

No. 14710

Supreme Court of Illinois

Piersol

vs.

Kennedy.

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 133

J. W. Middleton & Co., Stationers, 196 Lake St.

Persil

2

1894

Kennedy

STATE OF ILLINOIS,
SUPREME COURT,

ss. The People of the State of Illinois,
To the Clerk of the Superior — of Chicago Court ~~for the~~ County of Cook Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Superior Court of Chicago Cook County, before the Judge thereof, between John H Peirsol

complaint, and Manson P. Kennedy

defendant....., it is said manifest error hath intervened, to the injury of the aforesaid plaintiff

as we are informed by his complaints..... and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the complaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April ¹⁸⁶⁴ next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 7th day of April in the Year of Our Lord One Thousand Eight Hundred and Sixty four



L. Leland
Clerk of the Supreme Court.
J. D. Riser Deputy

John H. Peirce

No. 137

vs.

Mason R. Kennedy

WRIT OF ERROR.

FILED

April 4th

A. D. 1864

L. Leland

Clerk.

Record & Abstracts
withdrawn & filed in
a new case
Oct. 11. 1865.



John H Piroch

Manson P. Kennedy

{ Error to Superior
Court of Chicago

Now comes the said Defendant in Error and prays the Court to let aside the order of dismissal heretofore entered in said Cause and assigns as Causes therefor

That as appears by the Records of this Court said Cause was docketed to the Court April 28th 1864 - & said Defendant in Error has been brought into Court by writ of Scire facias in said Cause & put to cost & trouble herein & it is inequitable & unjust & imposes a great hardship upon him to be obliged to prepare for trial of said Cause & then have the same dismissed after the same has been instituted. That if such practice be allowed said Plaintiff may

bring this Defendant into Court
every year during the five years
after the rendering of said
judgment & Deft be put to great
expense & trouble thereby
He therefore prays that said
dismissal be put aside &
said Cause be decided
upon its merits

Campbell
for Deft in Error

103
Pursol

Kennelap

Notations to be
aside Dismissal

Filed May 4, 1861

Chas. W. D. 2011

Pierrol 3
on 3
Kennedy 3

Suggestions by Pff on Mo. to set aside dismissal.

The Pff filed the record caused Sci. fa. to be served, & subsequently filed printed Abstracts.

Before the case was called on first call, the deft. submitted the case on his side without the knowledge of the plffs counsel, and on call the case was taken by the Court.

The plff did not voluntarily submit the case, has not prepared any points or brief, but desiring to abandon the case, came into Court and dismissed the case.

The case has not been decided, or considered by the Court, and is not in a condition for consideration.

As I understand it the plaintiff has absolute control

of his suit and may dismiss
it at any time before a
decision is rendered. This
leaves the judgment below in
force; that is all the defend-
ant can ask.

The dismissal is made in
good faith.

W. G. Gandy
atty for Pffs.

See Affidavit on next page

This question has been properly
decided in

Howe vs Harrow 17 Me 497.

133.

Piersol
vs
Kennedy

Wm. Gandy being sworn says that he is the sole attorney of the plaintiff in error in the above suit, that he supposed from a conversation had with Mr. Hitchcock the attorney for defendant that he would not argue or submit the case on his part until on the second call, and that he had no information that it had been submitted by defendant and taken on call until after it had been done, that he has made no preparation for an argument, made no brief or points, but desired to dismiss the same without more labor, ~~for~~ that the suit was not prosecuted or dismissed to vex or harass the defendant but acting in good faith for the interest of the plaintiff.

Subscribed & sworn W. G. Gandy
to before me this 4th May 1843
L. Island Ck.

Piersol
or
Kennedy

Points for Off
appt. Mo. to set
aside disincorporation

Filed May 4. 1864.
L. Island
Clk.