


No. 14204

Supreme Court of Illinois

Bucklin

vs.

Akin

71641  7

State of Illinois }
Supreme Court }

November Term, 1854

State Bank of Ill. Plaintiff in error,

vs.

Walter S. Hiker Defendant in error

I hereby enter myself being
for cost in the above styled Cause and
acknowledge myself bound to pay or
cause to be paid all cost which may
accrue in said Cause with to the
opposite party or any of the Officers of
this Court, pursuant to the laws of this
State, date the 20th Oct. 1854,

Wm. H. Brown

Walter B. Perkins

by

Walter B. Perkins

Done

Filed 31. October

1854-

G. D. Preston Clerk

Wm. A. Schuster J.C.
11

STATE OF ILLINOIS, }
SUPREME COURT. } ss.

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Franklin* County,

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of *Franklin* County, before the judge thereof, between *William Piatt and Simon S Bucklin, Surviving partners of the Firm of Piatt Bucklin & Co, Plaintiffs* and *John T Knox and Walter S Atkin*

defendant; it is said that manifest error hath intervened to the injury of said *William Piatt and Simon S Bucklin* as we are informed by *their* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mt. Vernon, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *Walter S Atkin*

that *he* be and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the Second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *defendants* notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Mount Vernon, this *31st* day *October* in the year of our Lord, one thousand eight hundred and fifty-*four*

Griney D Peaton
Clerk of Supreme Court.

By N Johnston, D.C.

Served by reading to W. L. Austin
on the 1st November 1854

Serving 50
Returning 10
40

Levin G. Payne M.P. A.C.
by G. Hall Esq. M.P.

Walter J. Austin

By

Wm. Buckland Esq.



by Occasion of the said Judge & Co,
Latham & Co
A. L. Freeman for p^{ts} in error

No 17

Pitt Bowdoin & Co

209

W S Allen

Richard H. Cato & Co

1827 -

Finney & Weston & Co

By A. L. Freeman & Co

State of Illinois }
Supreme Court } November Term Supreme
Peate Rusell & Co } Court 1854
Plaintiffs in error,
vs.
Walter S. Atkins } Defendant in error.

And afterwards, to wit, On the 13th day of November in the year 1854, at the same term of the Court, comes the said plaintiffs in error by Warren & Foreman their attorneys and says the record and proceedings aforesaid, and also in the rendition of the judgment aforesaid, there is manifest error in this Court,

- 1st. The Court erred in sustaining the defendants plea of Statute of Limitation,
- 2d. The Court erred in overruling the plaintiffs demurrer to the said defendants plea of Statute of Limitation.
- 3d. The Court erred in entering up judgment against the plaintiff for cost, upon the overruling said demurrer to said plea of Statute of Limitation.

And the said plaintiffs in error aforesaid prays that the judgment aforesaid, for the errors aforesaid, and for other errors apparent in the record and the proceedings aforesaid, may be reversed, annulled, and altogether for nothing set aside, and that they may be restored to all things, which they have lost

State of Illinois
Franklin County

Pleas had and been before
the Honorable William A. Bennett Judge
of the 3^d judicial circuit and presiding
judge of the Franklin Circuit Court
At the May Term A.D. 1852 for the County
and State aforesaid.

Be it remembered that on the 2nd
day of March in the year A.D. 1852 a
summons was issued from the Clerk's
office of said circuit Court which is
in the words and figures following "to wit"

The people of the State of Illinois, to the Sheriff of
Franklin County Preeting, We command you,
that you summon John S. Broy & Walter S.
Allen under the name style and firm of
Broy & Allen, if they shall be found in your
County, to be and appear before the Judge
of our Circuit Court, in and for the County
of Franklin, on the first day of the next Term
thereof, to be commenced and holden at the Court
House in the Town of Benton in said County
on the First Monday of May next to answer
William Pratt vs Simon S. Buckley a
plea of Debt \$205.10 damages \$300 as they
say and have you then and then this writ
Witness William A. Bennett, Clerk

that if their of our said Court at his office
Court of in Benton this 2nd day of March
Franklin County in the year of our Lord one thousand
eight hundred and 52 and the said of said
Court of said William A. Bennett, Clerk

And afterwards to wit on the ~~24th~~ 24th day
of March 1852 said summons was return-
ed ~~with the~~ into our said Circuit Court
with the following indorsement, served on
the 2nd & 24th days of March 1852 by reading
to the within defendants being on two of 100
returning 11
1.10

Thos J. Mooney, Junr
Sheriff S. C.

And afterwards to wit on the 18th day of
March 1852 a declaration was filed in
said cause in the clerk's office of said
Court which is in the words and figures
following to wit

State of Missouri } In the Circuit Court
Franklin County } May Term 1852

William Ditt & Union S
Bucklin Surviving partners of the late firm
of Ditt, Bucklin & Co complain of,
John S. Knott, and Walter S. Griffin
a plea that they render unto them the
sum of \$205.00 of lawful money of
the United States which they owe to
and unjustly detain from them.
For that whereas the said defendants
on the 10th day of July in the year 1844
at Louisville that is to say at the County
of Franklin and State of Illinois was
indebted to the said plaintiffs in
the sum of Two hundred and five
Dollars and ninety cents of the lawful
money for divers goods wares and
merchandise of the said plaintiffs
of great value to wit of the value of
\$205.00 before then sold and delivered
to the said defendants and at this
special instance and request and being
so indebted they the said defendants
in consideration thereof afterwards
to wit on the day and year last afore
said at the County of Franklin aforesaid
them and their executors and agreed
to pay ^{to the said plaintiffs} the said last mentioned sum
of \$205.00 when they the said defendants
should be thereunto requested
And whereas also the said defendants

afterwards taxed on the 16th day July in
the year 1841 at the County of Franklin
of said account with the said plaintiff
of and concerning divers other ~~good~~ sums
of money before that time and then
due and payable owing and in arrears
and unpaid from the said defendants
to the said plaintiffs and upon that
accounting the said defendants were
then and there found to be in arrears
and indebted to the said plaintiffs in
the sum of \$205.00 of like lawful money
of the United States to be paid by the said
defendants to the said plaintiffs when they
the said defendants should be thereunto after-
wards requested whereby and by reason of
the said last mentioned sum of money
being and remaining wholly unpaid
an action hath accrued to the said
plaintiffs to demand and have of and
from the said defendants the said last
mentioned sum of \$205.00 residue of the
said sum above demanded

Yet the said defendants although often
requested ~~to~~ has not as yet paid the
said sum of \$205.00 above demanded
or any part thereof to the said plaintiffs

But they to do this hitherto wholly refused
and still do refuse to the damage of the
said plaintiffs of \$300 and therefore
he brings his suit &c

Wm Warren atty
for plaintiffs

Copy of account sued on

Wm. S. Smith & Son

1851 In account with Fitts Bucklin No
p. 16 To goods sold and Merchandise sold

Upon which said declaration was the
following endorsement

Filed March 18th 1852

W. B. Browning clk

And afterwards to wit on the 4th day of
May 1852 a removal was filed to said
declaration which is in the words and
figures following. To wit: "Walter S. Atkin
unpleaded with John S. Knorr & Fitts &
Bucklin's debt, and the said Walter S.
Atkin one of said defendants for himself
comes and defends the wrong and injury
then &c, and says that the said declaration
and the matters and things therein con-
tained in manner and form as the
same are pleaded and set forth are
not sufficient in law for them the
said plaintiffs to have and maintain
their aforesaid action thereof
against him and this the said defen-
dant Walter S. Atkin is ready to verify
unless removed &c because the names of all the partners
are not set out & Patrick Atty for Atkin

And afterwards writ on the day and
year aforesaid the following order was
entered by the court

That Lucklin & Co

of
Knox & Akin } Debt

Leave is given to the depositions
return to declaration. overruled

And afterwards to wit on the 4th day
of May A.D. 1857 there was two pleas
filed to said declaration before mentioned
which are in the words and figures following
to wit
Walter S. Atkin vs
John S. Knox eto
Frat & Brekin } Suts.

And the said Walter S. Atkin one of
the said defendants for himself comes and
defends the wrong and injury when &c
and says that he does not owe the said several
sums of money in said plaintiffs declaration
mentioned or any or either of them or any
part thereof in manner and form as the
said plaintiffs have above therein complained
against him and if this be the said def
endant Walter S. Atkin puts himself upon
the country &c W. H. Parrish

Atty for Walter S. Atkin

on which said plea issue was taken in
the words and figures following to wit

And the said Plaintiffs doth the like
Parsons Piff

2nd Plea

And for a further plea in this behalf
the said defendant Walter S. Atkin says
Action non because he says that the said
several supposed causes of action in the
plaintiffs declaration mentioned did not
nor did any or either of them accrue
to the said plaintiffs at any times
within five years next before the 5th

day of November A.D. 1849 in manner
and form as the said plaintiffs have
above thereof complained against him
and the said defendant further avers
that the said plaintiffs suit was not
brought on the said several supposed
causes of action in said declaration
mentioned or any or either of them within
two years next after the said 5th day
of November A.D. 1849 and this the said
defendant Walter S. Allen is ready to
verify wherefore he prays judgment &c.
Darnes atty
for W. S. Allen

and afterwards to wit on the 5th
day of May A.D. 1852 a return was
made to said ^{plea} plea which is in the
words and figures following to wit
Patt Buckley & Co

N. Subt } Franklin Circuit Court
Knot & Allen } May Term 1852

And the said plaintiffs by Darnes their
Attorney comes and defends the return and
avows when &c and says that the matters
and things therein contained in the said
defendants 1st plea as the same is above
pleaded therein set forth and stated are
not sufficient in law, and that the
said plaintiffs are not bound to answer
the same wherefore they pray judgment &c.
Darnes for plaintiffs

And afterwards to wit on the day and year last aforesaid there was a judgment filed to said last mentioned demurrer in the words following to wit

demurrer
to be dismissed
atty Jos Supt Atkin,

And afterwards to wit on the day and year last aforesaid the following order was entered by the Court to wit

Scott Bucklin & Co

vs
Knox & Atkin } demurrer to 2^d plea and over ruled

State of Illinois } SS

Franklin County } I Thomas J. Mooneyham

clerk of the circuit court in and for said county, do hereby certify that the above and foregoing is a true and complete transcript ^{of the records} in the said cause up to the 5th day of May A. D. 1854 as appears by the records now on file in my office

Witness Thomas J. Mooneyham clerk of our said circuit court and the official seal of said court affixed at Benton

this 25th day of October A. D. 1854

Thos J. Mooneyham
clerk

Peck Bucklin & Co
S
Knot & Affin

Copy of Record

Filed October 26th
1854 - Prepaid \$5.00

Yimney & Rustin Clk
By N Johnston D.C.
" "

Franklin County

STATE OF ILLINOIS, }
SUPREME COURT. } ss.

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Franklin* County,

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of *Franklin* County, before the judge thereof, between *William Piatt and Simon S. Bucklin*, surviving partners of the firm of *Piatt Bucklin & Co.*, Plaintiffs, and *John J. Knox and Walter S. Allen*

defendant, it is said that manifest error hath intervened to the injury of said

William Piatt and Simon S. Bucklin

as we are informed by *this* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mt. Vernon, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said

Walter S. Allen

that *he* be and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the Second Monday in November next; to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Mount Vernon, this *26th* day *October* in the year of our Lord, one thousand eight hundred and fifty-four

Hirney D. Weston
Clerk of Supreme Court.

By *A. Johnston* *26*

Served by reading to Walter S. Atkin
on the 30th October 1854

Serving 50
Returning 10/60

Lewis G. Payne Mff J.C.
by George L. Hall - Dpt Mff

1017

November 1854

Platt. Burdick

v

Walter S. Allen

Com. Franklin

By the Court

Dismissed

14204