

No. 14277

Supreme Court of Illinois

Taylor

vs.

Marcey

71641  7

William Lyell } In the
vs appellant } Supreme Court
Eliot Macey } Third Term
Appellee } Session
State of Illinois . . . April Term AD
1862

To Helen & I note }
Repps atty } Gent's Table
notice that on Wednesday
morning April 23 AD 1862
at the opening of Court at as
soon thereafter as Council can
be held I shall present to
the Supreme Court in person
at Ottawa a petition for
a rehearing in the above
case

Amund April 21 1862
B F Peck
atty for appellee

State of Illinois }
Reine County } E & Brady being
first- duly, sworn on oath by
that he found a copy on Messrs
Helm & Smith the parties therein
named by handing to them on
the 21st day of April A.D. 1842
of the within notice

Sworn & Subscribed }
before me this 21 } E. S. Brady
day of April 1842 }
E. W. Harvey
Notary Public



William Taylor }
vs appellant } Decided at the
Debit Money } April Term A.D. 1861
appellant } Petition for removal

Your Petitioner Debit Money
the defendant in the above case
would most respectfully show
unto your Honors, that at the
last term of this Court a jury met
where had been rendered in his
favor in the above case
in the Rendell County Circuit Court
was reversed by this Court;

That said case has been
three times tried before a jury
in Rendell County; at two of
said trials he got a verdict and
at one a verdict was rendered
against him.

That it has been twice
tried in this Court. The first
time with a jury met in
his favor, and at the last
term of this Court it was
decided against him.

This petitioner charges
that at the last term it was
decided against him upon

a bill of exceptions which
never was taken speaking a
part of the record and had no
business upon the record and
which did not contain the
question upon the question
of the road when the trespass
was committed as given upon
the trial but the facts were
directly the issue from those
stated in the bill of exceptions
That the fence for the distinction
of which the Suit was brought
was not put up until long
after the road was laid out

That he has attached to
this petition an amended
record by which it appears
that the bill of exceptions was
filed in violation of the
order of Court at which
the trial was had must have
and has no business upon
the record,

That this matter was
brought to the attention of this
Court at the April Term 18
1860 and the case continued
to have the record supplied

State of Illinois }
Pine County }

Benjamin F. Parks

being duly sworn and asked says
that he has read the deposition
and knows its contents. That it
is true in all respects to the
personal knowledge of this affiant
except as to the statement of the
knowledge of the said Murray as
to the cause of this affiant
and this affiant upon
information and belief
believes to be true

In witness whereof }
before me this }
26th day of }
April A.D. 1862 }
C. J. Meyer
N.P.

B. F. Parks

United States of America }
State of Illinois } 55
Kendall County }

Shew before the Honorable Madison E. Hallister
Judge of the ninth Judicial Circuit of the
State of Illinois and presiding Judge of
the Circuit Court of said County at a
Term thereof begun and held at the Court
House in Oswego in said County on
the second Monday of January
A. D. 1860. And of the Independence
of the United States of America the Eighty fourth Year
Present the Honorable Madison E. Hallister Judge
Washington Bushnell Esq. State Atty.
Gen. W. Kellenback Clerk
Wright Murphy Sheriff
Attest Geo. W. Kellenback Clerk.

Be it remembered that on the 11th day of January
A. D. 1860 the same being one of the days of the Term
of the Court aforesaid sitting for the dispatch of
Business in the Court House at Oswego in said
County of Kendall the following proceedings among
others were had in said Court and entered of
Record to wit,

"William Taylor

"vs.
Elliot Hayes

Trespas

This day the parties appeared
by their attorneys aforesaid

and the Jury aforesaid also came into Court and
say on the Jury find the Defendant not guilty and

Thereupon comes the Plaintiff by Smith one of his
Attorneys and moves the Court for a new Trial
verdict, which said Motion was thereupon overruled
by the Court, And it is considered by the Court that
the Defendant recover of the Plaintiff the Costs by
him in this behalf Expended and that he have
Execution therefor, And afterwards again comes the Plaintiff
by his attorney Grossard and prays an appeal to the
Supreme Court which said Appeal is granted upon
Plaintiff entering into Bonds to Defendants in the penal
sum of five Hundred Dollars with John Russell
as Surety in sixty days from this date

And afterwards to wit on the 9th day of March A.D. 1860
in Vacation after the Term of the Court aforesaid the Plaintiff
in said Cause filed in the office of the Clerk of said Court
his Bill of Exceptions which said filing of said Clerk upon
said Bill of Exceptions is in the words and figures following
to wit,

"Filed Mar. 9. 1860."

"E. W. Hollenback Clerk"

State of Illinois vs

Russell Security

I Geo. W. Hollenback Clerk of the Circuit
Court in and for said County do hereby Certify
that the above order is truly Copied from the Records in my office
and that no other ^{or} further ^{order} was had upon the granting of the
Appeal aforesaid upon the 11th day of January A. D. 1860 or
at any subsequent time, and that no order for filing a
Bill of Exceptions in said Cause since the rendition of the
Judgment in said Cause at the date last aforesaid has been
had in said Court in said Cause. And I further
Certify that a Bill of Exceptions was filed by the

Plaintiff in said Cause on the 9th day of March
A.D. 1860 as above set forth

Witness Geo. W. Hallenbark Clerk
of said Court and the seal thereof
at Oswego in said County
the 21st day of April A.D. 1860.

G. W. Hallenbark
Clerk

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Taylor

v

Clarney

Petition for Re-hearing



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Filed April 29, 1862

L. Veland

Clk.

1862