

12515

No.

Supreme Court of Illinois

Connor, et al.

vs.

People.

71641  7

At a regular Term of the Circuit Court of the Eighth Judicial Circuit of the State of Illinois - begun and holden at the Court House in Bloomington - within and for the County of McLean and State of Illinois on the Ninth day of April in the year of our Lord one thousand Eight Hundred and Fifty Five -

Present:

Hon. David Davis - Judge of 8th Judicial Circuit.
John J. Price - Esq. Sheriff -
Wm. McCullough - Clerk -
A. McWilliams - Prosecuting Atty.

Among the proceedings of said Court are found the following - in a case wherein the People of the State of Illinois are Plaintiff and John Connor is Defendant.

216 - People vs. John Connor. Indictment for keeping Tippling House on Sunday =

Be it remembered - that heretofore writ: at said April Term of said Circuit Court - writ: on the Eleventh day of April A.D. 1855 - came the Grand Jury of said County - to the bar of said Court. and presented an Indictment in words

and figures following - to wit -

Of the April Term of the McLean Circuit Court - in the year of our Lord Eighteen Hundred and fifty five -

State of Illinois ss.

McLean County ss. The Grand jurors chosen and selected and sworn in and for the County of McLean in the name and by the authority of the People of the State of Illinois upon their oaths present - That on the Twenty Sixth day of March in the year of our Lord Eighteen Hundred and Fifty five - at the County of McLean in the State of Illinois aforesaid - John Connor did keep open a Tippling House on the Sabbath day to the encouragement of idleness - gaming - and drinking contrary to the form of the Statute in such case made and provided - and against the peace and dignity of the same People of the State of Illinois.

A. McWilliams, Atty.

On the back of said Indictment was endorsed as follows -

McLean Circuit April T. 1855 -

Prothon

216

People
vs.
John Connor.
Indict. for keeping
Liquor House on Sunday -
"A Free Bill"

J. E. McLean foreman
of the Grand Jury =
Witness - William Fisher =

Whereupon afterwards - to wit - on
the day and year last aforesaid issued out
of said Court a certain Writ of Habeas - in
words and figures following - to wit =

State of Illinois
McLean County.
The People of the State
of Illinois =

To the Sheriff of said County. Greeting.
We command you to take John Connor
and him safely keep - so that you have his
body before the Circuit Court of McLean
County instant - at the term now holden
at Bloomington - to answer the People of
the State of Illinois on an Indictment
preferred against him by the Grand Jury
of said County for keeping Liquor House
on Sunday - And have you then and
there this writ =

Witness - Wm. McCallough - Clerk

of our said Circuit Court - and the seal
 thereof hereto affixed at Bloomington
 this 11th day of April A.D. 1855 -

Wm. M. Bullough Clerk
 by J. H. Burn - Deputy. Clk

Which said Writ of Capias was by
 the Sheriff of said County - returned into
 said Court - endorsed as follows to wit -

The within named Defendants
 not found - fee - " 10
 April 20th / 55 - J. J. Price - Sheriff
 by J. H. Moore Deputy

Whereupon afterwards - to wit - at
 said April Term of said Court - in the
 year last aforesaid - the following order was
 made by said Court - in the above cause
 as appears of Record -

216 People vs. John Connor
 Indictment for keeping
 Tippling House on Sunday.

It is ordered by the Court
 that an alias Capias issue herein. And that
 said Defendant be held to bail in the sum
 of Two Hundred Dollars -

5
And Thereupon - by the Judge of said Court. said Indictment was endorsed as follows.

Capias Bail \$200.-

Thereupon afterwards to wit - on the Twenty Fourth day of April in the year afore-
said - An alias writ of Capias was by the Clerk
of said Court issued against said Defendant
in words and figures following - to wit -

State of Illinois Iss.
McLean County 3 The People of the State
of Illinois =

To the Sheriff of McLean County -
Greeting =

We command you to take John
Common and him safely keep - so that
you have his body before the Circuit Court
of McLean County - at the term to be holden
at Bloomington - on the 2^d Monday in
Sept. next. to answer the People of the
State of Illinois. on an Indictment preferred
against him by the Grand Jury of said
County for Keeping Tippling House on Sunday
And have you then and there this writ =

Witness Wm. McCallough J. Clerk
of our said Circuit Court - and



the seal thereof hereto affixed at Bloomington - this 24th day of April 1858 -
 Wm M Cullough Clerk

By his Deputy Hudson Beers -

Upon the back of said Writ was endorsed,
 "Sheriff will take bail in \$200 -"

Which Copias was by the Sheriff of said County returned to said Clerk's office
 Endorsed as follows - to wit -

'Executed by taking
 the bond of Defendant with Patrick Ryan
 and Daniel Kenney as Security for his
 appearance at the Sept. Term -

fee on Service & Return. 60. Making Bond & Taking same \$1.60
 April 25th / 1858 -

J. J. Price Sheriff
 by J. H. Moore Dpty.

The Bond returned by said Sheriff
 is in words and figures following - to wit -

Know all men by these presents, That we
 John Connor Patrick Ryan and Daniel
 Kenney - of the County of McLean and State
 of Illinois - are held and firmly bound
 unto the People of the State of Illinois - in the
 penal sum of Two Hundred Dollars, for
 the payment of which - well and truly to be

7
made - we do hereby bind ourselves - our heirs -
executors - and administrators - jointly and
severally and firmly - by these presents signed
with our ~~hands~~ sealed with our seals - and
dated this 24th day of April A.D. 1855 =

The Condition of the above obligation
is such - that whereas the above bounden
John Connor has been arrested by virtue of
a certain writ of habeas - issued out of the
Circuit Court of the State of Illinois - for
the County of McLean - upon an indictment
preferred against him by the grand jury of
said County - at the April 1855 term of said
Court for the crime of Keeping a Tippling
House on Sunday - Now if the said John
Connor shall personally be and appear
before the said Circuit Court - from day to
day during the Term thereof - to be holden at
the Court House in Bloomington in said
County - on the 2nd Monday in September
next - to answer said Charge - abide the order
of Court thereon - and not depart without
leave of said Court - then this obligation to be
void - otherwise to remain in full force
and virtue =

Approved by me April 24/55.

J. J. Price Shff.

by J. H. Moore

John Connor *JS*

Patr. Ryan

Daniel Kenney *DK*

And Thereupon afterwards - to wit -
 at the September Term of said Court - to wit -
 on the Twenty Second day of September
 AD 1855 - The following further order
 was made in the above cause -

People vs. Indictment for Keeping
 a Gaming House on Sunday -
 John Cannon.

This day came the Prosecu-
 ting Attorney - and said Defendant being
 three times solemnly called, to come into Court
 as by the terms of his Recognizance herein filed -
 came not - but herein made default - Also
 Patrick Ryan & Daniel Kenny - Cognizes
 of said Defendant - being each three times
 solemnly called ^(to) ~~came~~ ~~to~~ open Court - and
 bring with them the body of said Defendant -
 came not but herein made default - It is
 therefore considered by the Court - that said
 Recognizance be and the same is hereby
 declared forfeited - And It is ordered by
 the Court - that a writ of Habeas Corpus and
 Alias Capias issue herein - returnable to the
 next Term of this Court -

And Thereupon afterwards - to wit -

on the Fourth day of February in the year of
our Lord, one Thousand Eight Hundred
and Fifty Six - issued out of said Clerks
Office a writ of Scire Facias - in words and
figures following - to wit -

State of Illinois ^{ss.}
Madison County The People of the
 State of Illinois -

To the Sheriff of said County.
 Greeting -

Whereas on the 24th day of April
 A.D. 1855 - John Connor, Patrick Ryan - &
 Daniel Kenny came before John J. Price -
 Esq; Sheriff of the County and State afore-
 said and executed their certain Bond to the
 People of the State of Illinois - in the penal
 sum of Two Hundred Dollars and obliging
 themselves bound, and firmly held unto the
 said people of the State of Illinois in said
 sum - Provided the said John Connor
 against whom an Indictment for the crime
 of Keeping a Gaming House on Sunday had
 been preferred in the Circuit Court of the
 County aforesaid - and to arrest whom
 in said charge the said John J. Price Sheriff
 as aforesaid - had then a writ from the
 Clerk of said Court - ~~showed said writ to the~~

10
before the Judge of said Circuit Court - on the
first day of the next Term thereof - to be
holden at the Court House in Bloomington - on the second Monday in the month
of September A.D. 1835 - to answer to the said
charge and the said John Connor having
failed to appear at the said Term of the said
Court - to answer said charge - as we by the
suggestion of the said people of the State of
Illinois - by their States Attorney have under-
stood - we therefore command you to sum-
mon the said John Connor Patrick Ryan
& Daniel Henry if to be found in your
County - to be and appear before the Judge of
our said Circuit Court - on the first day of
the next Term thereof - to be holden at the Court
house in Bloomington - on the first Mon-
day in the month of April next - to show cause
if any they can - why the said people of the
State of Illinois - ought not to have execution
against them for the said sum of money -
for which they are respectively bound ac-
cording to the form - form and effect of their said
recognizance - and further to do and receive
whatever our said Court shall then and
there consider and adjudge against them
in that behalf - and hereof make return
as the law directs and have you there and

this writ =



Witness: William McCallough Clerk
of the said Court - and the seal
thereof - at Bloomington - in said
County - this 4th day of February
A.D. 1856 =

Wm McCallough Clerk
by his Sfty - Hudson Burr =

Which Writ of Scire Facias was by the
Sheriff of said County returned to said Clerk's
Office endorsed as follows - to wit =

"Executed by Reading to Geo. Colner
and Patrick Ryan this 22nd March 1856 -
Dane. Henry not found, in my County -

Services & Return 1.10

32 miles travel 1.60

J. J. Price - Sheriff, 2.70

By Geo W. Lammie & Co =

And Thereupon afterwards - to wit -
at the April Term of said Circuit Court -
to wit on the nineteenth day of April A.D.
1856 - this cause was by general order of Court
continued to the next Term thereof - which
order of Court is in words and figures following
to wit =

And now at this day - It is ordered by

by the Court that all causes now pending in this Court - and not otherwise disposed of - be and the same hereby are continued to the next Term of this Court -

And Thereupon afterwards to wit - at the September Term AD 1886 - to wit - on the Eighth day of September - final judgment was in said writ of Habeas Corpus rendered - in words and figures following - to wit -

216 People vs. John Connor Indictment for Keeping
Tippling House on Sunday -

And now at this day came the Prosecuting Attorney - And said Defendant being three times solemnly called came not - but herein made default - And Patrick Ryan cognitor of said Defendant being also three times solemnly called to appear in Court and show cause why the forfeiture of Recognizance hereinbefore taken should not be made absolute against him - came not - but herein made default - It is therefore considered by the Court that the People of the State of Illinois recover of the said John Connor and Patrick Ryan the sum of Two Hundred Dollars - being

⁶
No. 216-P.C.

People

vs.

John Connor

Copy of Record
Abstract of Jury

Filed April 17. 1858

L. Leland

Clk

Switt & Co. Attys.

(1858-8)

Supreme Court of the State of Illinois.

3^d GRAND DIVISION.

ERROR TO McLEAN.

JOHN CONNOR AND PATRICK RYAN,
PLAINTIFFS IN ERROR,

vs.

THE PEOPLE OF THE STATE OF ILLINOIS.

ABSTRACT OF RECORD.

On the 11th day of April, 1855, the Grand Jury of McLean Co. presented an indictment against John Connor, to the McLean Circuit Court, then in session, and on same day a capias issued, which was returned "not found."

And on the 24th of April, 1855, an alias capias issued, which was returned "Executed—by arrest of Connor and his discharge by executing Bond in penal sum of \$200, with Patrick Ryan and Daniel Kinney as securities.

At the September Term, 1855, a forfeiture of said bond or recognizance was declared, and a Scire Facias ordered to be issued—

And on the 4th day of February, 1856, a Scire Facias issued out of the Clerk's office of said Court to the Sheriff of McLean County to execute, and returnable on the first Monday in April, 1856.

And said writ of Scire Facias was returned executed by reading to John Connor and Patrick Ryan, March 22d., 1856, and Daniel Kinney "not found."

And at the April Term, 1856, of said Court, said proceedings were continued.

And at the September Term, 1856, final judgment was rendered on said Bond or recognizance against John Connor and Patrick Ryan, for the sum of \$200, and costs.

And upon the record of said proceedings, plaintiffs assign the following errors:

- 1st. The said Scire Facias does not show that the Bond taken by the Sheriff was returned to the Court, filed, or in any way made part of the Record.
Noble et al vs. The People, 4 Gilm., 434.
Bacon et al vs. The People, 14 Ills., 312.
- 2d. The Scire Facias fails to show that the recognizance was declared forfeited.
Alley et al vs. The People, 1 Gilm., 112.
Thomas vs. The People, 13 Ills., 696 :—Kennedy vs. The People, 15 Ills., 418.

SWETT & ORME,
Attorneys for Plaintiffs in Error.

State of Illinois }

Supreme Court 3^d Term
Division, April Term 1858

~~John Larnar et al~~ }

as

The People of }

And now

Come the People of the State of Illinois
by W Bushnell their Attorney, and
Say, that there is no Error, nor
renewal of Error, either in the
record or proceedings aforesaid
nor in the judgment
aforesaid. Wherefore the said
People pray that said judgment
may be affirmed, and that
the said People have and
recover their costs in this
behalf -

By W Bushnell
Attorney

John Cannon et al
vs
The People of

No 6

Guarantee in Error

Filed April 21st 1858

L. Leland
clerk

Supreme Court of the State of Illinois
April Term 1858 —

John Connor et al }
vs. }
The People — }

By agreement of W. Bushnell attorney
for defts. in error this cause is submitted
to the Court by attorneys for plaintiffs in error on the
following argument —

First — The Writ of Scire Facias must affirmatively ^{show}
that the Bond taken by the Sheriff was returned
into the Circuit Court and made part of the record.
And this Court has repeatedly so decided
but more particularly in the following Cases:

Noble et al. vs. The People 4 Gil. 434

Bacon et al. vs. People 14 Ill. 312

The Sci. Fa. in this case does not show that the
Bond was so returned into Court &c. And therefore
is defective and the judgment must be reversed —

Second =

The Sci. Fa. in this case fails to show that the
Bond or recognizance was declared forfeited by the
Court — And for want of that averment the writ is defec-
-tive as decided in

Alley et al. vs. The People 1 Gil 112

Thomas vs People 13 Ill. 696 —

Kennedy vs. People 15 Ill. 418 —

And the judgment should be reversed —

Orme — for pliffs in error —

Connor et al

vs.

People

No. 6

Argument of ptiffs. in error

Filed April 27, 1858

L. Leland
clerk

6 - 61

John Connor et al
vs
The People

6 PD

12515

1858

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Prepared