


No. 13950

# Supreme Court of Illinois

Pate et al

vs.

People

71641  7

Francis Gate et al } Plaintiffs in Error  
The People vs } Defendants in Error } Error to Jury

The *habeas corpus* in this Case is insufficient to support the judgment

- 1<sup>st</sup>. The *habeas corpus* does not recite the recognizance at all. The recognizance is not set out *in hac verba*, nor is the legal effect thereof set forth
2. The *habeas corpus* in this Case should clearly show before what Court the recognizance was entered into, and for what offence the principal in the recognizance was indicted; also that a judgment of forfeiture had been entered. Thomas vs The People 13 Ill 696
- 3<sup>d</sup>. It does not appear by the *habeas corpus* that the principal was called before default.
4. It does not appear that the principal was called to answer the indictment
5. It does not appear by the *habeas corpus* that the default against the principal cognitor is a matter of record, nor of what Court the recognizance is a matter of record
6. It does not appear by the *habeas corpus* in what Court or before whom the recognizance was acknowledged.
7. The *habeas corpus* does not aver that the recognizance still remains a matter of record in full force and unsatisfied
8. The record in this Case shows that the recognizance was entered into in the McLean Circuit Court. Recognizances must be presented in the Court in which they are acknowledged or taken, or to which they are by law to be returned

Crisman vs The people & fil 357

The Return facias should aver every thing necessary to make a good declaration, - in this case the Return shows nothing - no liability is shown - the condition does not appear - nor is any breach of the condition averred

The Return facias in this case shows no foundation whatever authorizing its issuance - on a Return in a Criminal case, a record is the foundation of the writ. It is a judicial writ and must show the authority of the Court issuing the same

State of

<sup>of</sup>  
The People of

Ohio

13950