be entered the lands of the United States in Mississippi or Missouri." [several pages of his opinions on if NC had rights, if the soldier had rights, if the university had rights..... and it seems to go back and forth] "Two fact extrinsic of the record were found by them: 1, that David Ivey was dead; 2 that he died without heirs. 1. David Ivey had not been heard of in North Carolina, as must be inferred from his own statement in the bill, taken in connection with the statement made in the warrant, for nearly forty years. No better evidence from which his death might be presumed could be desired; seven years would have been sufficient to raise the presumption." .. 2. The circumstances of his family and relation to others was a matter of proof which we must suppose was made – perhaps it was presumed. No heir

had appeared to claim the warrant for nearly forty years; hence the conclusion was very reasonable that David Ivey had died without heirs. The whole facts upon which the commissioners grounded their decision favorable to the university we do not know, and are *estopped* to inquire; but from what does appear, no blame can attach to them." [goes on to explain David Ivey could have claimed his land at any time, since he knew he should get bounty land]... "I therefore think the opinion of the chancellor should be reversed and the bill dismissed."

Upon the re-argument had in this suit, Judge Catron again stated about the same opinion. He states though "this is no discharge of the claim due to Ivey."