

No. 14163

# Supreme Court of Illinois

Ramdolph

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vs.

Campbell.

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Monday April 21<sup>st</sup> 1851

State of Illinois }  
McDonough County } set

Pleas before the Honorable William  
A Minshall Judge of the Fifth Judicial  
District of the State of Illinois at  
a Circuit Court began and held at  
the Court House in Macomb on  
the third Monday in the month  
of April in the year of our Lord  
one thousand eight hundred and  
fifty one

Present the Hon

William A Minshall Judge  
Robert S Blackwell States Attorney  
William H Randolph Clerk  
William H Head Sheriff

William H Randolph } Tuesday April 22<sup>d</sup> 1851

vs  
James M Campbell } Appeal

This day came the plaintiff  
by his Attorney and filed his motion to dismiss  
the appeal taken herein

Whereupon came the Defendant and asked  
leave to amend the appeal Bond herein which  
is granted

Wednesday April 23<sup>d</sup> 1851  
William H Randolph }

vs  
James M Campbell } Appeal

And now on this day came  
the parties by their Attornies and issue  
being joined for trial they put  
themselves upon the Country. Whereupon  
came the Jurors of a Subj in part Court  
William H Hale and seven others. And on

motion of Plaintiffs Attorney, to dismiss the appeal taken herein, And after hearing the argument of counsel it is considered by the court, that this appeal be dismissed. Thereupon it is considered by the court that the said plaintiff, have and recover of the said defendant his costs by him in this behalf laid out and expended in this court and that execution issue therefore.

Thereupon came the defendant by his Attorney and filed his bill of exceptions as filed herein and prayed an appeal to the second Grand Division of the Supreme Court of this State. Which prayer is granted on condition that the said defendant enter into an appeal bond with Charles Chandler or Hugh Ervin as his security within thirty days from this date conditioned as the laws direct.

And thereupon came the defendant & filed his Bill of Exceptions as ~~follows~~ in words & figures as follows To wit  
In the (in) Borough Circuit Court April Term 1851

William H. Randolph }  
vs } Appeal  
James M. Campbell }

Be it remembered that on this day now came this case on for trial and eight jurors were called elected and sworn whereupon the plaintiff moved the court to dismiss the appeal herein for the reasons that from the transcript filed in this case of the judgment and proceedings herein before the justice who tried this case and which transcript and judgment below is in the words and figures following

W. H. Randolph

vs  
James M. Campbell for \$39.03 -

Action of debt on note & ac filed  
The note dated October 3<sup>d</sup> 1849 summons issued  
on the above case Dec<sup>r</sup> 20<sup>th</sup> 1850 to G. W. Smith  
Constable returnable Dec<sup>r</sup> 28<sup>th</sup> 1850 At One  
O'clock P.M. Summons returned served  
Dec<sup>r</sup> 23<sup>d</sup> 1850 This day being set for trial and  
the parties appeared and the defendant filed  
his set off, but no proof being before the court  
and the defendant by his counsel admitting  
the plaintiffs account Judgment is therefore  
rendered in favor of the plaintiff and against  
the defendant for the sum of seventeen  
dollars and 20 cents principal and interest  
and costs of suit This 28<sup>th</sup> day of Dec<sup>r</sup> 1850  
This day Jan<sup>y</sup> 13<sup>th</sup> 1851 came the defendant  
and payed off which was granted & bond  
taken

Const. fees ser. sum<sup>s</sup> 25 1 Miles travel 5 30  
C. P. fees Docket suit 12 1/2 Sds sum<sup>d</sup> 18 3/4  
Ent Judgment 25 granting appeal 25 taking Bond 50  
Making Transcript 25 - \$156

State of Illinois } ss  
McDonough County }

I do hereby certify that the above &  
foregoing transcript is a true copy of my docket  
and of the proceedings had before me and I  
also transmit to the Clerk of the Circuit Court  
of McDonough County Ills all the papers  
pertaining to said case

Given under my hand and seal this  
14<sup>th</sup> day of Jan<sup>y</sup> 1851

John C. Wilson J. P. Clerk

Filed Jan 14<sup>th</sup> 1851

W. H. Randolph atty by S. M. Randolph Deputy

It appears that the Judgment appealed from is a judgment confessed  
And thereupon the Defendant offered to prove by one Wilson the Justice before whom this cause was tried below, and by one Franklin, that in fact there was no confession of judgment in this cause, before the Justice, but the Court would not permit the Defendant to make such proof nor to call witnesses for that purpose. And the Defendant at the time excepted. And thereupon sustained the plaintiffs Motion and dismissed the Defendants appeal herein, to which decision of the Court the Defendant at the time excepted. No evidence was heard, and the Defendant at the several times when said decisions were respectively made excepted and here excepts and prays that this his bill be allowed signed and sealed which is accordingly done  
Wm A. Marshall Seal

State of Illinois )  
In Honour of Court ) set

~~I, William H. Randolph Clerk of the Circuit Court within and for said Court and State do hereby certify that the above contains a full and complete copy of the order in the above case the Transcript and the bill of exceptions filed herein with all papers referred to in said bill.~~

In Testimony whereof I have hereunto set my hand and affixed the seal of said Court at my office in Macomb this May 17th 1851  
Wm H. Randolph Clerk

And afterwards to wit on the 17th day of May  
1851 came the defend and filed in  
this cause his appeal Bond herein which  
said appeal Bond is in the words and figures  
following to wit.

Knows all men by these presents that  
we James Mc Campbell and Charles Chandler  
of the county of McDonough and State of Illinois  
are here and firmly bound unto William H  
Randolph of the same county and State in  
the penal sum of one hundred dollars lawful  
Money of the United States to the payment of  
which well and truly to be made we bind  
ourselves, our heirs executors and administrators  
jointly and severally by these presents

Witness our hands and seals this 17th day of  
May AD 1851

The condition of the above obligation  
is such that whereas the above named William  
H Randolph recovered a judgment against the  
above bound James Mc Campbell, in the Circuit  
Court in and for the county of McDonough in the  
said State at a term thereof holden on the third  
Monday of April AD 1851 in a certain action  
of debt on appeal wherein the said William  
H Randolph was plaintiff and the said James  
Mc Campbell was defendant for the sum of  
Two dollars and Ninety cents costs on dismissal  
of the appeal taken herein from which said  
judgment the above bound James Mc Campbell  
prayed an appeal to the Supreme Court of  
said State, which was allowed upon his  
filing bond with Charles Chandler or Hugh  
Erwin as his security in the penal sum of  
one hundred dollars Now if the said  
James Mc Campbell shall prosecute his appeal  
William H Hall and seven others. And on

with effect, and shall well and truly pay or cause to be paid the full amount of said Judgment for costs interest &c in case said Judgment shall be affirmed by said Supreme Court, then this obligation to be void otherwise to be and remain in full force and effect

In Presence of  
W<sup>m</sup> H. Randolph

James M. Campbell (Seal)  
Chas. Chandler (Seal)

State of Illinois } set  
McDonough County }

I William H. Randolph Clerk of the Circuit Court within and for said County do hereby certify that the foregoing is a full complete and perfect transcript of the record and proceedings in the foregoing case

In testimony whereof I have hereunto set my hand and affixed the seal of said Court at my office in Macomb this November 21<sup>st</sup> A.D. 1851

James M. Campbell

William H. Randolph

vs

Appel June 24<sup>th</sup> Donough - Clerk

William H. Randolph

And the said Appellant assigns for Error -

1<sup>st</sup> The Court erred in dismissing said appeal and rendering judgment against said Campbell for Costs -

2<sup>d</sup> The Court erred in refusing to try said Cause on the merits and in dismissing said appeal & rendering judgment against said Campbell -

3<sup>d</sup> The Court erred in refusing to hear testimony that the Judgment before the Justice was not by Confession - Wherefore the plaintiff prays that said Judgment of the Court dismissing said appeal & rendering judgment against said Campbell be reversed & the Cause remanded. Wm. H. Randolph

P.R.

14163  
Wm. H. Randolph  
Clerk

Nov. 24. 1851  
Wm. H. Randolph  
Clerk

Blackwell  
Blackwell  
Blackwell

There is not any error in the record &c.  
Blackwell

State of Illinois, }  
SUPREME COURT. } ss.

The People of the State of Illinois,  
To the Clerk of the Circuit Court for the County of *McDonough* GREETING:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *McDonough* county, before the Judge thereof, between *William H. Randolph*

plaintiff and

*James M. Campbell*

defendant it is said manifest error hath intervened to the injury of the aforesaid *Campbell* as we are informed by *his* complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay send to our Justices of our Supreme Court the record and proceedings of the plea aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Springfield in the county of Sangamon, on the *2nd Monday* in *December* next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, the Hon. *Samuel H. Deat* Chief

Justice of the Supreme Court, and the seal thereof, at Springfield, this *24th* day of *November* in the year of our Lord, one thousand eight hundred and *fifty one*

*H. B. Hanson*

Clerk of the Supreme Court.

Supreme Court.

*J. M. Campbell.*      *Appellant*  
~~Plaintiff in error~~

vs.

*M. H. Campbell*      *Appellee*  
~~Defendant in error,~~

Writ of error,

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Filed