

No. 13304

Supreme Court of Illinois

Rowley

vs.

Blodgett

United States of America, }
SS,
STATE OF ILLINOIS, LAKE COUNTY, }

Pleas before the Honorable George Manierre. Judge of
the Seventh Judicial Circuit, of the State of Illinois.

At a Circuit Court, for the County of Lake, in said Circuit, began
and held at Waukegan, in said County, on the... *Seventh*.....
day of... *June*.....in the year of our Lord,
one thousand eight hundred and... *fifty-eight*...and of the
Independence of the United States the... *eighty-second*

Present, the Honorable **GEORGE MANIERRE**,
Judge aforesaid, and... *Parnell*... *McUnson*... Sheriff
of Lake County.

Attest, A. B. Cotes, Clerk.

Be it remembered that hitherto to wit
on the ninth day of June A.D. 1858 said
day being the third day of the June term of
^{the circuit court in and for the county of Lake in the state of Illinois}
~~said court~~ for the year last aforesaid, a tran-
script was filed in said court which is in the
words and figures following to wit;

"United States of America }
"State of Illinois Lake County } ^{vs.} Pleas before the Honor-
"able John L. Turner the county Judge of Lake
"county Ill. at a term of the county court of said
"county of Lake began and held at the court
"house at Waukegan on the Twenty fifth day
"of January in the year of our Lord one thousand
"eight hundred and fifty eight and of the independ-
"ance of the United States the eighty second

"Present the Honorable John L. Turner Judge
"and Parnell Munson the Sheriff of Lake
"county

"Attest James C. Biddlecom Clerk

"Curtis Mc Rowley }

"^{vs.}
"A. Blodgett }

Assumpsit

Be it remembered that hitherto

"dore to wit on the 1st day of December A.D. 1857
"the same being a day in vacation between the
"October and January terms thereof for the year
"last aforesaid & 1858 a process was filed in the
"office of the clerk of said court in the above
"entitled cause which is in the words and figures
"following to wit

" " Lake County Court

" " Curtis, M. Bowley }

" " vs. }

" " A. Blodgett }

Assumpsit Damages \$400⁰⁰

" " Jas C. Biddlecom Please issue

" " a summons in this cause against Deft

" " & Oblige

" " Nov 30th 1857

Ferry & Williams
for. Plff

" and that afterwards to wit on the 1st day of December
" A.D. 1857 the same being a day in vacation of
" the county court of Lake county Illinois between
" the October term A.D. 1857 and the January Term
" A.D. 1858 a summons was issued out of the office
" of the clerk of said court in the above entitled cause
" which is in the words and figures following to wit

" " State of Illinois }

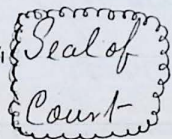
" " Lake County }

" " vs. The People of the State of Illinois

" " to the Sheriff of said County. Greeting

" " We command you that you summon A. Blodgett

" " if he shall be found in your county personally to be
" " and appear before the county court of said county
" " on the first day of the next term thereof to be
" " holden at the Court house in Waukegan in
" " said county on the fourth Monday of January
" " next to answer unto Curtis Mc Rowley in a
" " plea of trespass on the case upon promises to the
" " damage of the said plaintiff as he says in the
" " sum of four hundred dollars and have you then
" " and there this writ with an endorsement thereon in
" " what manner you executed the same

"  " Witness James C. Biddlecom clerk of said
" " court the seal thereof at Waukegan
" " this first day of December AD 1857
" " Jas. C. Biddlecom, clerk

" " And upon the back of which said summons is an
" " endorsement in the words and figures following to wit;
" " Executed this within writ by reading to and in the
" " hearing and presence of A. Blodgett this 4th day
" " of December AD 1857

1 Service	.50
1 Mile T	.05
Return	.10
	<u>65</u>

" " P. Muns on Sheriff

" " And afterwards to wit on the 9th day of January
" " AD 1858 the same being a day in vacation of the

" county court of Lake county between the October AD 1857
" and January term AD 1858 a Narr was filed in the
" office of the clerk of said court in the above entitled
" cause which is in the words and figures following to
" wit

" " County Court of Lake County
" " Curtis Mc Rowley } The county court for the
" " vs, } county of Lake in the State
" " A. Blodgett } of Illinois January Term AD 1858

" " State of Illinois }
" " County of Lake } Curtis Mc Rowley plaintiff by
" " } Ferry & Williams his attorneys
" " complains of A Blodgett Defendant in this suit
" " &c in a plea of trespass on the case upon prom-
" " ises. For that whereas the said defendant
" " heretofore to wit on the 15th day of July in
" " the year of our Lord one thousand eight hun-
" " dred and fifty six at Waukegan in said
" " county made his certain promissory note of
" " that date in and by which said note
" " the said defendant promised to pay C. Mc,
" " Rowley or order one year after date the sum
" " of three hundred & eleven dollars and fifty eight
" " cents with use for value received which
" " said time hath long since elapsed and
" " said note became due and payable accor-
" " ding to its tenor and effect to wit at

" " Waukegan aforesaid And whereas ^{also} the said
 " " defendant afterwards to wit on the day and
 " " year at the place aforesaid became and was
 " " indebted unto said Plaintiff in the further
 " " sum of Four Hundred Dollars for so much
 " " money by the said Plaintiff before that
 " " time lent and advanced to and paid out
 " " and expended for said Defendant at said
 " " Defendants request and for money had and
 " " received by said Defendant to and for the
 " " use of the said plaintiff and for goods
 " " wares and merchandize sold by said Plain-
 " " tiff to said Defendant at the instance and
 " " request of said Defendant and for interest
 " " due from said Defendant to said Plain-
 " " tiff and for work and labor heretofore
 " " done and performed by the said plaintiff
 " " for the Defendant and at the special
 " " ~~interest~~ ^{instance} and request of said defendant
 " " and for his use and benefit and being so
 " " indebted he the said defendant in consid-
 " " eration thereof afterwards to wit on the day
 " " and year and at the place aforesaid prom-
 " " ised to pay said plaintiff the said last
 " " mentioned sum of money when thereunto after-
 " " wards requested, ^{yet the said defendant although often requested} he not paid either of said sums
 " " of money above mentioned or any part thereof

" " All which said defendant is ready to verify
" " wherefore said defendant prays Judgment &
" " Blodgett Whiston & Kelley
" " Defts. Atty's,

" And afterwards to wit on the 30th day of January
" AD 1838 the same being a day in the regular
" January Term of the county court of Lake county
" for the year last aforesaid a Replication to Defts
" 2nd & 3rd Pleas was filed in the office of the clerk
" of said court in the above entitled cause which is
" in the words and figures following to wit

" " County Court of Lake County
" " January Term AD 1838
" " Curtis Mc Rowley }
" " vs. } Assumpsit
" " A Blodgett }

" And the said plaintiff as to
" the said plea of the said defendant by him sec-
" ularly above pleaded saith that the said plaintiff
" by reason of any thing by the said defendant in
" that plea alleged ought not to be barred
" from having & maintaining his aforesaid action
" thereof against the said defendant because he
" saith that the said defendant at the time of
" the making of his said several promises & under-
" takings in the said declaration mentioned was
" of the full age of twenty one years to wit at

" " Leake county aforesaid & not within the age of
 " twenty one years in manner and form as the
 " said defendant hath above in his second plea
 " in that behalf alleged and thus the said
 " plaintiff prays may be Enquired of by the
 " country &c

" " And the said plaintiff as to the said third plea
 " of the said defendant above pleaded saith
 " Precludi Non because he says that the said
 " note was given for a good & valuable consideration
 " & this he prays may be inquired of by the
 " country

" " Terry & Williams
 " " Atty for Plt

" " And afterwards to wit on the 17th day
 " of April A.D 1858 the same being one of the days
 " of the regular April term of said court for the year
 " last aforesaid a note was filed in the office of
 " the clerk of said court in the above entitled cause
 " which is in the words and figures following to wit

" " $\$311 \frac{48}{100}$ Naughegan July 15th 1856
 " " One year after date I promise to pay to the
 " order of C. M. Rowley Three Hundred & Eleven &
 " $\frac{48}{100}$ Dollars value received with me
 " " A. Blodgett

And afterwards to wit on the 17th day of April
A.D. 1858 the same being a day in the regular
April term of the county court of Lake county
Illinois for the year last aforesaid proceedings
were had in said court in the above entitled cause
which are entered of record in the words and figures
following to wit;

Curtis M. Rowley }
vs. } Apumpsit
A. Blodgett }

Now come said parties said
plaintiff by Ferry his attorney and the said
defendant by Helley his attorney and issue
being joined herein it is ordered that a jury
come to try the same and thereupon come a
jury to wit E W Avery William Wilson
Daniel Adams Ira Coldridge Jeremiah Stowell
Albert Potter Isaac Palmer E Belden
Joseph Porter William Hudson Lewis
Bapett and B G Blowney who being duly em-
panelled and sworn to well and truly try said issue
and a true verdict give according to the law
and ^{the} evidence and having heard the evidence
and arguments of counsel retire to consider
of their verdict and afterwards the said jury
come into court and deliver the following verdict

list
" " We the jury find the issue for the plaintiff and
" " assess his damages at the sum of Three Hundred
" \$344.17 " and Forty Four Dollars and seventeen cents
" " whereupon it is ordered that the said plaintiff have
" " and recover of the said Defendant the said sum
" " of Three Hundred and forty four Dollars and
" " seventeen cents for his damages so as aforesaid
" " assessed together with his costs and charges in
" " this behalf expended and that he have execution
" " therefor And afterwards the said Defendant
" " prays an appeal to the Circuit Court of Lake
" " county which is granted on condition that the
" " said Defendant give bond with W W Blodgett
" " as surety in the penal sum of Six Hundred Dollars
" " and file the same with the clerk of this court within
" " fifteen days from this date

" And that afterwards to wit on the 27th
" day of April AD 1858 the same being a day
" in vacation of the county court of Lake
" county Illinois between the April and July
" terms thereof for the year last aforesaid a
" bond for an appeal was filed in the office
" of the clerk of said court in the above en-
" titled cause which is in the words and figures
" following to wit

" " Renew all men by these presents that we Asiel
" " Blodgett and Henry W. Blodgett are held and
" " firmly bound unto Curtis Mc Rowley in the pe-
" " nial sum of six hundred dollars lawful money
" " of the United States for the payment of which
" " well and truly to be made we bind ourselves
" " our heirs executors and administrators jointly and
" " severally firmly by these presents. Witness our
" " hands and seals this Nineteenth day of April A.D. 1858

" " The condition of the above obligation is such
" " that whereas the said Curtis Mc Rowley did on
" " the Seventeenth day of April A.D. 1858 in the
" " county court for the county of Lake and state
" " of Illinois recover a judgment against the above
" " bounden Asiel Blodgett for the sum of three hun-
" " dred & forty four \$100 Dollars from which judy-
" " ment the said Asiel Blodgett has taken an
" " appeal to the circuit court of the county of
" " Lake aforesaid and State of Illinois

" " Now if the said Asiel Blodgett
" " shall prosecute his appeal with effect and
" " shall pay whatever judgment may be rendered
" " by the court upon dismissal or trial of said
" " appeal then the above obligation to be void
" " otherwise to remain in full force and
" " effect

" " H. W. Blodgett *Seal*

" " A. Blodgett *Seal*

" Copy of Plaintiffs and Defendants costs in
" the above entitled cause to wit
" " Curtis Mc Rowley }
" " " " } Assumpsit
" " " A Blodgett }
" 1858 January Term John L Turner Judges fee 2 00
" J C Biddlecom clk dock suit 10 app + atty 15 fil for 5 Sums + fil 40 con = 90
" " fil near exp 10
" P. Cannon Shff ser sums 50, 1 mil travel 5 ret 10 .65
" 1858 April Term dock suit 10, fil note 5, order for Judgt - 20 only Judgt = 60
" dock Judgt 10 order for Ex^m 20 Entg latw 15, M+E costs 30 } 5 = 2.35
\$ 5.00

Defendants Costs

" 1858 January Term App + atty 15 fil Plea 5 note 5 cert + seal 35 m + E cost 30 90
" April Term order for appeal 20 Rec appeal bond 40 60
" this Transcript 5.00
\$ 6.50

" State of Illinois }
" Lake County } I J C Biddlecom clerk of the
" county court in and for said county,
" do hereby certify that the foregoing is a true + correct
" transcript of the summons and Pleadings filed
" and proceedings had in said court in the above
" entitled cause also a true copy of the plaintiffs
" and defendants costs as will appear from the
" records in this office
" In Testimony whereof I have hereunto set

" my hand & affixed the seal of said court this
" Seal of 9th day of June 1858
" Court
" Jas C. Biddlecom Clerk

And that afterwards to wit on the 16th
day of June A D 1858 said day being one of
the days of the June term of said circuit
court for the year last aforesaid proceedings were
had and entered of record in said court in
said cause in the words and figures following
to wit;

"	Curtis M Rowley	}	"Appeal from County Court"
n 104	vs.		
"	A Blodgett		
"	Appellant		

" Now comes said Plaintiff
" iff by Williams his attorney and enters his
" motion to dismiss the appeal herein, for the
" reason that the Record of the court below
" was not filed on or before the first day of the
" present term of this court."

And that afterwards to wit on the
twenty first day of June A D 1858 the same
being a day of the June term of said
circuit court for the year last aforesaid the
following proceedings were had and entered

of record in the words and figures following
to wit

" Curtis Mc Rowley
" 104 " vs
" A Blodgett
" Appellant } " Appeal from County Court

" Now come said parties
" by their respective attorneys and the court
" being now fully advised as to the motion of
" the said plaintiff heretofore entered to dismiss
" the appeal herein sustains the same to which
" decision of the court the said defendant ex-
" cepts. It is therefore ordered that the said
" appeal be and the same is hereby dismissed
" at the said defendants costs and that the
" said plaintiff have and recover of the said
" defendant his costs and charges in this be-
" half in this court expended, and that he
" have execution therefor, and it is further
" ordered that a writ of procedendo issue herein
" to the court below, and thereupon the said
" defendant prays an appeal herein to the su-
" preme court of this state which is granted on
" condition that the said defendant by himself
" his agent or attorney, give bond according to
" law in the penal sum of six hundred dol-
" lars with Henry W Blodgett security therein

and file the same with the clerk of this court
within thirty days after the present term
thereof.

And that afterwards to wit on the
seventeenth day of July A.D. 1858 the same
being a day in the vacation of said circuit
court between the June and September terms
thereof for the year last aforesaid an appeal
bond was filed in the office of the clerk of
said court of which the following is a true
copy

"Know all men by these presents, That
we A. Blodgett and Henry W. Blodgett
of Lake county in the state of Illinois are
held and firmly bound unto Curtis M. Rowley
of the same county in the penal sum of Six
hundred dollars lawful money of the United
States, for the payment of which well and
truly to be made we bind ourselves our heirs
Executors and administrators, jointly and seve-
rally firmly by these presents - Witness our
hands and seals this Seventeenth day of July
A.D. 1858 Whereas the said Curtis M.
Rowley in the county court of the county
of Lake in the state of Illinois by the

consideration and judgment of said county
 recovered a judgment against the said A.
 Blodgett at the April term of said court
 for the year 1858 for the sum of three hun-
 dred and forty four Dollars and seventeen
 cents damages besides costs of suit; from
 which said judgment the said A. Blod-
 gett took an appeal in due form of law
 to the circuit court in and for said county
 of Deake & at the June term of said circuit
 court for said county of Deake held in
 said county for the year 1858, the said
 circuit court dismissed said appeal, and
 rendered judgment for the costs of said
 appeal against the said A. Blodgett from
 which said judgment of said Circuit court
 in dismissing said appeal, and giving judg-
 ment for the costs thereof against the
 said A. Blodgett he the above bounden
 A. Blodgett has taken an appeal to the
 Supreme Court of the State of Illinois

Now therefore the consideration of this
 obligation is such that if the said A.
 Blodgett shall pay the Judgments costs
 interest and damages in case the judg-
 ment of said circuit court shall be af-
 firmed in said Supreme Court, and shall
 also duly prosecute his said appeal, to

" judgment in said Supreme Court, then the
" above obligation to be void otherwise to be
" and remain in full force and effect,"

" A Blodgett Deal

" H W Blodgett Deal

Upon which said bond are endorsed the words and figures following to wit;

"Approved by me at my office this
" 17th day of July A.D. 1858"
"A. B. C. C. C."

"A. B. Bates Clerk"

"By Ad. Bates Deputy"

104

Curtis Mc Rewley	}	Appeal from County Court of Lake County
vs		
A Blodgett appellant		

State of Illinois }
Lake County } ss I Augustus B. Gates clerk
of the circuit court in and
for the said county of Lake do hereby certify
the above and foregoing to be a true transcript
from the records and files of my office of all the
original papers on file in my office in the above
entitled cause and also of the record of the pro-
ceedings in said court in said cause and of
the whole of the said papers and record in my
office in said cause,

Sw Testimony Whereof I have hereunto
set my hand and affixed the seal

of said court at Naukegan in said
county this 16th day of April AD 1839
A B Cotes Clerk
By A B Cotes Deputy

184. Curtis M Rowley }
 m } Appeal from county court
A B Lodgett }
 Appellant }

Appellants Costs

1838
June Term Doctg suit 10, filg 1 pap 5 15
Entg attys app 10, entg ord for appeal 20 30
Takg bond filg 60 copy costs w. transcript to Sup Ct 37 pch sent 35, 4, 35
Cert & seal 35,
Judge fee Hon George Manierre 1,50 (pd by depts atty 1,50

Plaintiffs Costs

1838
June Term
Cotes Clerk Entg attys app 10, entg ms to dismiss 20 30
Entg judge 25, entg satw 15 makg senty 40
cost bill 30 30 1,0 0

State of Illinois }
Lake County } I Augustus B Cotes clerk of the circuit court
 in and for said county of Lake hereby certify
the foregoing to be a true copy of costs from my fee book
In Witness Whereof I have hereunto set my hand
and affixed the seal of said court this 1st day of
April AD 1839 A B Cotes, clerk
 pr A B Cotes deputy

Curtis M Rowley
vs
A. Blodgett

Record

13304
78

Filed Apr 22 1855
L. Island
Chs.

Judt \$344 17
Dys \$17,208 55
78

ps. p. Chs.

Swim