

12247

No. _____

Supreme Court of Illinois

People, ex. rel.

vs.

Andrew

71641  7

The People of the State of
Illinois ex Rel. John A. Smith

vs

James Andrew Sheff Cook Co.

Sup. Court June 9
1835-

Habrus Corpus

The Relator in this case was arrested upon a capias ad Resp: at the suit of upon an affidavit charging the ~~de~~ nature and amount of the indebtedness due from him with others to the affs & that he was about to commence suit in the circuit court of Cook county that there was danger that the debt would be lost and that the benefit of whatever judgment might be obtained would be in danger unless the debts were held to bail.

The affidavit is framed under the provisions of section 2. Chap. 14 P. S. R. S. & is a compliance therewith, ^{under} the habrus corpus the prisoner seeks to raise the question of the constitutionality of such arrest.

Article 8 Sect. 15. ^{of two} same as article 13 section 15 - of the present constitution provides "No Person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law or in cases where there is strong presumption of fraud"

The acts, chapters of P. S. entitled "Bail" & insolvent debtors, Chap. 52 are evidently passed ~~to carry into effect~~ ^{to make} such provisions as may be necessary to carry into effect the exceptions contained in the constitution

and to avoid questions of how far the common law practice & rules of procedure should be affected thereby. - subject of course to judicial exposition both of the constitution & Statutes.

Section 1 evidently intends to point out the mode ⁱⁿ upon which a defendant shall call upon to surrender his property and that is upon execution ^{which can be} issued upon a judgment or decree only - & it may be safely asserted that no party can be guilty of a ~~surrender~~ refusal to surrender until judgment rendered & execution issued & the opportunity afforded the party to surrender his property - this part of the exception Section 2 of the bail act. in the constitution seems to require a law to provide a mode for the surrender of property - admitting that there was no provision in that behalf, but it is to be observed that no provision here or elsewhere is made for the filing an affidavit charging the party with fraud. unless it be in the 13th Sect of the same act.

~~Section two the Bail act also makes~~ no provision in Section two of the bail act - would seem at the first reading to dispense with these requirements of the Statute & to substitute in place thereof the naked proposition that ^{there is} the danger of losing of the debt unless the party is held to bail in double the sum sworn to. That is all the act requires to be sworn & unless the court would hold that swearing to that fact. is swearing ^{on the} to the facts required by the constitution - it is an arrest ~~undue~~ is a plain palpable violation of the constitution -

But it is said that these acts being passed shortly after the adoption of the constitution remaining for such a length of time unopposed, & no question having been raised upon them in this particular it is a legislative construction of the constitution & therefore should now be allowed to stand. By saying that no question has been raised, it is at once conceded that it is as I have stated a plain violation of the constitution & otherwise the whole force of the argument is much weakened if not entirely lost.

But let us examine this question of construction, setting out with the axiom that all provisions of both constitution & statutes are to be construed most strongly in favour of liberty, & the statute is to be reconciled or adapted to the constitution & not the constitution to the statute.

The constitution without the exceptions would prohibit imprisonment for debt absolutely & in all cases. The party seeking to imprison must show a plain case, bringing himself within those exceptions. It is also competent for the legislature to throw further safeguards around the liberty of the citizen, besides those of the constitution. In this case the constitution requires fraud or refusal to surrender property - the statute requires danger of losing the debt. Shall we call this a substitution or an additional safeguard, if we call it a substitution

we violate the constitution, if we call it additional or do not - which is the legislative construction & what should the courts say -

That this is the true construction of the acts will yet more evidently appear on a view of their provisions - & of the subject matter - a man may refuse to surrender an ~~and yet no danger of losing the debt~~ he may be guilty of fraud & ~~the case~~ yet no danger of losing the debt - the object of suit is to collect the damages which the party has sustained by the non performance of the promise of the debt. not to punish him ~~therefor~~ - & if those damages can be collected without putting the party in jail or requiring security it is evident that there is no necessity for requiring ^{is} or imprisoning him if he refuses -

The Bail act requires no affidavit but of danger of losing debt. the insolvent debtor act in express terms ^{no affidavit of refusal to surrender only where final process is to issue} requires no affidavit of fraud - and yet by section 13 in all cases of arrest upon mesne or final process, ~~upon~~ upon affidavit charging the party with fraud he is entitled to a jury to try that question. The statute does not provide for the filing of such affidavit you may say there is no law outside of the constitution that ~~now~~ require it unless this section does - and it is very evident that the legislature cannot throw the constitution to ~~repeal~~ repeal itself & to put no law to expound or give it

vitality or application or they would have passed a section similar to the first in cases of refusal to surrender. - It is therefore evident that in all cases of original process the constitution executes itself, or in other words unless the Plaintiff in some way or other brings before the court whose process he asks for against the defendant a charge satisfactory to the court or officer who issues it showing that the defendant is guilty of fraud or refusal to surrender, he is not entitled to such process much less can he cause the defendant to be arrested -

Again when the party comes before the probate court he is entitled to test these questions as points upon issue of fact - and it is doubtful whether he can any where else - But on production of the affidavit he is not charged with either - and under the construction claimed by the pffs it is not necessary - The Probate takes the affidavit as it is. She cannot change it nor the party there - & such issue of course cannot be raised - These acts are said to be passed in pari materia under that section of the constitution - yet the party off can by omissions in his own affidavit deprive the deft. of a remedy secured to him under those very statutes - so that the defendant is deprived not only of the guarantees of the constitution but of the statutes themselves -

Again upon the trial of this question of refusal to surrender - That the

6. party whom he came before the protest
refused to make his assignments & de-
manded a jury would be no evidence of it
the only evidence is what the 1st section
says - Thus this construction amounts
to this you may arrest a party to enable
him if he is so disposed to surrender,
but if he denies he has refused to sur-
render & you do not show the facts
proving it, he must be discharged -
a very consistent exposition of of statutes
in pari materia -

W. J. Murphy

That the bail act is to be construed ~~as a condition~~
providing additional safeguards may also
be strongly inferred from the fact, that in actions
of tort it requires in addition to the facts
for which the ~~suit~~ suit is to be brought that
the same danger exists of losing debt or right
recovery. The constitution & law as it then
existed required no such affidavit, and
it is a singular construction of a statute
to say that one part of it provides additional
safeguards beyond those required by the
constitution, & another part dispenses
with the very ones required by it -

Sup Court

Proph ex Rel Smith
vs

Jas. Auburn Shuffe

Argt for Relator
by Messrs

To the Honorable the Supreme
Court of the State of Illinois
for the Third Grand Session
At the June Term thereof
A.D. 1855-

Your petitioner John A. Smith
respectfully represents unto this Honorable
court that he is now confined in the
common jail of Cook County in said
state and restrained of his liberty by
James Anderson Sheriff of said County.

That on the twenty first day of
July last past this Deponent was arrested
by said Sheriff under and by virtue of a
writ of capias ad respondendum issued
out of the Circuit Court of said County, and
thereupon committed to said jail, for want
of bail of which writ with the endorse-
ments thereon made by the clerk of said
court and said Sheriff, a copy furnished
by said Sheriff at request of your petitioner's
counsel is hereto attached marked "A"
& which is a part of this petition -

That the next day after your
petitioner was so arrested he demanded
of the said Sheriff to be taken from said
jail before the Hon. H. L. Parker County
Judge of said County to be discharged
therefrom under the provisions of
the fifty second chapter of the Revised Statutes
entitled insolvent debtors - and was there-
upon about to be taken before said County

judge when upon the appearance of
your petitioner's counsel before him for
that purpose he said that he was
about to leave the county to be absent
until the 20th day of August 1855 - or
about that time on urgent private
business and that he could not then hear
such application of your petitioner and
thereupon your petitioner was and has
since been detained in the custody of
said sheriff. That as your petitioner
is imprisoned said county judge soon
after left said county is still absent
therefrom and expects to be so until
about the 20th day of August aforesaid.

And your petitioner further
shows that said writ issued upon the
filing an affidavit in said circuit court
a copy of which is hereto attached and
made a part of this petition marked "B"

your petitioner further shows
& charges that his said imprisonment and
detention is illegal in this -

1st

That the affidavit aforesaid does
not charge facts, showing fraud or a strong
presumption thereof, and that, neither in
the inception of the demand sued for, or
the subsequent acts of your petitioner touch-
ing the same - Neither does said
affidavit charge a refusal by your
petitioner to deliver up his estate for
the benefit of his creditors in such man-
ner as is or has been prescribed by law
for such surrender.

2^d That the facts set out in the affidavit, do not bring your petitioner within the exceptions contained in the fifteenth section of the thirteenth article of the constitution of this State -

3^d That upon appearance before the county judge for a discharge, from the affidavit no issue of fact can be made up for a jury to try -

4th That your petitioner showing his willingness to comply with the requirements of the Statute & the said county judge declining to hear such application, having left and now remaining absent from said county he is entitled to be discharged from custody -

5th That the said County Judge being absent from the said county and no person having authority to hear & dispose of an application for discharge from imprisonment for debt - your petitioner is entitled to a discharge

your petitioner therefore prays the
aid of this Hon court and the awarding of
a writ of Habeas Corpus to the Sheriff of
said county to bring the body of your peti-
tioner within the day & cause of his deten-
tion before this Hon: court forthwith

And your petitioner will
ever pray &c

Signed —

John W. Smith

By J. F. Farnsworth
of Counsel

J. F. Farnsworth being duly sworn
on oath saith, that he is one of the Counsel
of the above named John W. Smith, and
is duly authorized & employed by him
to make the application above set
forth. And he further says that he
is informed and verily believes that the
matters & things set forth in the foregoing
petition are true —

Sworn to & Subscribed

before me this 2^d day of
August A.D. 1855-

L. Island Clerk.)

J. F. Farnsworth

"A"

State of Illinois

County of Cook ss. The people of the
State of Illinois to the Sheriff of
Said County greeting.

We command you That you
take the bodies of Herman Wilson
Charles O. Shepherd, ~~and~~ John N.
Smith, Robert S. Stevens & John
Brintnal if they shall be found
in your County and safely them
keep so that they be and appear
before the Circuit Court of said
County on the first day of the next term
thereof to be holden at the Court house in
Chicago in said County on the fourth Monday
of October next, to answer unto Edwin Mc,
Anderson, in a plea that they owe
to the said plaintiff the sum of fifteen
thousand dollars which they owe to
and unjustly detain from the said
plaintiff, to the damage of the said
plaintiff as he says in the sum of Two
thousand dollars dollars,

And have you then and there this
Writ, with an endorsement thereon in
what manner you shall have
executed the same,

Witness Louis D. Board Clerk of said
Court, and the seal thereof at Chicago in said
County this twentieth day of July AD 1883.
L. D. Board Clerk

Seal

G. D. No 5-25-2
Cook Circuit Court
October Term 1855

Edwin M. Anderson
vs

Herman Wilson, Et al.

Capias

The Sheriff will hold the
defendant to bail in the
sum of Ten Thousand
eight hundred & four
dollars and twenty one
cents

\$10,804.21.

S. D. Hoard Clerk

Executed by arresting the within named
John N. Smith and on his failing to give
bail, committed him to the jail of Cook
County, 21st July 1855 - other defendants
not found in my county.

1. Am't \$50
1. Mile 5-
1. Return 10-65

Math & Traft. Dicks
Attys
by S. James Andrew Smith
S. Doyle Depty

July 21/55

The Cook County Circuit Court
 State of Illinois
 Cook County Ex: Airam F. Mather of
 said county being duly sworn deposes
 and says that he is the authorized agent
 of Edwin M. Anderson and that Herman
 Wilson Charles O. Shepard John
 A. Smith Robert S. Stevens and ^{Solva} John
 Brintnall are justly & truly indebted
 to the said Edwin M. Anderson in the
 sum of two thousand eight hundred
 and four dollars and twenty one cents
 on a judgment recovered and entered
 in favor of the said Edwin M. Anderson
 against the said Herman Wilson, Charles
 O. Shepard John A. Smith Robert S. Stevens
 & ^{Solva} John Brintnall in the Supreme
 Court of the State of New York and entered
 in the county of Wayne in said State
 of New York on the twenty second
 day of August in the year of our
 Lord one thousand eight hundred
 and fifty four for the sum of two
 thousand one hundred and seventy
 one dollars and thirty two cents being
 the amount of recovery & costs in an
 of assumpsit and on contract brought
 by said Edwin M. Anderson against
 said Herman Wilson, Charles O. Shepard
 John A. Smith Robert S. Stevens & ^{Solva} John
 Brintnall in plead with
 Bryant L. Tilden & Darin Young ^{against} which
 last named Tilden & Young process not

having been personally served judgment
was not taken at the same time but
only against the other above named
defendants by serving) and also for
and in the sum of six hundred and
thirty two dollars and eighty nine
cents for interest accrued and now
due & unpaid up upon said
judgment making in all the said
sum ten thousand eight hundred
and four dollars and twenty one cents
and this deponent further saith that
said judgment still remains in full
force and effect not reversed paid satis-
fied or otherwise vacated and the said
Edwin M. Anderson hath not
obtained any execution or satisfaction
of or upon said judgment so as to
discharge said debt and this deponent further
saith that the said debt will be in
danger of being lost and that the
benefit of whatever judgment the
said Edwin M. Anderson may
recover against the said Human
Wilson Charles O. Shepard John
A. Smith Robert S. Stevens and John
Printzall against whom judgment
was rendered for the debt above recited
and specified will be in danger
of being lost unless the said Human
Wilson Charles O. Shepard John A.
Smith Robert S. Stevens and John
Printzall be held to bail in an
action which the said Edwin

Solva

Solva

Anderson is about to commence
against the said Herman Wilson
Charles ~~the~~ part John A. Smith
Robert S. Sturges and ~~John~~^{Sylvia} Printman
in the Cook County Circuit Court
Illinois and further depose
saith not —

Subscribed & sworn to } H. F. Mather
upon me this 12th day
of July A.D. 1855

L. S. Hoard CLK

(Copy)

Garbas Corpus awarded - Sept 10 by
Sheriff \$8 - and give surety re Aug 3rd

¹³
Folger ac. ex. rel.
James et. al. v. Winter

James Andrew et.
Petition for
Garbas Corpus

Fol Aug 32-1851
Leland Ch.

(Copy)

CAPIAS.—Democrat Print, 45 La Salle Street.

STATE OF ILLINOIS,

COUNTY OF *Cook*

} ss.

The People of the State of Illinois to the Sheriff of said County, GREETING:

WE COMMAND YOU, That you take the bodies of *Herman Wilson, Charles O.*

Shepard, John A. Smith, Robert S. Stevens, and
John Brintnall—

if they shall be found in
your County, and safely *them* keep, so that they be and appear before the *Circuit* Court of said
County, on the first day of the next term thereof, to be holden at the Court House in *Chicago* in
said County, on the *fourth Monday of October* next, to answer unto *Edwin M.*
Anderson—

in a plea ~~of~~ that they render ~~to~~ the said plaintiff the sum of fifteen
thousand dollars which they owe to and unjustly detain from
the said plaintiff—
to the damage of the said plaintiff as he say *o* in the sum of *Two Thousand* Dollars.

And have you then and there this writ, with an indorsement thereon, in what manner you shall
have executed the same.

WITNESS *Louis D. Hoard* Clerk of said Court, and the seal there-
of, at *Chicago* in said County, this *Twelfth*
day of *July* A. D. 1855.



L. D. Hoard

Clerk.

G. D. No. 5252

Cook Circuit Court.

October

Term, A. D. 1855.

Edwin M. Anderson

versus

Herman Wilson et al

CAPIAS.

The Sheriff will hold the Defendant to bail in the sum of *ten thousand eight hundred and four* Dollars and *twenty one* Cents.

\$10,804.21

L D Hoord clk.

Executed by arresting the within named defendant ~~at~~ John St. Smith and on his failing ~~to give~~ to give bail commuted him to the jail of Cook County. 21st July 1855.
other defendants not found in my county

1 arrest 50
1 mil 5
1 Return 10 65

James Anderson Shiff
by S. Doyle Deputy

Mathew + Jaff Dickey Att'y.

The People of the State of Illinois

To the Sheriff of the County of Cook

Whereas it is represented to our Judge of the Circuit Court of Cook County, in the State of Illinois that one John A. Smith is illegally detained in your custody You are therefore commanded to bring the body of the said John A. Smith forthwith before the Hon. George Manierre, Judge of our said Court, at his Chambers in the Court House in said City there to do and receive whatever shall be adjudged in the premises

Witness the Hon. George Manierre Judge
aforesaid this 28th July, AD 1855

George Manierre
Judge of the Circuit Court

To the Hon. George Manierre Judge of the Circuit Court of the County of Cook

The undersigned Sheriff, of Cook County makes Return to the foregoing, that he holds the defendant John A. Smith, under and by virtue of a certain writ of *capias*, issued from the Circuit Court, of Cook County, and under the Seal of said Court, a copy of which is hereto attached and made part of this return

James Andrew Shuff

Chicago 28 July 1855

The People ex rel:
John N. Smith

vs

The Sheriff of Cook
County

"By the Habeas Corpus

"Act" To be executed

Upon Payment or

tender of one dollar and

upon affiants leaving

given to pay the charges

of carrying prisoner back

to remand Geo. Manierre

Judge of

This defendant John N. Smith
having been brought before on Habeas Corpus
and upon hearing the matter it is ordered
that the said defendant be remanded
to the custody of the officers.

Chicago, July 28th 1855

George Manierre
Judge of 7th
Judicial Cir.

The Cook County Circuit Court
State of Illinois

Cook County & Ss. Hiram F. Mathew being duly sworn
deposes and says that he is the authorized agent
of Edwin M. Anderson and that Herman Wilson
Charles O. Shepard John N. Smith, Robert S.
Stevens and Solva Brinckall are justly & truly
indebted to the said Edwin M. Anderson
in the sum of Ten Thousand Eight Hundred and
four Dollars and Twenty One Cents on a judg-
ment recovered and rendered in favor of the
said Edwin M. Anderson against the said
Herman Wilson Charles O. Shepard, John
N. Smith, Robert S. Stevens and Solva Brinckall
in the Supreme Court of the State of New York
and entered in the County of Wayne in said State
of New York on the twelfth second day of August
in the year of our Lord One Thousand Eight Hundred
and fifty four for the sum of Ten Thousand One
Hundred and seventy one Dollars and thirty two cents
being the amount of recovery and costs in and
of assumpsit and on contract brought by
said Edwin M. Anderson against said
Herman Wilson Charles O. Shepard, John
N. Smith Robert S. Stevens and Solva
Brinckall impleaded with Bryant Tilden
& Warren Young, ^{parties to} which last named Tilden &
Young process not having been personally served
judgment was not taken at the same time
(but only against the then above named defendants
by default) and also for and in the sum of Six Hun-
dred and thirty two Dollars and eighty five
cents for interest accrued and now due and
unpaid upon said judgment making in all

the said sum of Ten Thousand Eight Hundred
& four & Ninety One cents

And this deponent further saith that said
judgment still remains in full force & effect
not reversed paid Satisfied or otherwise vac-
ated & the said Edwin M. Anderson hath
not obtained any execution or satisfaction
of or upon said judgment so reversed as afores-
aid

And this deponent further saith
that the said debt will be in danger of being
lost and that the benefit of whatever judgment
the said Edwin M. Anderson may recover
against the said Herman Wilson Charles O. Shep-
ard John N. Smith Robert S. Stevens and
Solva Printmull against whom judgment
was rendered for the debt above recited
and specified will be in danger of being lost
unless the said Herman Wilson Charles O.
Shepard John N. Smith Robert S. Stevens
& Solva Printmull be held to bail in an
action which the said Edwin M. Anderson
is about to commence against the said
Herman Wilson Charles O. Shepard
John N. Smith Robert S. Stevens & Solva
Printmull in the Cook County Circuit
Court Illinois and further I deponent
saith not

Subscribed & sworn to
before me this 12th day of July
A.D. 1853

H. F. Mathews

L. D. Howard Clerk

Filed July 12th 1853

State of Illinois
Cook County } p

I Louis A. Hoard Clerk of the Circuit
Court in and for said County do hereby
certify that the foregoing is a true and correct
copy of the affidavit filed in my office in
the above entitled cause,

On Witness Whereof I have hereunto
set my hand & the seal of said Court
at Chicago this 4th day of August
A.D. 1880.

L. A. Hoard
Clerk Cir Court

In the Supreme court
of the State of Illinois for the 3^d Grand division

The People of the State of Illinois
upon the relation of John A. Smith
as

James Andrew Shuff of } Habias Corpus
Cook county

It is stipulated that the Sheriff
may return the day & cause of cap-
tion & detention to the court without
producing the body ^{of the relator} before the court
and that the court may make such
order & take such proceedings that
they would if he were produced in
open court in obedience to said Habias Corpus

It is also stipulated and to be taken
as part of the return in this cause
that the relator was taken upon
Habias Corpus before Hon. Geo. Morrison
Circuit Judge of 7th Judicial Circuit
at Chicago upon petition setting forth
the same facts as are contained in
the petition in this case that the
said Habias Corpus ^{was} ~~is~~ ^{the} ~~same~~
~~Shuff's return~~ ^{an ~~apparent~~ ~~arrest~~} ~~was the same~~
and that upon the hearing thereof
he was remanded into custody by
said judge

& that the Judge of the County
Court of Cook County is now absent
from the County & is not expected
to return until the 20th inst.

It is also stipulated that the
case may be heard upon written

arguments if either party sees fit to
do so instead of appearing & arguing the
case orally

August 6th 1855

Farnsworth H. Dwyer
Counsel for Relator
Dickey Mather & Tapp
Counsel for
Edwin M. Anderson
Jlff

It is hereby further stipulated that ~~the~~ a
copy ^{of the} affidavit upon which the writ under
which the Relator is held issued is hereto annexed
and that the facts set forth in the affidavit as
to the Relator's application for discharge before
the county judge are as therein stated, the
production of original writ is hereby waived

Farnsworth H. Dwyer Attorney

Dickey Mather & Tapp
Counsel for
Edwin M. Anderson
Jlff

(Copy)

CAPIAS.—Democrat Print, 45 La Salle St. St. C.

STATE OF ILLINOIS, }
COUNTY OF *Cook* } ss. The People of the State of Illinois to the Sheriff of said County, GREETING:
We COMMAND YOU, That you take the body of *Norman Wilson, Charles O. Shepard*
John N. Smith, Robert S. Stevens, and Solva
Brintnall

your County, and safely *them* keep, so that *they* be and appear before the *Circuit* Court of said
County, on the first day of the next term thereof, to be holden at the Court House in *Chicago* in
said County, on the *fourth Monday of October* next, to answer unto *Adwin W.*
Anderson

in a plea of *that they render to the said plaintiff the sum of fifteen thousand*
dollars which they owe to & unjustly detain from the said plaintiff
to the damage of the said plaintiff as he says in the sum of *Two thousand* Dollars.

And have you then and there this writ, with an indorsement thereon, in what manner you shall
have executed the same.

WITNESS *Louis D. Hoard* Clerk of said Court, and the seal there-
of, at *Chicago* in said County, this *twentieth*
day of *July* A. D. 185 *5*

L. D. Hoard

L. D. Hoard

Clerk.

G. D. No. 5252,

Cook Circuit Court.

October Term, A. D. 1855

Edwin M. Anderson

versus

Norman Wilson & als

CAPIAS.

The Sheriff will hold the Defendant to bail in the sum of Ten thousand eight hundred ~~for~~ Dollars and Twenty one Cents.

\$ 10,804.21 L. J. Hoard

Executed by arresting the ^{Clerk} within named John N. Smith, and on his failing to give bail, Committed him to the jail of Cook County 21st July 1855, other defendants not found in my County.

Fees 1 arrest .50
1 mile 65^c
1 Return 10

James Anderson Sheriff
by S. Doyle Deputy

Mathew Dickey & Taff

Att'y.

State of Illinois, s.e.t.

The People of the State of Illinois
to James Andrew, Sheriff of Cook County
in said State -

Whereas it has been represented
to the Supreme Court of the State of
Illinois by John N. Smith, that he
is unlawfully imprisoned and restrain-
ed of his liberty by you, (as it is alleged)
in the common jail of Cook County
aforesaid, there are therefore in the
name of the People of the State of Illinois
to command you forthwith to have
the body of the said John N. Smith, (or
by whatever name he may be called)
before the said Supreme Court
for the third grand division of
said State, now in session at
Ottawa in the County of LaSalle
in said State together with the
cause of his capture and detention
by you - And have you the 2th
this writ - And fail not at
your peril -

Witness the Hon. Walter
B. Scates Chief Justice of
said Court, and the seal
thereof at Ottawa this 30 day
of August A.D. 1855.

L. Ireland Clerk.

To the Supreme Court of the
State of Illinois

I James Andrew to whom
the within writ ~~is directed~~ & has been
delivered for return thereto do certify
& report that on the 21st day of July
1855. I arrested the said John N.
Smith under the return of a
writ of capias at his prison in
issue from the circuit court
of Cook County under the seal
thereof - a copy of which is hereto
attached. & made a part of this my
return & the original of which I now
produce in Court which writ
issued upon an affidavit & certified
copy whereof is hereto annexed &
made a part of this my return.
I also return herewith a stipulation
signed by the parties in interest
in this matter - I also return the
date August 6th 1855. Habeas corpus
allowed to in the stipulation with the
Judge's order thereon

13
The Prothonotary
on the relation of
John N. Smith

James Andrew

Habeas Corpus

"By the Habeas Corpus
Act."

Pay the said debt
eight dollars
upon hearing
this writ

L. Leland Clerk.

Filed Aug 9th 1855.
L. Leland Clerk.

To the Supreme Court of the State of Illinois,

The undersigned James Audren, Sheriff of Cook County, makes return to the foregoing, that he holds the defendant John A. Smith, in custody, under and by virtue of certain writ of Capias ad respondendum ^{issued} out of and under the Seal of the Circuit Court of Cook County, a Copy of which is hereto annexed and made a part of this return. I also return herewith a Stipulation signed by the parties interested in this matter. I also return the Habeas Corpus alluded to in the stipulation with the Judges Orders thereon.

Dated Chicago 6th August 1855,

James Audren Sheriff