

12245

No. _____

Supreme Court of Illinois

Hough

vs.

Baldwin, et al

LaSalle County Court, ^{September} ~~December~~ Term 1854

State of Illinois }
LaSalle County }
} Pleas, Proceedings, and

Judgments held and taken in and before
the LaSalle County Court in the State of Illinois
at the Court House in Ottawa in the County
of LaSalle of ^{September} ~~December~~ Term, to wit on the
fourth day of ^{September} ~~December~~ in the year of our Lord
one thousand eight hundred and fifty
four - and of the Independence of the United
States of America the Seventy ninth -
Present

Henry G. Cotton Judge
Saml W Raymond Clerk
~~Francis Warner Sheriff~~
Richard Stone

Be it remembered that on the 3^d day of
August A.D. 1854 a petition and Bond was
filed in the office of the Clerk of the County
Court of the County of LaSalle - which are
in the words and figures following, to wit:

"Petition"

To the Honorable the Judge of the County
Court of the County of LaSalle ~~and State of Illinois~~
Your Petitioners Herman Baldwin and
Henry B Chapman of the County and State
aforesaid respectfully represent, on the 1st day
of July, A.D. 1854 David L. Hough of said ^{County}
and State, recovered a judgment against your
petitioners for the sum of ninety nine dollars
and Costs of Suit amounting to two dollars &
Fifty Seven Cents before Nicholas Duncan

a Justice of the Peace in and for said County and State - and your petitioners further represent that the judgment rendered against your petitioners was not the result of negligence in your petitioners, that the said judgment of said Justice in the opinion of your petitioners, is unjust and erroneous in this, that on the trial of said Cause said Justice excluded as evidence the account books of your petitioners, which were offered in evidence by your petitioners (as they believe after a proper foundation had been laid for the introduction of the same) for the purpose of tending to show that a settlement had been made between your petitioners and said Hough of all accounts between them, and that said Justice rendered said judgment against your petitioners on the testimony of William Martin, which in the opinion of your petitioners was wholly insufficient to show any indebtedness from your Petitioners to the said Hough -

And your petitioners further represent, that it was not in the power of your petitioners to take an appeal from said Justice's judgment in the ordinary way for the following reasons -

That on or about the 15th day of July, 1854 being within the time allowed for appeals by the Statute in such cases, your petitioners applied to the said Justice for an appeal, and requested him to make out an appeal Bond, which bond was made out by said Justice, and left by him for your petitioners to execute, with directions to them to leave the same when executed with some workmen in the employ of said Justice, and that soon after said

Said bond was made out, and left as aforesaid, the said justice went into the County of Bureau on business, and there remained until after the expiration of the twenty days allowed by the Statute for appeals, had expired, And your Petitioners represent that on or about the 15th day of July 1854 your petitioners executed said appeal bond with Isaac R Pitt as Security, and deposited the same with the workmen of said Justice, according to his directions, And your Petitioners further represent that after the said Justice returned to his office from said Bureau County, he informed your petitioners that he had made a mistake in drawing said bond and had drawn it as in case of appeal to the Circuit Court, and not as in case of appeal to the County Court as required by law, and that the same was "inoperative and void," at which time the twenty days allowed by Statute for the taking of appeals had expired, so that your petitioners were by the mistake of said Justice deprived of the power to take an appeal in the usual way,

Your Petitioners therefore pray that a writ of Certiorari may issue from this Honorable Court to the said Nicholas Duncan Justice as aforesaid requiring him to certify to this Court a transcript of the judgment and other proceedings had before him in the said Cause, and they will ever pray &c

Sworn and Subscribed before E. Herman Baldwin
me this 27th day of July A.D. 1854 { Henry B. Chapman
by Herman Baldwin { by James Strain his
James Strain attorney
Notary Public

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On the Back of Said Petition is the following
Endorsement " Let the Writ of Certiorari issue
H. B. Patton

Judge LaSalle Co. Court

" Filed August 2^d /54

J. M. Raymond CLK "

" Bond "

Know all men by these presents that we Herman
Baldwin, Henry B. Chapman and Isaac R.
Nitt are held and firmly bound unto David L.
Hough in the penal sum of Two Hundred
and ten dollars lawful money of the United
States for the payment of which well and
truly to be made we do hereby bind ourselves
our heirs, executors, administrators and assigns
Jointly, severally, and firmly, sealed with our
Seals and dated this first day of August A.D.
1854,

The Condition of the above obligation is
such that whereas the said David L. Hough
did on the first day of July A.D. 1854 before
Nicholas Duncan a justice of the peace in
and for the County of LaSalle, and State of Illinois
recover a judgment against the above bounden
Herman Baldwin and Henry B. Chapman
for the sum of Ninety nine dollars and
Eighty Cents judgment and two dollars
and Sixty Seven Cents Costs - and whereas the
said Herman Baldwin and Henry B. Chapman
have prayed for a writ of Certiorari from the
County Court of said County and State to
the said justice commanding him to certify
to said County Court a transcript of the

Judgment and other proceedings had before him in the premises and the same being about to be issued accordingly - Now if the said Herman Baldwin and Henry B. Chapman shall prosecute their said suit with effect, and shall pay whatever judgment may be rendered by said Court, upon trial or dismissal of said suit, then the above obligation to be void, otherwise to remain in full force and effect

Herman Baldwin *H.B.*

Henry B. Chapman *H.B.C.*

Isaac R. Hill *I.R.H.*

"approved August 2^d 1854
J. N. Raymond Clerk."

Endorsed "Filed August 2^d 1854

J. N. Raymond clk"

On the said 2^d day of August A.D. 1854 a writ of Certiorari was issued which is in the words and figures following, to wit,

7
writ

"State of Illinois }
LaSalle County } P

} The People of the State of Illinois,
To Nicholas Duncan Esq, a Justice of the peace
in and for the said County and State greeting,

Whereas it has been represented by the petition and affidavit of Herman Baldwin that in a certain suit lately depending before you wherein David L. Hough was plaintiff and Herman Baldwin & Henry B. Chapman, was defendants, and wherein judgment was rendered in favor of the said David L. Hough against the said Herman

Baldwin and Henry B. Chapman, that manifest
injustice has been done to them the said Herman
Baldwin and Henry B. Chapman, in the
rendition thereof as aforesaid, and we being
willing for certain Causes in the said petition
stated and set forth that the said judgment,
and the matters and things in controversy
between the said David L. Hough and the said
Herman Baldwin and Henry B. Chapman
should be reexamined in the County Court of said
County as in cases of appeals from the judgments
of justices of the peace to the said Court - DO
hereby Command ~~you~~ and require you, that
you do forthwith without excuse or delay, Certify to
the said County Court a transcript of the said
judgment, with the proceedings thereon, and all
things touching the same, by whatsoever names
the parties aforesaid, or any, or either of them are, or
is set down, truly, fully and exactly, as in your
Custody they now remain, under your proper
hand and seal, together with this writ, that
further thereof the said County Court may do
that which of right ought to be done

In witness whereof Samuel W. Raymond
Clerk of the said Court has hereunto set
his hand and affixed the Seal of said
Court at Ottawa this 2^d day of August
1854

S. W. Raymond Clerk

"To the Sheriff of said County to execute"

Entered on book "Filed August 22^d 1854

by Clerk apt S. W. Raymond Clerk

On the 22^d day of August 1854, a Summons,
Bond and transcript were filed in the
Office of the Clerk of Said County Court
and are in the words and figures to wit:

Summons " State of Illinois
LaSalle County } p

The People of the State of
Illinois, to any Constable of Said County — greeting
You are hereby commanded to Summon
Herman Baldwin & Henry B. Chapman to
appear before me, at my Office in LaSalle on the
1st day of July A.D. 1854 at 9 O'clock A.M., to
answer the Complaint of David L. Hough for
a failure to pay him a certain demand not
exceeding one hundred dollars, and hereof
make due return as the law directs, given
under my hand and seal this 21st day of
June A.D. 1854.

Nicholas Duncan J.P. *(Seal)*

Endorsed — " Served by reading to the within named
" Herman Baldwin and Henry B. Chapman
" this 21st day of June 1854

R.B. Cogswell —
Cost — per 60 cts —

" Filed August, 22^d 1854

J.W. Raymond CLK

Henrick "

" Bond "

Know all men by these presents, that we
Herman Baldwin, Henry B. Chapman and
Isaac W. Hitt are held and firmly bound
unto David L. Hough in the penal sum

of two Hundred and ten dollars lawful money
of the United States for the payment of which
well and truly to be made we bind our ^{heirs} ~~self~~
our heirs and administrators, jointly, severally, and
firmly by these presents, Witness our hands and
Seals this 12th day of July A.D. 1854

The Condition of this obligation is such
that whereas the said David L. Hough did on
the first day of July 1854 before Nicholas Duncan
a Justice of the peace in & for the County of LaSalle
recover a judgment against the above bounden
Herman Baldwin and Henry B. Chapman
for the sum of ninety nine dollars & eighty
Cents debts and two dollars sixty seven Cents
Costs, from which judgment the said Herman
Baldwin and Henry B. Chapman for the
~~sum of ninety nine dollars & eighty Cents~~
have taken an appeal to the Circuit Court
of the County of LaSalle and State of Illinois

Now if the said Herman Baldwin and
Henry B. Chapman shall prosecute their
appeal with effect and shall pay whatever
judgment may be rendered by the Court
upon dismission or trial of said appeal,
then ~~this~~ above obligation to be void other-
wise to remain in full force and effect

Herman Baldwin *Seal*
Henry B. Chapman *Seal*
David R. Hitt *Seal*

Filed in my office this
22nd day of July 1854

Nicholas Duncan J.P.

Endorsed "Filed Aug 22nd 1854"

S.W. Raymond "clerk"

"Transcript"

David L. Hough } 1854 - 20th day of June,
vs } Summons issued returnable
Herman Baldwin and } on the 1st day of July next
Henry B. Chapman } at 9 O'Clock AM, delivered
Justice fees } to R.B. Cogswell Constable

Swollen entry 12^{1/2} Demand - adumpait \$100.00
Summons 18^{3/4}
Subpo (duces) 18^{3/4} 1854 1st day of July, Said Summons
4 Oaths - 25 } returned, endorsed "Served by reading
Entry book - 25 } to the within named Herman Baldwin
Entry affd - 25 }
Receipt - 25 }
\$1.50 } and Henry B. Chapman this 21st day
R.B. Cogswell Const. } of June 1854 - (Signed)

On Summons .60 } R.B. Cogswell Constable
" Subpoena .67 }
1.27 }

The Parties appeared at
the time appointed for trial - plaintiff in person
and defendant by James Strain and Daniel
Erans esqs - William Martin testifies on
part of Plaintiff, and F. Adams and Plaintiff
testified on part of defendants - and having heard
the proofs and allegations of the parties it
was adjudged and determined that said Plain-
tiff have and recover of said defendant the
Sum of Ninety nine dollars and eighty cents
dolt and two dollars sixty seven cents costs
1854, 21st day of August, Writ of Certiorari
Served upon the undersigned Justice of
the peace, wherefore is this Cause appealed
to the County Court.

State of Illinois }
Sasalle County } p. I, the Subscriber a Justice
} of the peace in and for said
County Certify that the foregoing transcript
with the papers annexed Contains a full
and perfect copy of the proceedings and
Judgment had before me in the above entitled

Cause -

Given under my hand and seal
this 21st day of August A.D. 1854

Nicholas Duncan J.P. 

And on the 11th day of September A.D. 1854
the same being one of the days of the said
Term of said ^{County} Court, the following order
was entered of record in said Cause, to wit:

David L. Hough }
vs }

Herman Baldwin and
Henry B. Chapman }

Certiorari

This day comes the
Plaintiff in his own proper person, and the
defendants by James Strain Esq their Attorney
and the said Plaintiff enters his motion
to dismiss for want of sufficient Petition,
which motion is overruled by the Court, to
which ruling by the Court the said Plaintiff
then and there is excepted -

On Thursday the 7th day of September
1854 being also one of the days of said
Term of said County Court the following
order was entered of record in said Cause

David L. Hough }

vs }

Herman Baldwin &
Henry B. Chapman }

Certiorari

This day again comes
the Plaintiff and on his motion it is ord-

ordered that this Cause be Continued, at Plaintiffs costs to be taxed -

Sasalle County Court December Term 1854
State of Illinois }
Sasalle County } p

} Pleas, Proceedings and
judgments held and taken in and before
the Sasalle County Court in the State
of Illinois at the Court House in Ottawa
in the County of Sasalle of December Term,
to wit, on the fourth day of December in the
year of our Lord one thousand eight hundred
and fifty four - and of the Independence of
the United States ~~the~~ of America the Seventy
ninth -

Present Henry G. Cotton Judge
Saml W. Raymond Clerk
Francis Warner Sheriff

On Wednesday the 13th day of December 1854
the same being one of the days of said Term
of said County Court the following order
was entered of record in this Court, to wit,

David L. Hough

vs

Wenman Balderson &
Henry B. Chapman

} Cortiorari

} This day came the

Plaintiff in person - and defendants by J.
Strain their attorney - And the Plaintiff

Enters his motion herein for a continuance
which motion is overruled by the Court, and
on motion of Defendants by their said Attorney
this suit is dismissed -

State of Illinois }
Sasale County } p

J. Samuel W. Raymond
Clerk of the County Court in and for said
County do hereby certify that the foregoing
Transcript is a true full and correct copy
from the record of all the proceedings which
have been had in said County Court in the
aforesaid Case of David L. Hough vs Henry
Baldwin & Henry B. Chapman -

In Testimony whereof I have here-
unto set my hand and affixed
the Seal of said Court at my Office
in Ottawa in said County this 3^d
day of May A.D. 1855

J. W. Raymond Clerk

Clerk's fee \$4.50

David L. Hough
vs
Heman Baldwin
Henry B. Chapman

Record

53

Filed May 22^d 1855
L. Island Ck.

12245

1855

[15425]

David S. Hough } In the Supreme Court of the
 18 } State of Illinois - Third Term
 Herman & Baldwin } Division
 & Ermy. B. Chapman } Of the June Term AD 1835

And now comes the said David S. Hough, & says that in the record of the proceedings & in the rendition of the judgment aforesaid, manifest error hath intervened to his prejudice, in this to-wit-

First - It appears by the record aforesaid that the said LaSalle County Court erred in overruling the motion of the said David S. Hough to dismiss the certiorari for want of a sufficient petition

Second - It appears that the said Court erred in rendering judgment of dismissal in favor of the said Herman & Baldwin & Ermy. B. Chapman, when by the laws of the Land, judgment ought to have been rendered in favor of said David S. Hough

And that the said David S. Hough is ready to verify by the said record, what he

Wherefore, & for other ends appearing in the record of the proceedings aforesaid, the said David S. Hough, prays that the said judgment may be reversed, annulled, set aside, & for nothing returned, & that he may be restored to all things which he may have lost by occasion thereof

David S. Hough
 Plaintiff in Error

By Higgins Bickwith & Shotton
 attys for Hough

David L. Hough
by
Herman Baldwin
att. of couns

This June 25. 1855
S. Ireland Ill.

Found in and
Filed July 7. 1855
S. Ireland Ill.

And now comes the said document in error
says that in the second proceeding of the same
in the collection of the document of the same
in no error & the in error may be corrected
B & Co. R

Indep. in error

STATE OF ILLINOIS, }

Supreme Court, }

ss.

The People of the State of Illinois,

To the Sheriff of the County of La Salle — Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the ~~court~~ ^{County} of La Salle — county, before the Judge thereof, between David L. Hough plaintiff —

& Herman Baldwin & Henry B. Chapman —

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

David L. Hough —

as we are informed by his 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 Ottawa, 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 —

Herman Baldwin & Henry B. Chapman —

that they be and appear before the Justices of our said Supreme Court, at the next term of said court, to be holden at Ottawa, in said state, on the 2nd Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said Baldwin & Chapman —

notice, together with this writ.

John D. Caton

WITNESS, the Hon. ~~Samuel W. Wood~~ ^{John D. Caton} Clerk of Justice of our said Court, and the Seal thereof, at Ottawa, this 22nd day of May in the Year of Our Lord One Thousand Eight Hundred and Fifty-five.

L. Seland

Clerk of the Supreme Court.

53
David C. Hough

vs
Herman Baldwin &
Henry B. Chapman

Sci. fa. —

June Term 1854

12245

Exercised this writ by
Reading the same
to Herman Baldwin
and Henry B. Chapman
May 30th 1855

J. Warner Shuff of Sasale Co
County
by Lewis J. Harris Deft

Serv writ 2 nd term	100
30 th writ	150
Returning writ	10
	<u>\$260</u>