

No. 13190

Supreme Court of Illinois

Haven et al

vs.

Green, for use

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 100.

Haven
Is
Green

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SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,

APRIL TERM, 1861, AT OTTAWA.

EDMOND T. HAVEN,
EDSON G. HAVEN, and
JASPER HAVEN,

vs.

DANIEL GREEN, FOR THE USE OF
WILLIAM H. ALDEN.

Error to McHenry.

ABSTRACT OF RECORD.

PAGE OF REC.

3 THIS was an action of Debt on an appeal Bond, brought by appellee vs. appellants, on the following Bond :

12 KNOW all men by these presents, that we, Jasper Haven, Edson G. Haven, and Edmund F. Haven, are held and firmly bound unto Daniel Green, in the penal sum of Two Hundred Dollars, lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, and administrators, jointly and severally, by these presents. Witness our hands and seals, this 14th day of November, 1857.

The condition of the above obligation is such that, whereas the said Daniel Green did, on the 13th day of November, 1857, before William N. Baldwin, a Justice of the Peace for the county of McHenry, recover a Judgment against the above bounden Edson G. and Edmund F. Haven, for the sum of Ninety and 17-100th Dollars, from which Judgment the said E. G. and E. F. Haven have taken an appeal to the Circuit Court of the county of McHenry, aforesaid, and in the State of Illinois. Now, if the said Edson and Edmund F. Haven shall prosecute their appeal with effect, and shall pay whatever judgment may be rendered by the Court, upon dismissal or trial of said appeal, then the above obligation to be void; otherwise, to remain in full force and effect.

EDMUND F. HAVEN, [SEAL.]

EDSON G. HAVEN, [SEAL.]

JASPER HAVEN. [SEAL.]

3, 5 Declaration contains three counts: first count is upon said Bond, and avers that the Judgment recited in the condition of the Bond, as having been recovered on the 13th day of Nov., 1857, was, in fact, recovered on the 12th day of Nov. A. D. 1857, and was by mistake recited as having been recovered on the 13th—and breach in usual form.

2d. count alleges that the Judgment was recovered on the 12th of November, 1857, and that said Edson G. and Edmond F. Haven, being desirous of appealing said suit to the Circuit Court of McHenry county, did, on the 14th day of November, A. D. 1857, execute, &c., the Bond hereinbefore set out; that in the condition of said Bond it was recited by mistake, that the Judgment therein recited was recovered on the 13th day of November, A. D. 1857, when, in fact, the same was recovered on the 12th day of November, A. D. 1857; that the Bond was approved, accepted, &c., and appeal granted, &c.—breach in the usual form.

3d count is simply a count on the Bond, without reference to any mistake.

PLEAS.

1st Plea, *non est factum*.

2d Plea, that defendants had well and truly observed, performed, fulfilled, and kept all and singular the articles, clauses, conditions, payments, and agreements of the condition of the Bond by them to be kept, &c.

Similiter to first Plea and demurrer to the second.

Leave to defend ant to amend second Plea; but the record nowhere shows that the Plea ever was amended or that the demurrer was ever disposed of in any way, or that the Plea was otherwise answered.

Cause submitted to the Court for trial.

BILL OF EXCEPTIONS.

Plaintiff read in evidence the bond above set forth.

Then read in evidence the transcript of judgment from the docket of Justice, which shows on its face that the judgment was rendered on the *twelfth of November*, A. D. 1857, "*against E. G. & E. F. Haven*."

Defendants objected to the reading of the transcript; Court overruled and defendants excepted.

Plaintiff below then called William N. Baldwin, the Justice of the Peace before whom the judgment was rendered, who testified that the judgment recited in the transcript was the judgment appealed from, and to appeal which the bond read in evidence was

PAGE OF REC. filed, and that the discrepancy between the bond and transcript was caused by mistake, as the trial commenced on the 12th of November, 1857, and closed on the 13th day of November, 1857.

To all of which evidence the defendants below objected. Court overruled the objection and defendants excepted.

- 23 Records of Circuit Court read, which showed that in the case of *Daniel Green vs. Edson G. and Edmond F. Haven*, the appeal was dismissed.

This was all the evidence.

- 17 The Court found for the plaintiff, and rendered judgment in his favor for \$200 debt, and \$100 damages. Exception by defendant.

ASSIGNMENT OF ERRORS.

1st. The Court erred in allowing the transcript from the docket of the Justice to be read in evidence.

2d. The Court erred in allowing the testimony of William N. Baldwin, the Justice, to be received in evidence.

3d. The Court erred in finding for the plaintiff upon the evidence.

4th. The Court erred in rendering judgment for the plaintiff while the issue tendered by defendant's second plea remained undisposed of.

5th. The Court erred in rendering judgment aforesaid, in manner and form aforesaid.

POINTS FOR PLAINTIFFS IN ERROR.

1. The transcript was improperly received in evidence, because the judgment which it recited appeared upon its face to have been rendered on the *twelfth* day of November, 1857, while the bond was conditioned with regard to a judgment rendered on the thirteenth day of said November.

The transcript shows a judgment rendered against E. G. and

E. F. Haven, and the bond was conditioned with regard to a judgment against Edson G. and Edmond F. Haven, and either was a fatal variance.

2. The testimony of Baldwin should not have been received in evidence. The record of the Justice was higher and more trustworthy than any parol evidence can be, and cannot be questioned by parol.

22 Ill. 100.
23 Ill. 64.

3. The finding was against the evidence.

The allegations of the declaration were that the judgment was actually entered on the 12th, but that the bond by mistake was drawn, reciting that judgment was rendered on the 13th.

The only testimony relied on is that of Baldwin, which, if it is conceded to have been properly in the case, shows that the judgment was in fact rendered on the 13th, while the docket of the Justice by mistake shows it to have been on the 12th.

4. The issue tendered by the second plea was entirely undisposed of. The demurrer to this plea was never sustained, overruled, or withdrawn, and therefore it was error to render the judgment.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellants.

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SUPREME COURT OF ILLINOIS :

APRIL TERM, 1861.

EDWARD T. HAVEN,
EDSON G. HAVEN, and
JASPER HAVEN,

vs.

DANIEL GREEN, FOR THE USE OF
WILLIAM H. ALDEN.

ABSTRACT AND POINTS.

GLOVER, COOK & CAMPBELL,

Attorneys for Appellants.

Filed Apr 19. 1861
Shelton
Clark

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,

APRIL TERM, 1861, AT OTTAWA.

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The condition of the above obligation is such that, whereas the said Daniel Green did, on the 13th day of November, 1857, before William N. Baldwin, a Justice of the Peace for the county of McHenry, recover a Judgment against the above bounden Edson G. and Edmund F. Haven, for the sum of Ninety and 17-100th Dollars, from which Judgment the said E. G. and E. F. Haven have taken an appeal to the Circuit Court of the county of McHenry, aforesaid, and in the State of Illinois. Now, if the said Edson and Edmund F. Haven shall prosecute their appeal with effect, and shall pay whatever judgment may be rendered by the Court, upon dismissal or trial of said appeal, then the above obligation to be void; otherwise, to remain in full force and effect.

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E. F. Haven, and the bond was conditioned with regard to a judgment against Edson G. and Edmond F. Haven, and either was a fatal variance.

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4. The issue tendered by the second plea was entirely undisposed of. The demurrer to this plea was never sustained, overruled, or withdrawn, and therefore it was error to render the judgment.

GLOVER, COOK & CAMPBELL,
Attorneys for Appellants.

100
SUPREME COURT OF ILLINOIS :

APRIL TERM, 1861.

EDWARD T. HAVEN,
EDSON G. HAVEN, and
JASPER HAVEN,

vs.

DANIEL GREEN, For the use of
WILLIAM H. ALDEN.

ABSTRACT AND POINTS.

GLOVER, COOK & CAMPBELL,

Attorneys for Appellants.

Filed Apr 18. 1861

L. Leland

clerk

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Monday October 17. A.D. 1859
United States of America
State of Illinois }
McHenry County } ss. Pleas before the
Honorable Isaac G.

Wilson Judge of the Thirteenth Judicial
Circuit of the State of Illinois and
Presiding Judge of the McHenry County
Circuit Court at a Circuit Court begun
and held at Woodstock in said County
at the Court House on Monday the
Seventeenth day of October in the year
of Our Lord one thousand eight hundred
and fifty nine

Present the
Honorable Isaac G. Wilson Judge
Edward J. Foslyn State Atty
E. E. Thomas Sheriff

Attest
George T. Kaffon Clerk.

And therefore, to wit on the 4th. day
of August A.D. 1859 a Precept
for Summons was filed in the Office
of the Clerk of said Circuit Court aforesaid
which said Precept was, in the word,
and figures following to wit:

2 Daniel Green for the use
 of William H. Alden } McHenry Circuit Court
 or October Term
 Emon F. Haven } A.D. 1859
 Edson G. Haven } Debt \$600.00
 Jasper Haven } Damages \$100.00

The Clerk will please issue Summons
 in the above entitled suit in Debt
 returnable next Term of Court to wit
 Church & Kerr
 Atty for Plff.

(Indorsed.)

Filed August 4th. '59
 Wm. D. Kaffron Clerk.

State of Illinois }
 McHenry County } Wm. D. Kaffron
 Clerk of the Circuit
 Court of said County in the State aforesaid
 do hereby certify that the writ of
 Summons issued on the above precept
 can not be found by a most thorough
 & diligent search of the files in my Office
 In Witness whereof I
 have set my hand

and Seal of said Court
at Woodstock this 18th day
of April A.D. 1860
J. D. Kupper Clerk

And thereafter to wit on the 7th day of
October A.D. 1859 was filed in the Office
of the Clerk of said Court aforesaid
the Declaration of the Plaintiff in the
above entitled cause, which said decla-
-ration is in words and figures as follows
to wit;

State of Illinois }
McHenry County } McHenry Circuit Court
October Term A.D. 1859

Daniel Green for the use of William
H. Alden plaintiff in this by Church
& Kerr his Attorney complains of Edmund
H. Haven, Edson G. Haven, and Jasper Haven
defendants in this suit who are summoned &c.
of a plea that they rendered to the said plaintiff
the sum of Six hundred Dollars which
they owe to and unjustly detain from
him, For that whereas the said def-
-endants heretofore to wit on the

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fourteenth day of November in the
year of Our Lord One thousand eight
hundred and fifty seven at the County
of McKenry aforesaid by their certain
writing obligatory sealed with their seals
and to the Court here now shown the date
whereof is the same day and year
aforesaid acknowledged themselves
to be held and firmly bound unto
the said plaintiff in the sum of
two hundred Dollars parcel of the
sum above demanded to be paid
to the said Plaintiff which said
writing obligatory was and is subject
to a certain condition thereunder written
whereby after reciting to the effect following
to wit that whereas the said Daniel Green
had on the 13th. day of November A.D.
1857 before Wm. A. Baldwin a Justice
of the Peace for the County of McKenry
received a judgment against the
above bounden Edson G. & Edmond F.
Haven for the sum of Twenty
8¹⁷/₁₀₀ Dollars from which judgment
the said E. G. & E. F. Haven had taken

an appeal to the Circuit Court of the County of McHenry aforesaid & State of Illinois it was conditioned that if the said Edson G. & Edmund F. Haven should prosecute their appeal with effect and should pay whatever judgment might be rendered by the Court upon dismissal or trial of said appeal then that obligation should be void otherwise of force as by the said writing obligatory and the condition thereof will more fully and at large appear and the said plaintiff avers that the judgment recited in the condition of the said writing obligatory as having been recovered on the 13th day of November 1857 was in fact recovered on the 12th day of November A.D. 1857 and was by mistake recited as having been recovered on the 13th day of November as aforesaid in the condition of the said writing obligatory and the said plaintiff for assigning a breach of the condition of the said writing obligatory in fact says that after the making of the said writing obligatory the said Edson G. Haven

6 and Edmund H. Hauer did not prosecute their said Appeal with effect but suffered the same to be dismissed for want of prosecution nor did they pay the Judgement rendered upon the dismissal of said appeal but have hitherto wholly neglected and refused so to do by means of which said several premises the said writing obligatory became forfeited and thereby an action hath accrued to the said Plaintiff to demand and have of and from said Defendants the said sum of two hundred Dollars, parcel of the ~~Sum~~ above demanded.

And whereas also heretofore to wit on the 12th day of November in the year of our Lord one thousand eight hundred and fifty seven at the County of McHenry aforesaid the said Plaintiff recovered a Judgement against Edson J. Hauer and Edmund F. Hauer before William A. Padon a Justice of the Peace in and for the County of McHenry and State of Illinois for the sum of Ninety & 1/100 Dollars and the said Defendants being desirous

of appealing said suit to the Circuit
Court of McKenney County did on the
fourteenth day of November A.D. 1854
execute under their hands our Seals and
delivered to the said Justice a certain
Bond or writing obligatory in the word
and figures following: Know all Men
by these presents that we Jasper Haven
Edson G. Haven, & Edmund H. Haven
are held our firmly bound unto Daniel
Green in the Penal Sum of two hundred
dollars Lawful money of the United
States for the payment of which well
and truly to be made we bind ourselves,
our heirs & administrators jointly &
severally by these presents. Witness our
hands & Seals this 14th day of Novr. 1854
The Condition of the above obligation is
such that whereas the said Daniel
Green did on the 13th day of November
A.D. 1854 before H. M. C. Baldwin a
Justice of the Peace for the County of McKenney
receive a judgement against the above
bounden Edson G. & Edmund H. Haven
for the Sum of Ninety & 1/100 Dollars,
7 from which judgement the said E. G. & E. H.

Haven have taken an appeal to the Circuit Court of the County of McHenry aforesaid & State of Illinois. Now if the said Edson G. & Edmond F. Haven shall prosecute their appeal with Effect and shall pay whatever Judgement may be rendered by the Court upon dismissal or trial of said Appeal then the above obligation to be void otherwise to remain in full force and Effect.

Edmond F. Haven Seal

Edson G. Haven Seal

Jasper Haven Seal

In the condition of which Bond or writing obligatory it was recited by mistake that the Judgement therein recited was recovered on the 13th day of November 1854 when in fact the same was recovered on the 12th day of November A.D. 1854 which Bond was on the day of the date thereof approved and accepted by the said Justice and the appeal granted accordingly and the said plaintiff avers that the said Edson G. Haven & Edmond F. Haven did not prosecute their said appeal with Effect but suffered the same

to be dismissed for want of prosecution
 nor did the said defendants pay the said
 judgement upon the dismissal of said
 appeal according to the condition of the
 said Bond but have hitherto wholly neglected
 and refused so to do by means of which
 said General promise the said writing
 obligatory became forfeited and thereby
 an action hath accrued to the said
 plaintiff to demand and have of and
 from the said defendants the said sum
 of two hundred dollars other parcel
 of the sum above demanded.

And whereas also the said
 Defendants afterwards to wit on the
 same day and year last aforesaid and
 at the place aforesaid by their certain
 other writing obligatory sealed with
 their seals and to the Court here now shown
 the date whereof is the same day and
 year aforesaid acknowledged themselves
 to be held and firmly bound unto the
 said Plaintiff in the sum of Two
 Hundred Dollars other parcel of the
~~Sum~~ above demanded to be paid to the
 said plaintiff which said writing

obligatory was and is subject to a
 certain condition thereunder written whereby
 after reciting to the effect following to wit
 that whereas the said Daniel Green
 had on the 18th. day of November A.D. 1854
 before Wm. A. Baldwin a Justice of the
 Peace for the County of McKnry received
 a judgement against the above bounden
 Edson G. & Edmund H. Maew for the Sum
 of Twenty & 1/100 Dollars from which
 Judgement the said E. G. & E. H. Maew
 had taken an appeal to the Circuit Court
 of the County of McKnry aforesaid &
 State of Illinois it was conditioned
 that if the said Edson G. & Edmund H.
 Maew should prosecute their appeal
 with Effect and should pay whatever
 Judgement might be rendered by the Court
 upon Dismissal or trial of said appeal
 then that obligation should be void otherwise
 of force as by the said writing obligatory
 and the condition thereof with more fully
 and at large appear, and the said Plaintiff
 for assigning a breach of the condition
 of the said writing obligatory in fact

Say that after the making of the said writing obligatory the said Edson G. Haven and Edmund H. Haven did not prosecute their said appeal with effect nor did they pay the Judgement rendered by the Court upon the Dismissal of said Appeal nor have they since paid the Judgement ~~received~~ recovered by the Plaintiff against them before the said Justice as aforesaid but have hitherto wholly ~~refused~~ neglected and refused so to do by means of which said several premises the said writing obligatory became forfeited and thereby an action hath accrued to the said Plaintiff to demand & have of and from the said defendants the said sum of two hundred Dollars residue of the sum above demanded

Yet the said Defendants although often requested so to do have not as yet paid the said Plaintiff the said sum of two hundred Dollars above demanded or any part thereof but have hitherto wholly neglected and refused and still ~~to~~ neglect and refuse so to do to the damage of the said Plaintiff of one hundred Dollars and therefore he brings

his said &c

Church & Kerr
Atty for Plff.

Copy of Instrument sued on

Know all men by these presents that we Jasper Haven, Edson G Haven and Edmons H. Haven are held and firmly bound unto Daniel Green in the penal sum of two hundred Dollars Lawful money of the United States for the payment of which well and truly to be made we bind ourselves, our heirs, & administrators jointly & severally by these presents. Witness our hands & seals this 14th day of Novr. 1854. The condition of the above obligation is such that whereas the said Daniel Green did on the 18th day of November A.D. 1854 before Wm. N. Baldwin a Justice of the Peace for the County of McKim receive a judgment against the above bounden Edson G & Edmons H. Haven for the sum of Ninety & 7/100 Dollars from which judgment the said E. G. & E. H. Haven have taken an appeal to the Circuit Court of the County of

12
McHenry aforesaid & State of Illinois
Now if the said Edson G. & Edmund F.
Haven Shale prosecute their appeal
with Effect and Shale pay whatever
Judgement may be rendered by the
Court upon dismissal or trial of said
appeal then the above obligation
to be void otherwise to remain in full
force and Effect.

Edmund F. Haven Seal

Edson G. Haven Seal

Jasper Haven Seal

Approved by me at my Office this
14th day of November 1854

Wm. A. P. Alden J.P.

(Endorsed). Filed October 14th. 1859

G. D. Kaffm. clerk.

And thereafter to wit on the 24th day
of October A.D. 1859 the defendant
files pleas to the above narration, which
said pleas are in the words and figures following
McHenry Circuit Court
October Term 1859
Haven vs. Shale

Green use of
Wm^m H. Alden

Debt.

Comes now the

Said Defendants by
Jaslyn & Marchet his attys and defends
the wrong & injury when &c. and says that
the said supposed — obligations is not
their debt & as this they put themselves
upon their Country

And for a further plea in this behalf
the said Defts say that they did at all
times after the making of the said writing
obligatory and the said condition thereof
well and truly observe perform fulfill
and keep all and singular the articles
clauses conditions, payments and agreements
in the said condition of the said writing ob-
ligatory specified comprised and mentioned
in all things therein contained upon his
part and behalf to be observed performed
and fulfilled and kept according to the
tenor and Effect true intent and meaning
of the said Condition of their said writing
obligatory & this they are ready to
verify &c. Jaslyn & Marchet
for Defts.

Endorsed filed Dec. 24. 1859. G. D. Kaplan cllk.

And thereafter comes the Plaintiff by
Church & files his Demurrer to the
plea of the Defendant, which said demurrer
is as follows to wit.

McKamy Circuit Court
Daniel Green for use of
William H. C. Alden

Edmond F. Harew
Edson G. Harew
Jasper Harew.

October Term 1889

And the said

Plaintiff as to the said
plea of the said Defendants by them first
pleaded and wherein they have put
themselves upon the Country both the like

And as to the plea of the said
Defendant by them secondly above
pleaded the said plaintiff says Procludi
= now because he says that the said
second plea and the matters and things
therein contained in manner and form
as the same are therein pleaded are
not sufficient in law to be replied
unto and that the plaintiff is not bound
15 in the law to reply to the same and

this he is ready to verify &c. and for
 Cause says that the plea does not answer
 the whole Declaration while it pretends
 to be a plea to the whole action
 The plea goes only to the instrument of
 writing and not to the Declaration itself
 and for other Causes of a special character

Church & New

Attys for Plff.

(Endorsed) filed Oct 26. 1859
 G. D. Kapsen clerk.

And thereafter to wit on the 28th
 day of October A.D. 1859 being
 one of the days of the October Term
 of said Court aforesaid the following
 among other proceedings were had to
 wit:

235 Daniel Green vs of
 William H. Alden } Debt.
 Edmund H. Haven
 Edson G. Haven
 Jasper Haven } And now

Come, the plaintiff by Kew and file,
 his Demurrer to the second plea of
 the Defendant herein. It is thereupon
 ordered that the Defendant have leave
 to answer. And then come the parties
 to this suit by their respective Attorneys
 and issue being joined Submit this
 Cause to the Court for trial, by agreement,
 without the intervention of a jury
 And the Court being fully advised
 upon the proofs Submitted find
 the issue for the Plaintiff and assess
 his Damages at the Sum of One Hundred
 Dollars It is therefore ordered and
 Considered that the Plaintiff have and
 recover of the Defendants the Sum of
 Two Hundred Dollars his Debt and
 the sum of One Hundred Dollars his
 Damages as also his costs & charges,
 herein Expended and that he have
 Execution therefor. And it is further
 ordered that the Debt be discharged
 upon the payment of Damages
 To all which rulings of the Court
 he ruled as aforesaid, the defendant
 by Joslyn his Counsel then and there

Excepted and prayed an appeal to the Supreme Court of this State which is allowed on condition that they enter into Bonds conditioned according to Law within twenty days from this date, with surety to be approved by the Clerk, ^{of this Court} in the sum of Two Hundred Dollars.

And thereafter was filed in the Clerk's Office of said County the Bill of Exceptions in said Cause which is in words & figure, as follows to wit:

McKinnis Circuit Court
October Term 1859.

Daniel Green for the use
of William H. Alden
Jasper Naveid
Edson G. Naveid
Edmond H. Naveid

Be it remembered
that on this 28th day of October A.D. 1859
it being one of the days of the October

Term of the McKenny County Circuit Court
the above cause came on to be heard
before the Hon^{ble} J. G. Wilson Judge of the
13th Judicial Circuit without a jury
a jury being waived by agreement of
parties - On the trial of the Cause
the plff gave in evidence a bond in the
words and figures following to wit:
Know all men by these Presents
That we Jasper Haver, Edson J Haver
& Edmund H. Haver are held and firmly
bound unto Daniel Green in the penal
sum of two Hundred Dollars lawful
money of the United States for the pay-
ment of which well and truly to be
made, we bind ourselves, our heirs
and administrators jointly & severally
by these presents

Witness our hands and seals this 14th
day of Nov. 1857.

The Condition of the above obligation
is Such, whereas the said Daniel Green
did on the 13th day of November
A.D. 1857 before Wm N. Baldwin
Esq. a Justice of the Peace & for the
County of McKenny recover a

Judgement against the above bounden
 Edson G. & Edmond F. Haven for the
 Sum of Twenty & 7/100^{ths} Dollars
 from which said Judgment the said
 E. G. & E. F. Haven have taken an appeal
 to the Circuit Court of the County of McHenry
 aforesaid and State of Illinois, it being
 the said Edson G. & Edmond F. Haven shall
 prosecute their appeal with effect and
 shall pay whatever Judgment may be
 rendered by the Court upon dismissal
 or trial of said Appeal, then the
 above obligation to be void otherwise
 to remain in full force & effect
 Taken and approved { Edmond F. Haven Seal
 by me this 14th. { Edson G. Haven Seal
 day of November ad 1884 { Jasper Haven Seal
 William A. Baldron

Justice of the Peace

The Plff. then read in Evidence the Transcript
 of Judgment from the Docket of William
 A. Baldron a Justice of the Peace
 of the said County which said Trans-
 -cript is in the words and figures following
 "Transcript of proceedings lately

had before William H. Baldwin Esq
 a Justice of the Peace in & for the
 Said County of McKennay & the State of
 Illinois between Daniel Green Plaintiff
 and C. G. & E. F. Haasen Defendants,
 State of Illinois
 McKennay County Ill.
 Daniel Green

Demand \$98⁰⁰

C. G. & E. F. Haasen
 Demand 98⁰⁰

Warrant doct. 25 Suit brought this 12th day of November
 A.D. 1854 on book account upon the
 12th day of 1854 plaintiff's warrant issued and delivered
 Int. 25 to R. K. Andrews Const. to serve made
 Ex^{te} 25th 3/ returnable forthwith unless Special bail
 40th 25 be entered they returnable November
 18th 1854 Int. Warrant returned and
 Constable, brings defendants forthwith and claims
 fees 1⁰⁰ Constable's fees \$1⁰⁰ - Suit called - parties
 present & proceed to trial - Subpoena
 issued for defendants and delivered
 to R. K. Andrews, Const. to serve.
 Subpoena returned by R. K. Andrews
 Const. and claims fees 12 1/2 cents.
 By the Evidence produced in Court the
 Court finds for the Plaintiff \$90.17

Shuford Judgement is entered accordingly
cost taxed at \$3.99

Wm. N. Baldwin,
J.P.

To the introduction of which said transcripts
the defts objected on the ground of a
variance between the judgement recited
in the Bond and the judgement recited
in the Transcript which objection
was overruled by the Court to which
ruling of the Court the defts then and
there Excepted, the plaintiff then proved
by William N. Baldwin the Justice
of the Peace before whom the same was
rendered that the judgement offered in
evidence and recited in the Transcript
was the one appealed from on his
Docket and to appeal which the Bond
read in evidence was filed and that
the discrepancy between the transcript
and the bond in respect to the date of
Judgement was caused by mistake
as the trial commenced on the 12th.
& closed on the 13th. day of November
To the introduction of which said.

Testimony of the said Justice of the Peace the said Defendants objected which objection was overruled by the Court to which ruling of the Court the said Defendants then and there Excepted

The Plff then read in evidence the records of the Circuit Court of McHenry County in said Cause on the appeal as follows

Tuesday April 27. 1858.

Daniel Green ~~vs~~ & } Appeal.
Edson & Edmond F. Haven } and now
comes the
Plaintiff by ~~law~~ and on his motion it
is ordered that this appeal be dismissed
and that a writ of Procedendo issue
hence to the Court below from which
this appeal was taken & that the Plaintiff
have & recover ^{of the defendants} his costs & charges about
his suit in this behalf Expended and
that he have Execution therefor which
may all the evidence offered in said Cause
Signed by consent J. G. Wilson Seal
And the 18th day of Nov. A.D. 1859

filed in the Office of the Clerk of said Court
aforesaid an appeal Bond which is
in words and figures as follows to wit

We Edmond F. Hauser, Edson G. Hauser
Jasper Hauser and W. T. Hyde are held
and firmly bound unto Daniel Green for
the use of Wm. H. Alden in the penal
Sum of Three Hundred Dollars the payment
whereof well and truly to be made and done
we bind ourselves our heirs &c. firmly by
these presents With our hands and
Seals this 16th day of November 1889

The Condition of the above obligation is
such that whereas the said Daniel Green
for the use of Wm. H. Alden on the 28th
day of October 1889 received a Judgment
before the Circuit Court of the County
of McKean in the Sum of Two
Hundred Dollars against the above
bounden Edmond F. Hauser Edson G.
Hauser and Jasper Hauser from which
said Judgment the said Edson G. Hauser
Edmond F. Hauser & Jasper Hauser
have taken an appeal to the Supreme
Court of the State of Illinois,

Now if the above bounden Edmund F. Haugen, Jasper Haugen, Edson J. Haugen shall pay the Judgement Cost and interest and damages in Case the said Judgement shall be affirmed and shall also duly prosecute their appeal then the above obligation to be void. Else in full force & virtue

Edmund F. Haugen (Seal)

Approved Nov. 17 Edson J. Haugen (Seal)

1859 Jasper Haugen (Seal)

J. H. Kesson Clerk, U.S. Hyde (Seal)

(Entered.) filed Nov. 18. 1859

J. H. Kesson Clerk.

~~Agreed~~ ~~by the parties~~

State of Illinois }
McHenry County } Jp. J. George Kesson
Clerk of the Circuit

Court in & for said County in the State
aforesaid do hereby certify that the above
& foregoing is a true & complete copy of
the record of the proceedings of this Court
in a Cause wherein Daniel Green for
the use of Wm. N. Alden is plaintiff
and Edmund F. Haugen, Edson J. Haugen
and Jasper Haugen defendants as

appears by a diligent Examination thereof
 On Writings whereof I have
 hereto set my hand and
 the seal of Said Court
 at New Stock this 20th.
 day of April A.D. 1860
 J. H. Kaffner Clerk.

State of Illinois } April term 1860
 Supreme Court }

Edmund J. Hann Esq.

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In presence of Alder.

Comes now the said

Deputy Clerk and says that in this
 record there is manifest error and
 assigns the following points

1. The Court erred in allowing the
 transcript from the docket of the
 Justice to be read in evidence
2. The Court erred in allowing the
 testimony of Wm. B. Bullin
 to be read in evidence

3 The Court Erred in rendering
Judgment for the defendant
while the issue tendered by the
defendant, second plea remained
undisposed of

5 The Court Erred in rendering
Judgment refused in manner and
form as aforesaid

Gleason Cook Hampshire
for Peppers in error

I Join for the use of Alden
at } Sup Court
Edmond & Haven et al }

And the said Defendant
by Clerk his attorney comes and deposes
q.c. And says that there is in the same
word no such words as is in
and by the same agreement of error
supposed and this he is ready to
swear to

L S Church
Atty for Dft

100 4th - 41
Horn as Gun
Record

Filed May 26. 1860
L. Leland
Clerk

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