

12793

No. _____

Supreme Court of Illinois

Henderson

vs.

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17
~~F~~rich et al

~~84~~ 84

Wm Henderson
by

Francis S. Fitch and
William Hewes

84

1859

1859

12793

no to dis...

~~178~~ ~~37~~

84

Henry Henderson

or

Francis S. Kitch & William Hewes

Filed April 8, 1858

L. Leland
Clerk

Replied May 25, 1858

L. Leland
Clerk

The People of the State of Illinois

By the aid of God free and Independent
Do all to whom these presents may come.

Greeting:

Know Ye,

That we having caused to be inspected the records of proceedings now
pending, in the office of our Clerk of said Circuit Court, in and for
County of Will, do find there certain records in words & figures
following, to wit:

Will County, Circuit Court.

November Term A.D. 1855.

Wentd State of Illinois.

Subj of said case.

County of Will.

County of Will.

Judicial Circuit of the State of Illinois, at the County Court of the
County of Will, began and held, at the Court House, in the City of
in the said County of Will, on the First Tuesday of November, to-wit: the
the said County of Will, in the year of our Lord one thousand
Eight Hundred and fifty five, and the year of the Independence of
the United States the sixth.

Then Henry J. Wood, Judge of said

County Court, do hereby certify that

the said records are true and correct

in all particulars.

And ordered that on the 15th day of November A.D. 1855, one
thousand and fifty five, Francis S. Smith, Plaintiff, by his
attorney, E. S. Rogers, of said County of Will, do hereby certify
that the said records are true and correct in all particulars
being so.

Judge of the Circuit Court
of the County of Cook

Of the County of Cook
Ill. A.D. 1855

Circuit Court of Cook County

James S. Smith of the City of Chicago, County of Cook, and State of Illinois, by E. P. Hooper, his attorney, complain against Henry Henderson, of the Town of Hammond, County of Cook, and State of Illinois, in a plea of Trespass and Ejectment, To wit: That the said Plaintiff on the 1st day of March, in the year A.D. 1855, invaded the State of Illinois, with purpose to deprive him of a parcel of land, with the appurtenances, situate in the Town of Hammond, County of Cook, and State of Illinois, and described as follows, To wit:—

East by Henry Henderson, North by the Canal, South by William Jones, and South by the Schumacher's land, five lots on the corner of the square, with the same, some cultivation, some timber standing thereon, which said premises, the said Plaintiff claims in fee.

And the said Plaintiff being so possessed thereof, the said defendant afterwards went, on the said day, and entered upon the said premises, and ejected the said Plaintiff therefrom, and from the time, he so entered, has unlawfully withheld and does now unlawfully withhold from the said Plaintiff, the possession thereof to the damage of the said Plaintiff, the sum of Six Thousand dollars, and the fees, they being such &c.

E. P. Hooper.

Atty. for Plaintiff

And afterwards To wit:

On the day and year last aforesaid, the said Plaintiff, by his attorney aforesaid, filed in the office of the Circuit Clerk, a certain Petition, in and against Henry Henderson.

To the County of Cook.

I, a Jury, notified that the declaration was a copy, whereof you are now present, and to which copy

And that the said Tamm had said Tamm's declaration in twenty
days - And that this cause be heard - Whereupon it was ordered
by the Court, that the said defendant Tamm do plead to the said
Tamm's declaration in twenty days, and that this cause be heard in
it is continued.

And afterwards To Wit:
On the first day of January A.D. Eighteen
hundred and fifty Six - The said Defendant Henry Henderson
by C. C. Sullivan. His Attorney, filed in the office of the Circuit Court at
Canton, Tazewell and James, following to Wit:-

That he, C. C. Sullivan

Of the December Term 1855.

Henry Henderson
vs.
Francis S. Pitcher
William Hays
Plaintiffs
vs.
The said Defendant.

And the said defendant by Sullivan His
Attorney comes and defends the fact and injury, wrong and per-
jury, that he is not guilty of, and that the said promise de-
clared in said declaration and holding from the said Plaintiff, the
persons thereof in manner and form as the said Plaintiff
have averred in their said declaration, complained against him
of this the said Tamm's up to the Court.

C. C. Sullivan

per Deft

And the said Plaintiff do the Court

J. C. Sullivan and C. C. Hays

per Deft

And Sheweth, To Wit:

On the Thirtieth day of March A.D.
Eighteen Hundred and fifty Six - There being one of the regular days
of said March Term of said Court for the said year Eighteen Hundred
and fifty Six aforesaid, and the said Court being then duly organized
and sitting in open Court for the transaction of business the following
proceedings were had and entered of Record by the said Court in and
among the following, To Wit:

Sett. Francis S. Smith & William Caves }
Henry Anderson } Mesdames J. Specter

And now comes the said defendant by C.
C. Smith his attorney and enters his motion, that the cause be now called
up for hearing. And the said Plaintiff enters his cross motion by C. P. Hooper
Esq. & C. Smith then attorney to call this writ as aforesaid. Whereupon
it is ordered by the Court that this cause be now called up for
hearing. Thereupon the said defendant enters his motion, that the cause
be continued. And the said Plaintiff enters his cross motion to continue
this cause at the said defendant's costs. And the Court being fully
advised in the premises, it is ordered, that this cause be now called
up for hearing, at the said defendant's costs. Thereupon the said Plaintiff
enters his motion for judgment against the said defendant for their
costs of continuance, pains, and charges of appearance. And the
said defendant, enters his cross motion, that judgment be entered against
him for said costs aforesaid, and also that execution do issue thereon.
Whereupon it is ordered by the Court, that the said Plaintiff do leave
judgment against the said defendant for his costs of continuance and
pains. It is thereupon entered by the Court, that the said Plaintiff
do leave the said defendant, their costs and charges of appearance and
pains, which this Court in this behalf ordered, and that they do leave
execution thereupon.

And Sheweth, To Wit:

On the first day of March A.D.

one thousand eight hundred and fifty six. The said A. J. Smith
Henry Henderson by P. B. Fisher, his attorney, filed in the office
of said Circuit Court, a certain affidavit. Which affidavit is worded
and figures following to wit:

In the Mill County, Ga. Court.

of the March Term 1856

Henry Henderson }
vs }
James & John William Hines } Deft.

Henry Henderson, the defendant in this
suit, being duly sworn on oath says, that he cannot go further to trial in this
cause, but his present term of the Court occurs before the absence of Henderson
Nadsworth, a material witness for the defendant on the trial of this
cause. That this deposition respects to favorable & pure by said
Nadsworth, that the principal title papers, which the Plaintiff alleged to
introduce, to establish their right to the premises in the said declaration
mentioned, and which forms an important link in the chain of title
going to show title, in the Plaintiff - which said title papers is a Deed
Made from this defendant to said Thomas Nadsworth, bearing date on or
about 28th day of June 1834, was obtained from this defendant by force
and misrepresentation, and further to show by said Nadsworth facts of
circumstances, which will clearly show said said fraudulent and
void.

And this deponent further says that said Nadsworth resides in
New Haven, in the State of Connecticut, that this deponent has not
had time since the issue was formed in this suit to obtain this
testimony. That this application is not made for delay but
for the sake of justice that this deponent expects to be able to procure
the evidence required unless by the next term of this Court.

Subscribed & sworn to this 14th
day of March 1856
P. B. Fisher, de

H. Henderson

And afterwards To Wit: on the 14th day of May, in the year of our Lord one thousand eight hundred and fifty seven. at Edinburgh in Scotland
 day of our May Term of our said Court for the said year one hundred and fifty seven, appeared, and the said Court being then duly convened and sitting in open Court with His Grace O. Justice Judge as before said
 presiding, for the transaction of business the following proceedings were had and entered of Record by the said Court on and after the 14th day of May following To Wit:

3311 Francis Dick & William Lewis }
 vs. } James G. Gilmour.
 Hugh Henderson }

And our court the said Sheriff James G.
 Gilmour & J. G. Gilmour, their attorney and puts their motion that this cause
 be called up for hearing And our court the said James G. Gilmour their attorney
 also enters his copy motion to call this suit as aforesaid. Whereupon it is
 ordered by the Court that this cause be called as aforesaid
 And our said Sheriff enters their motion that this cause be called for Dick
 and our court the said James G. Gilmour also enters his copy motion to call this suit as aforesaid
 for which and the Court being fully advised in the premises it is ordered
 that the said James G. Gilmour be called for next Monday at eleven
 o'clock in the forenoon.

And afterwards To Wit: on the Eighteenth day of May
 in the year of our Lord one thousand eight hundred and fifty seven at
 Edinburgh in Scotland day of our May Term of our said Court for the said
 year one hundred and fifty seven, appeared, and the said Court being then duly convened
 and sitting in open Court for the transaction of business the following
 proceedings were had and entered of Record by the said Court on and after
 the 18th day of May following To Wit:

3312 Francis Dick & William Lewis }
 vs. } James G. Gilmour.
 Hugh Henderson }

At the Court of J. P. Sticks, this attorney, and not to be written, that the
 case be now heard up for hearing, and said defendant by the Court
 of C. C. Fellers, this attorney, also said, and not to be written, that
 this case be now heard - Whereupon it is ordered by the Court that the
 case, be and it is called for hearing - Thereupon said Plaintiff, enters
 this motion, that this case do now proceed to trial, and also to this
 further motion, that a jury be sworn for that purpose - And said de-
 fendant, answers this said motion to proceed to trial herein - And also
 enters this further case motion, that a jury be sworn in this case
 and the Court being fully advised in the premises, it is ordered, that this
 case do now proceed to trial, and it is also further ordered that a jury be

Therefore come the jurors of a jury of good and lawful men of the
 County of Suffolk, to wit:

Samuel Indrick	John Chapman	Robert Miller	Mathias Carter
John Fishman	John W. Vackin	A. Dill	John Carter
Benjamin Howard	Benjamin W. Russell	Robert F. Fidler	Henry Spear

who being duly sworn, and sworn to return a true verdict by the names herein
 joined, they have tried and passed to the said, and a true verdict given according
 to the evidence, and after hearing the evidence adduced, and the arguments of counsel
 and viewing the instructions of the Court, by consent of the parties, that it
 is ordered, that said jury do here leave to give and render their verdict, when found
 and separate and each the Court tomorrow morning at the coming on of court
 into their verdict in this cause.

And afterward to wit: On the said last day of May A.D. one thousand
 eight hundred and fifty seven. To all being one of the regular days of
 said May Court, I said court for the said year A.D. one thousand eight
 and said Court being then duly organized and sitting in open Court for the transaction
 of business the following were heard and entered of record by the said Court in
 words and figures following, To wit:

James S. Dick & William Hume.

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Henry Anderson.

To the said Court.

And now again come the said

Plaintiff by J. E. Smith their attorney - And the said defendants also again
appeared by W. N. Randall Esq. & C. L. Smith their attorneys - and the said Court
before mentioned in this - also again came and present to the Court
the said indictment, which is as follows To Wit: -

"In the first find the defendant Guilty in name
and form as claimed in the declaration, and that the Plaintiff are entitled to
the premises in person as directed in the same."

And afterwards To Wit: - on the Twenty sixth day of May in
the year of our Lord one thousand eight hundred and fifty seven I take
being one of the regular days of said May Term of said Court for the
said year A.D. 1857 of said Court and the said Court being then duly or-
ganized and sitting in open Court for the transaction of business the following
proceedings were had and had of record by the said Court in and of record for
coming To Wit: -

James S. P. & Michael H. v.

Henry Henderson

Supra of Quotations

"And now comes the said defendant by S.
W. Randall Esq. & C. L. Smith their attorneys and enters his motion in Court
for judgment in this case And said Plaintiff by J. E. Smith their attorney
the said Court in answer to said motion in Court judgment."

And afterwards To Wit: - On the 31st day of May in the year of
our Lord one thousand eight hundred and fifty seven I take being one of
the regular days of said May Term of said Court for the said year A.D.
1857 of said Court and the said Court being then duly organized
and sitting in open Court for the transaction of business the following pro-
ceedings were had and had of record by the said Court in and of record
and signed following To Wit: -

Francis S. Pickens & William Lusk }
vs } Defendant.
Henry C. Anderson }

And now at this day came the said parties
by J. C. Stuck, the attorney, and the said defendant, attorney by C. C. Fellers &
G. W. Randell, the attorney. And after hearing the arguments of counsel upon the
motion, in answer of judgment before the said Court, and the Court being fully ad-
vised in the premises, it is ordered, that said motion is granted, and that
it is awarded, and it is also further ordered that said Henry C. Anderson
move against the said defendants for the penalties, described in their declaration
in this cause.

And the Court considering by the Court, that said Henry C. Anderson
is said defendant the possession of the premises described in the said declaration
in this cause, to wit:

Situated in the Town of Channahon, County of Win. St. of
Illinois, & described as follows, to wit: East by Henry C. Anderson, North by the land
of J. C. Stuck, South by William Lusk & East by the Schermerhorn Farm, for lots in the
County of J. C. Stuck, with James Lusk, Sam. Lusk, Com. C. Lusk, together
with their heirs, and charges by them, about this suit, in this case, & pro-
vided, and that they do have a right of possession, for that purpose, and also
"return for their costs herein." Therefore said defendant by his said attorney, ex-
cepted the opinion and ruling of the Court, in awarding the said motion
in answer of judgment in this cause, and prays an appeal from the judg-
ment of this Court to the Supreme Court of this State. Whereupon it is ordered
by the Court, that said appeal, be and it is granted upon condition that
said defendant, do pay his full cost of appeal in this cause and also an
appeal bond, to wit: in the sum of \$1000.00, with C. C. Fellers
or Philip S. Lee, as security, or with other security, to be approved by the Clerk of
this Court, within Sixty days from this date.

And afterwards, to wit: On the 21st day of July
1881, Eighteen Hundred and fifty seven, the said defendant filed

the above named the Plaintiff in support of his said case offered in
evidence a deed of Gift, purporting to be executed by Henry Hudson
and Abner Hudson to Ebenezer S. Woodworth dated June 23rd 1844
in words and figures following to wit:

This Indenture

Made this 23rd day of June in the year of our Lord
one thousand eight hundred and forty four. Between Henry Hudson
of Channahon, in the County of Adams and State of Illinois of the first
part, and Ebenezer S. Woodworth of Chicago, County of Cook and State
of Ill. of the second part.

Witnesseth, that the said - Whereas, the
said Henry Hudson, party of the first part is justly indebted unto
Ebenezer S. Woodworth of Chicago in the State of Connecticut for his order, in the
sum of One thousand Dollars, secured by his note of even date herewith, and
payable in six months after date, at the office of Nathaniel S. Silliman in the
City of New York. Now knoweth, that the said party
of the second part, in order to secure the prompt and punctual payment of
the said promissory note herein before specified, according to its tenor and
effect, and in consideration of mediation, and for other good and valuable
consideration, to the said party of the first part, hath, to wit, conveyed
in hereby expressed, has and also hereby grant, bargain, sell, alien, release
convey and confirm, unto the said party of the second part, and this
heirs, executors, administrators and assigns, forever, all the premises,
discovered, premises, situate, lying and being in the County of Will and
State of Illinois to wit:

One certain tract of land, being and being
situate in the Town of Channahon, of Adams and State of Ill. and de-
scribed as follows, viz: - East the distance of thirty rods, North the Canal Lake
South by William S. Jones. East by the said Silliman, being five rods
at the corner of lot 12, and thence by the same, being five rods
East to the Standing River.

Together with all and singular the tenements,
hereditaments and appurtenances therunto in anywise
appertaining, and the premises are intended, it is herein, and justly
hereby, and also, all the Water right, tide, water, dam, right of dam,
property, possession, claim and demand, whatsoever as shall be

[illegible]

State of Illinois
County of _____

in and to the said County, in the state of and
definitely certify that
personally known to me as the real person whose name
subscribed to the aforesaid deed appeared before me this day in person
and acknowledged that he executed and delivered the said deed
as
free and voluntary act, for the use and purposes therein
set forth. And the said _____ wife of the said H.
Henderson, having been by me examined, separately and apart, and
subscribed her name to the said deed, and the contents and meaning
of the said deed, having freely and made known and fully explained
to her, she acknowledged that she had freely and voluntarily ex-
ecuted the same, and relinquished her dower to the lands & premises
therein mentioned, without compulsion of her said husband, and that
she did not wish to retract the same.

Subscribed this 11th day of July
Eight Hundred and fifty-four.

Given under my hand & official
in the year of our Lord one thousand &
J. Stebbins J. J.

State of Illinois
County of _____

I, _____ Clerk of the said County, do hereby certify that
Henry Henderson, who is to me well known, is the same person whose
in said deed executed the within and foregoing deed, this day appeared
before me in person, and acknowledged that he executed the same freely
voluntarily, for the use and purposes therein set forth.



Given under my hand and official seal of said County
this 11th day of August A.D. 1854.
J. C. Smith

And upon the foregoing deed I do hereby certify that the same is a true and
correct copy of the original as the same appears to me.
J. C. Smith, Clerk of the said County of _____, State of Illinois.
Attest my hand and seal of said County this 11th day of August A.D. 1854.
J. C. Smith

The undersigned I have heretofore submitted my name and
affirmed and on this 23rd day of January in the year 1851.

I find I did not
Indorse in my N. H. Smith

E. S. Redworth

State of Illinois
County of

and saying that of attorney,



I N. H. Smith a party before the court and
appeared at the court on the 23rd day of January
in the year 1851, and appeared before the court
and acknowledged that he had signed, sealed, and
delivered the same as his act and deed for
the purposes and purposes therein expressed.

I have my hand and seal attached this 23rd day
of January A.D. 1851.

N. H. Smith

Thos. T. Smith

And upon the back of said Process of Attorney, then appears the last of
the Record of the Recorder of Ill. County. Illinois in and of office
following to wit:

State of Illinois
County of

1851

Sherriff this Instrument was filed for Record
at 11th o'clock A.M. of the 21st day of Jan.

W. C. Parker Recorder

By said Sheriff

In which evidence, the said defendant by his Counsel then and the
field and the Court examined the said. In the opinion of the Court
ruling the said defendant's objection the said defendant by his Counsel then
and the Court.

The Court in the further prosecution of his said suit
in evidence a day from Eliza H. Smith to the Plaintiff dated March
21st 1851 in and of office.

Abandons the same of the bonded and free children as witnesses and have
since paid the said purchase money to the said master, and as witnesses
testifying a bill to the said Rail Estate and James in exchange thereof.
In This Indenture Witness my hand this 10th day of

In This Indenture Witnesseth, that on the 10th
 of November, 1791, and in evidence of the premises, and of the sum of money due to
 the said John, paid by the said Daniel & Peter, and their heirs, parties
 of the second part, the receipt whereof is truly acknowledged, the said John &
 Madam, have granted, bargained, sold, conveyed and confirmed, and
 by these presents, do hereby bargain, sell, convey and confirm with con-
 fidence of the said John, their heirs and assigns forever, unto the said
 school in the Town of Channahon, County of Rock and State of Illinois, and
 conveyed, and divided, as follows, To Wit:

Cash by Harry Finney, Middy the
 Canals, Thos by William Lewis, and Smith by Wm Schenck, being
 five lots, are the number of our Studs, with Downy, Lute, Bann, Outlaw, Cam, Duke,
 standing, Steen, and being the same property, now in the occupancy
 of the second Henry Woodson, nee said Henry of Channahon. -
 Further with all and singular the buildings in

Together with all and singular the kind design, im-
provements and assistances, therein belonging, or in anywise apper-
taining.

1. To have and to hold, the said above described land and premises and every part thereof, with the improvements and appurtenances thereto belonging, unto the said parties, their heirs and assigns forever, to them only, their heirs and assigns, and none other, we intend to give, sell, convey, and confirm.

In Witness Whereof I, said Clerk S. Nodwell, by authority
of said New Town, subscribed this name and affixed this seal
this day and year first in this Executive Order.

Liebes Kind, Adolphin
Wien den 10ten Jan. 1807

Chas. S. Mendenhall Esq
by C. S. Cooper Attorney

Statoy Jarvis

all coming for I John Singer of Henry Parish, and
for South Pittsburg, the duty of Henry County,
of look and state of record of land, certify that on the 31st

day of March A.D. 1855 generally came to light. I hope paper was
 a bit more & yet the same paper described in and who executed
 in above deed, and acknowledged that he executed the same as
 the own and deed of John S. Roberts, then described, by virtue
 of power of attorney duly executed by John S.
 Roberts S. Roberts said he executed the 2nd of
 January A.D. 1855, and as exhibited to me
 within my hand and seal thereof to day
 and was also just written, in this certificate of
 acknowledgment.



John S. Roberts
 Sheriff of York Co.

Attached to said Trustee's Order, there appears a notice of
 publication, of which, the following is a literal copy.

Trustee's Sale.

Whereas James Hancock, in the payment of certain money, made by
 Henry Henderson, and having due to the 2nd day of June A.D. 1854,
 for the sum of one thousand dollars, and payable two months after
 date to John S. Roberts, and secondly, a deed of trust executed by
 the said Henry Henderson, and wife to John S. Roberts, granting
 to said John S. Roberts, trustee, full power and authority to sell and
 convey all and singular the premises, situate, lying and being in the County of
 York, State of New York, and to take for the same, and to convey and
 describe the same as follows:

That by James Hancock, Trustee, the land, lots
 north by William Jones, South by Mrs. Schmalein - being part of
 the same, known as the State and Augustus, James and James, and
 the standing thereon, said deed being recorded in Book 34, page 211
 of the 1st and 2nd of the Records in the Recorder's office of said York County.

The undersigned, by virtue of the authority vested in him by
 power of attorney, from the said John S. Roberts, and upon the application
 of the said John S. Roberts, trustee, of said James Hancock, Trustee, and
 of the said John S. Roberts, Trustee, and of the said John S. Roberts, Trustee,
 did on Saturday the 11th day of March, 1855, at a public sale of the
 same, at the Court House in the City of New York, and at 2 P.M. of said day
 sell and convey to public sale, the said premises, for the sum of

above described premises, with them pursuant to them, and much more
as may be necessary, to take said premises into and within, and
thence and upon said premises out of said salt, and all hereof, and
and upon said premises
March 7, 1855. E. R. Hooper, Attorney

22 The above said premises, with Saturday next, March 11th
at the same time and place.
March 10, 1855. E. R. Hooper, Attorney

23 The above said premises, with Saturday next, March
at the same time and place.
March 16. E. R. Hooper, Attorney

And upon the back of said Trust And is endorsed the Receiver's
Certificate of Record, in words and figures following, to wit:-
March 1857.

State of Illinois, Will County, ss. I certify this deed, as filed
"for Record April 5th 1857. At 11 1/4 o'clock. AM. Recorded in Book
"At page 566. M. E. Parker, Recorder, by J. S. Smith, C. J.

To which the Plaintiff by his counsel, child, and the Court rendered
the verdict. In the opinion of the Court, requiring, the said defendant to
satisfy, the defendant by his counsel, then and then accepted.

The defendant then called Benjamin Stickney, who testified that
he was an acting Magistrate in 1844-1845, and the only person
by name of J. D. Stickney, in the County of Will; and that he
had knowledge upon the person named and of trust, signed
"J. Stickney" - being shown to him the last of said said Benjamin B.
Stickney, Veras took his signature, and that no such acknowledgment
was ever made, before him.

The defendant, in the further pursuit
of his said defence then called C. S. Hawley, County Clerk of Will
County, who testified that the said J. D. Stickney never acted

Shirah, in the County of Will in the year 1851 or 1852, and that I was the
only active magistrate in the County of Will of that name or for as the
records of this office show:-

After the evidence, read the Plaintiff asked the Court to instruct
the jury as follows:-

For the Plaintiff:-

"Of the jury believe from the evidence that the deed of land from Henderson
to the defendant to Henderson, was duly executed and acknowledged by
said Henderson, it is sufficient for the purposes of this trial and that giving
the signature and acknowledgment of the supposed Henderson:-"

For Plaintiff:-

"2nd. If the jury believe from the evidence that the Plaintiff has made out
a legal paper title, from the defendant to the parties in question, in favor of
defendant and his heirs and assigns and from the defendant is a valid title the
bringing of this suit is insufficient legal demand for the said
premises."

To each of which said instructions, the defendant by
his counsel objected, and the Court overruled the defendant's objection
and gave the said instructions to the jury. In the opinion of the
Court in giving the said instructions to the jury the defendant by
his counsel then and then excepted.

The defendant, who did not want to give the following
instructions to the jury:-

"That the writing and signature at the bottom of the deed
purporting to be an acknowledgment of the defendant is a material
part of the same and if true, that has been forged since its
making, and that the deed is void, and the whole instrument is void,
and ought not to be regarded as evidence."

Which said instruction the Court refused to give. In
the opinion of the Court in refusing to give the said instruction
to the jury the defendant by his counsel then and then excepted.

The defendant, further asked the Court to give the jury
the following instruction. To wit:-

That in case the defendant now entitled to make a writ
 before the office of the declaration, and if record in the law
 the law is for the defendant and the plaintiff cannot sue."
 Which is in the law the Court must give I
 the opinion of the Court, as to give the defendant said writ
 and the Court must be the Court then and then not and
 judge the Court to give the Court, full of principles which is done.

I also certify only a portion of the evidence in the
 in the case...

J. C. Smith. 
 Judge of the Circuit Court, Ala.

State of Texas & County of... I Alexander Mcintosh, Clerk of the Circuit Court,
 do hereby certify that the foregoing is a true and
 correct transcript of the said Court records of the Circuit
 Court, in a certain case wherein Francis Smith & William
 Smith & Henry Henderson, was defendants, as appears from the books
 and files in my said office.

In Testimony Whereof I have hereunto set my
 hand and caused the seal of said Court
 to be affixed unto this office, in the City of
 in the County and State aforesaid, this
 day of March A.D. 1857.

A. McIntosh Clerk

John H. H. 22nd 1857

Received my paper for said case, being

A. H. Schuback,

\$12.00

Henry Henderson

Francis S. Hitchcock
William Weiss

I move to dismiss the appeal in this
cause because

The securities named in the order
of the court allowing the appeal were
Elisha C. Halliwell or Phillip C. Peck

The securities are C C Smith and J Bays
the order of the court allowing an appeal
has not been complied with

B C Cook
for appellants

~~77~~ ~~78~~ 88

Henry Henderson
"

Francis S. Kile
William Newes

Mo to dismiss
appeal

The bond required by the
court was taken
The party of the
bond was to be
signed by parties named,
then parties named
signed the bond.

Supreme Court 3^d Division, Missouri

April 1858

Henry Henderson }
vs }
Francis S. Hildes }
William Hildes }

And now comes the said
plaintiff in error & says that in the record
& proceedings in said cause there is manifest
error on this to wit-

1st The Court erred in admitting the
evidence on the part of the plaintiff objected
to by the defendants

2^d The Court erred in refusing the instruc-
tions & each of them asked by the defen-
dants

3^d The Court erred in giving the instructions
asked for by the plaintiffs & each of them

4th The Court erred in overruling the
motion of the defendants for a new trial

5th The description of the premises are too
uncertain

6th The verdict & judgment are against the laws
& evidence

For these & other things a reversal of the judgment is
prayed for

III 84

Honorable

29
Melton & Hens

Original of arms

Filed May 25, 1858
J. Leland
clerk

118 for Superintendence