

14286

No. \_\_\_\_\_

# Supreme Court of Illinois

Pierce

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vs.

Wilcox

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71641  7

STATE OF ILLINOIS,  
SUPREME COURT,  
Third Grand Division.

No. 210

14286

*Pierce*  
*vs*

*Wilson*

State of Illinois 3<sup>d</sup> Grand Division  
Supreme Court April Term 1862  
Clement Pierce }  
vs } Error to Warren  
Nathaniel B. Wilcox }

I, Nathaniel B. Wilcox, the defendant in error in the above entitled suit do hereby enter my appearance herein & waive the service of a scire facias upon me, and I further confess the errors assigned and consent that the judgment of the Circuit Court may be reversed; and I further agree that the judgment may be rendered against me in favor of the plaintiff Clement Pierce upon the issue joined for the sum of one dollar damages in the Supreme Court with the like effect as if the judgment was reversed & the cause remanded to the Circuit Court and such judgment entered in said Circuit Court.

And I, the said Wilcox hereby agree to pay all the costs made by me in said cause both in the Circuit and Supreme Court and also to release & discharge the said Pierce from all liability to pay or refund to me the sum paid by me, of about \$165, for

keeping cattle taken by virtue of the writ of attachment herein, and I further agree to save and keep harmless the said Pierce his heirs, executors administrators from all liability upon the attachment bond or otherwise arising from the commencement of this suit.

This agreement is made in consideration of the stipulations hereinafter mentioned on the part of said Pierce.

And, I the said Clement Pierce, in consideration of the promises on the part of said Wilcox aforesaid, do hereby agree to pay all the costs made by me in both the Circuit & Supreme Courts, except the sum of about the sum of \$165 before named & to accept and take the sum of one dollar aforesaid to be recovered in full satisfaction of the indebtedness of said Wilcox existing before the commencement of this suit, this not to include any agreement or notes made at the same time of this stipulation.

And it is further agreed by the said parties that the money now in the hands of James McCoy as the proceeds of the sale of the property attached in this suit shall be used so far as necessary to the payment of the costs made by the said Wilcox, and ~~that~~ in it is further agreed that in consideration of the foregoing stipulation aforesaid that all property that was attached in this case or money now in the hands of James McCoy shall and may be applied to the payment of any costs made by said Pierce in this case after said Wilcox cost is settled according to the terms of this agreement and said court may make an order ~~for the same~~ ~~if any is to be paid to~~

Witness our hands this 25<sup>th</sup> day of February A.D. 1862.

Clement Pierce  
Nathaniel B. Wilcox

Agreement  
Nathaniel B. Wilcox

Agreement

Be it Remembered that on the 14<sup>th</sup> day of  
March A.D. 1856 there was filed in the office of the  
Clerk of the Circuit Court of Warren County  
Illinois, an affidavit which is in the words and  
figures following to wit.

State of Illinois }  
Warren County }  
Clement Pierce being

duly sworn deposes and says that Nathaniel  
B. Wilcox is justly indebted to the said Clem-  
ent Pierce in the sum of six hundred and  
fifty Dollars (\$650.00) the balance of an account  
due said Pierce for goods and Chattels sold  
and delivered to said Wilcox from the first  
of December A.D. 1854 to the first of January A.D. 1856

And that according to the best information and  
belief of this affiant said Wilcox is about to  
depart from this State, with the intention of having  
his effects removed from this State, wherefore this  
affiant prays that a writ of attachment may  
issue out of and under the seal of the Circuit  
Court in and for said County, directed to the  
Sheriff of said County commanding him to attach  
the lands, tenements, goods, Chattels, rights, credits  
& effects and moneys of said Wilcox, of every kind  
or so much thereof as will be sufficient to satisfy  
the claim above mentioned, with interest and  
Costs of suit, in whose hands or possession  
the same may be found. Clement Pierce.

(21)

Subscribed and Sworn to before me this  
14<sup>th</sup> day of March AD 1856.

W<sup>m</sup> Billings, Clerk.

Filed March 14 1856

Billings Clerk

Pleas before the Hon John S. Thompson Judge  
of the tenth Judicial Circuit of the State of  
Illinois, at a Circuit Court, began and held  
at the Court House in Monmouth, within and for  
the County of Warren, and State of Illinois, on  
the second Monday in the Month of April in the  
year of our Lord, One thousand Eight hundred  
and fifty six.

Present Hon John S. Thompson, Judge  
of the tenth Judicial Circuit of the State of Illinois

Hon A. M. Craig States Attorney

William Billings, Clerk.

James M<sup>o</sup> Coy. Sheriff.

Clement Pierce

vs

Attachment.

Nathaniel B. Willcox

And afterwards to wit on the  
15<sup>th</sup> day of April AD. 1856. the following order  
was entered upon the records of said Court, which  
is as follows to wit, This day came the defendant  
by his attorney and moves the Court to quash

the writ herein for reasons on file.

Copy of Plea in abatement,  
Nathaniel B. Wilcox  
vs  
Clement Pierce

Attachment

In the Warren County Circuit Court April Term AD 1856.

And the said defendant in his own proper person comes and says - That it is not true nor was it true at the time of making the original affidavit filed herein that he the said defendant was about to depart from this state with the intention of having his effects removed from this state as the same is stated and charged in the said original affidavit filed herein by the said plaintiff against the said defendant. Wherefore he prays judgement of the said affidavit and writ and that the same be quashed &c.

Davidson & Hite Atty for Deft.

N. B. Wilcox the defendant being first duly sworn says that the matters and things set forth and stated in the above and foregoing plea are true in substance and in fact.

N. B. Wilcox

Subscribed & sworn to before me this 22<sup>nd</sup> day of April AD 1856.

W Billings. Clerk.

Filed April 22, 1856. W<sup>m</sup> Billings Clerk.

(4)

Clement Pierce <sup>vs</sup> Attachment  
Nathaniel B. Wilson

And afterwards to wit on the 25<sup>th</sup> day of April A.D. 1856 the following order was entered upon the records of said Court, which is as follows, to wit: On motion of Plaintiffs Attorney it is ordered by the Court that he have leave to file an amended account herein.

And afterwards to wit on the 16<sup>th</sup> day of September A.D. 1856. being at a term of said Court, the following order was entered upon the records of said Court which is as follows to wit  
Clement Pierce <sup>vs</sup> Attachment. This day came the Plaintiff Nathaniel B. Wilson and filed his affidavit and moves the Court for a continuance, and for leave to amend his declaration, after being advised in the premises, it is ordered by the Court that the motions be allowed, that this cause be continued until the next term of this Court, and that leave be given to the Plaintiff have leave to amend his declaration at his Costs. Therefore it is considered that the defendant have and recover of the said plaintiff his Costs by him at this term of this expended and may have execution therefor.

2

State of Illinois J. Warren County Circuit  
Warren County 3 Court To November Term  
AD. 1856

Cement Piece by Paine & Griff  
ith his Atty<sup>s</sup>, complains of Nathaniel B. Miles,  
who has been attached to answer to an action of  
Trespass on the case upon promises. For that  
whereas the said defendant heretofore, to wit: on the  
fourteenth day of March AD 1856 at Warren County  
was indebted to the said plaintiff in the sum of  
Twelve hundred and fifty dollars for divers  
goods, wares, merchandize and Chattels by the said  
plaintiff before that time sold and delivered to  
the said defendant, and at his special instance  
and request, and being so indebted, see the said  
defendant, in consideration thereof afterwards, to  
wit, on the day and year aforesaid at Warren County  
aforesaid undertook and then and there faithfully  
promised the said plaintiff to pay him the said  
sum of money when he the said defendant  
should be thereunto afterwards requested,  
And whereas also, the said defendant afterwards  
to wit, on the day and year last aforesaid at  
Warren County aforesaid accounted with the said  
plaintiff of and concerning divers other sums  
of money from the said defendant to the said  
plaintiff before that time due and owing and  
then in arrears and unpaid, and upon such  
accounting, the said defendant was then and

(6)

found to be in arrears and indebted to the said plaintiff in the further sum of Twelve hundred and fifty dollars of like lawful money of the United States and being so found in arrears and indebted he the said defendant undertook and then and there faithfully promised the said plaintiff to pay him the said sum of money in this court mentioned when he the said defendant should be thereunto afterwards requested, And in Twelve hundred and fifty dollars for money then and there paid by the plaintiff for the use of the defendant at his request, And in Twelve hundred and fifty dollars for money then and there received by the defendant for the use of the plaintiff, And in Twelve hundred and fifty dollars for the price and value of work then and there done and materials for the same provided, by the plaintiff for the defendant at his request, Nevertheless the said defendant not regarding his said several promises and undertakings, but contriving and fraudulently intending craftily and subtly to deceive and defraud the said plaintiff in this behalf, hath not as yet paid the said several sums of money, or any or either of them, or any part thereof, to the plaintiff (although often requested so to do) but the said defendant to pay him the same hath hitherto wholly neglected

and refused, and still doth neglect and refuse, to the damage of the said plaintiff of Twelve hundred and fifty dollars and therefore he brings his suit &c.

Caine Griffith & Gandy

Atty for Pltff

(Copy of Acct sued upon)

State of Illinois

Warren County

Clement Pierce

vs

Nathaniel B. Wilcox

Appt.

Nathaniel B. Wilcox

Dr

To Clement Pierce

Dec 1854	To Seventy five shocks Corn, west side of the road 5 <sup>1</sup> / <sub>2</sub> per shock	\$37.50
	To pasture of stalks field	1.50
	" One Steer & Heifer	38.
	" One Yoke of Oxen	100.
March 1855	" 100 bushels oats 25 <sup>1</sup> / <sub>2</sub> per bu	25.
	" Three shocks Corn 56 per shock	1.68
	" Three ditto from orchard	1.68
	" 80 do near Mr Harmon	32.
	" 35 Bu Oats	6.25
	" 3 Shocks Corn from Griffin place	1.
	" 6 Bu seed Oats	1.50
	" 1 Load of Corn borrowed from Bennett farm 20 Bu .50 per Bu	10.
(7)	" Cash to Mr Osborn for deed	50

July 12 1855. To 6 Bu Corn to feed horses while harvesting 3.00  
 " 1/2 " Do Do Do .45  
 " 8 acres of Meadow @ per a 24.  
 " Loss of Oats by negligence of harvesting 40.  
 " rent of 16 acres of ground @ per a 32.  
 " 33 Bu seed Oats to sow same ~~unpaid~~ 8.25

1856

March 1 To 96 head strick hogs \$4. per head 384.00  
 " Rent of House as per agreement. 25.  
 To money paid for hauling 4 loads of Stone - which Wilcox agreed to haul 4.  
 To rent of 15 acres of ground as per Contract ~~unpaid~~ 30.

June 6/55

Delivered as agreed 144 Bu. @ per Bu 47.60  
 " " " 32 " " " 12.80  
 " 16 " " " 30 " " " 12.00  
 " 25 " " " 20 " " " 8.00  
 July 2/55 " " " 12 " " " 4.80

To food for 3 head of horses from 1<sup>st</sup> April 1855 to 1<sup>st</sup> July 1855 25.00  
 Damages for not delivering 96 head of hogs as per agreement 288.00  
 To failure in not delivering stone to build 96 ft of Wall as per agreement ~~40.00~~  
 To Sundries ~~4.00~~  
 Total \$1250.00

To Acct Stated	\$1.250 -
To Money paid	\$1.250 -
" Money had & received	1250 -
" Works & Materials	1250 -

Filed November 11<sup>th</sup> 1856.

Wm Billings Clerk.

And afterwards to wit on the 25<sup>th</sup> day of November A.D. 1856 the following order was entered upon the records of said court which is as follows. to wit:

Clement Pierce }  
 vs } Attachment.  
 Nathaniel B. Wilcox }

This day came the defendant, and enters his motion to quash the writ of attachment herein. The Court after hearing the argument of Counsel It is ordered that said motion be overruled, then came the plaintiff and enters his motion for a continuance herein, which motion is allowed, and this cause is continued until the next term of this Court, at the plaintiffs cost. It is therefore considered by the Court that the said defendant have and recover of and from the said plaintiff his costs of this term, laid out and expended and may have execution therefor.

State of Illinois, County of Warren  
 Clement Pierce } Circuit Court  
 vs } March Term A.D. 1857  
 N. B. Wilcox } Attachment

And the said plaintiff says the

To Acct Stated	\$1.250 -
To Money paid	\$1.250 -
" Money had & received	1250 -
" Works & Materials	1250 -

Filed November 11<sup>th</sup> 1856.

Wm Billings Clerk.

And afterwards to wit on the 25<sup>th</sup> day of November A.D. 1856 the following order was entered upon the records of said court which is as follows. to wit:

Clement Pierce }  
 vs } Attachment.  
 Nathaniel B. Wilcox }

This day came the defendant, and enters his motion to quash the writ of attachment herein. The Court after hearing the argument of Counsel It is ordered that said motion be overruled. Then came the plaintiff and enters his motion for a continuance herein, which motion is allowed, and this cause is continued until the next term of this Court, at the plaintiffs cost. It is therefore considered by the Court that the said defendant have and recover of and from the said plaintiff his costs of this term, laid out and expended and may have execution therefor.

State of Illinois, County of Warren  
 Clement Pierce } Circuit Court  
 vs } March Term A.D. 1857  
 N. B. Wilcox } Attachment

And the said plaintiff says the

£(10)

said writ and affidavit ought not to be quashed as prayed by the defendant in his said plea of abatement, because he says that the said defendant was at the time of making said affidavit and the suing out of said writ, about to depart from this state with the intent to remove his property from this state as alleged in his affidavit and that he prays may be enjoined of by the Country and that his he may recover his damages as in & by said declaration is prayed &c.

Paine & Griffith  
Plffs Attorneys

And the said deft likewise put himself on the Country

Davidson Harding & al  
Atty<sup>l</sup> for deft.

Filed March 17 1857.

W. Laferty CLK.

And afterwards: To wit on the 17<sup>th</sup> day of March A.D. 1857, being at a term of said Court, the following order was entered upon the records of said Court, which is as follows to wit,

Clement Pierce

vs

Nathaniel B. Wilson

} Attachment }

This day came the parties & their respective counsel and issue being joined the parties agree to suppress the deposition of

Jesse Talbott, thereupon it is ordered by the Court, that the deposition of Jesse Talbott be suppressed,

And afterwards to wit on the 19<sup>th</sup> day of March AD 1857 the following order was entered upon the records of said Court, which is as follows to wit.

Clement Pierce }  
vs } Attachment  
Nathaniel B. Wilcox }

This day came the parties and their respective counsel, and issue being joined for trial they put themselves upon the County, thereupon came a jury to wit, Avery Downer, John M. Butler, Thomas W. Beers, Nathan Carr Jr. John C. Butler, Maranmillian Jamison, Isaac W. E. Allen, J. W. Perdue, Wm Frymire Peter Brewer, Spencer Rynear & Alex Tailor who being elected tried & sworn, well & truly to try the issue joined herein and after hearing part of the evidence were by order of Court permitted to separate.

And afterwards to wit on the 20<sup>th</sup> day of March AD 1857 the following order was entered upon the records of said court which is as follows to wit.

Clement Pierce }  
vs } Attachment

(111) Nathaniel B. Wilcox } This day again this cause came

ing on for a hearing. And by agreement of parties herein Elijah Hanan was released as security on the attachment bond and new bond executed as a substitute, with William H. George as security in the same amount as the original bond, and was approved of by the Court. And the jury that was empannelled and sworn herein, on yesterday, came into Court, and after hearing the evidence and argument of Counsel, retired to consider of their verdict, and returned into Court, the following verdict: to wit, "We the jury find for the defendant, Thereupon came the plaintiff and enters his motion for a new trial herein.

And afterwards to wit of the 24<sup>th</sup> day of March A.D. 1857, the following order was entered upon the records of said Court, which is as follows: to wit:

Cement Process  
 vs Attachment.  
 Nathaniel B. Wilson

This day again this cause coming on for a hearing on the motion made for a new trial herein, which said motion was overruled by the Court. Thereupon came the plaintiff and prays an appeal to the Supreme Court, which is allowed by the Court, on the condition that he file a bond in the sum of twelve hundred dollars, with security to be approved by the Clerk of this Court, within thirty days from the date hereof. Bill of exceptions in sixty days

Know all men by these presents, that we Clement  
Pierce and George Caton of the County of Warren and  
State of Illinois, are held and firmly bound unto  
Nathaniel B. Wilcox in the penal sum of one hundred  
dollars, for the payment of which well and truly to be  
made, we, and each of us, bind ourselves, our heirs,  
executors and administrators, jointly and severally,  
and firmly by these presents, sealed with our seals, and  
dated at Warrmouth this 22<sup>nd</sup> day of April Anno Domini,  
one thousand eight hundred and fifty seven.

The Condition of the above obligation is such; that,  
whereas the said Nathaniel B. Wilcox did on the 20<sup>th</sup>  
day of March 1857, in the Circuit Court, within and  
for the County of Warren and State of Illinois, obtain  
a judgment against the above bounden Clement  
Pierce for the sum of four hundred & Eighty two Dollars  
and 17<sup>3/4</sup> Cents, Costs of suit, from which he the said  
Clement Pierce has prayed for and obtained an  
appeal to the Supreme Court of said State.

Now if the said Clement Pierce shall duly prosecute  
said appeal; and shall moreover pay the amount of  
the judgment, costs, interests and damages, rendered  
and to be rendered against him the said Clement  
Pierce in case the said judgment shall be affirmed  
in the said Supreme Court, then the above obligation to  
be null and void, otherwise to remain in full force  
and virtue

Approved by me the 22<sup>nd</sup> day of April. Clement Pierce  
AD 1857 Wm. Safety, Atk. George X Caton  
his mark

(14)

Filed April 22, 1857

W. Laferty Clerk.

Clement Pierce

vs

Nathaniel B. Hilcox

Be it remembered that on the trial of this cause on the issue formed on the plea in abatement, the Plaintiff on his part proved that in the month of March 1856 the defendant removed from a farm owned by the Plaintiff & situate in the township Eight North Twp. West in Warren County, that for some time previous thereto the defendant had been residing thereon as a tenant of the Plaintiff, that he proposed to remain another year & an agreement in writing to that effect was drawn up & signed by the Plaintiff but which the defendant declined to sign at the time; that the defendant sometime in February preceding, proposed to trade some cattle for horses & said that if he remained on the Plaintiffs place he would make the trade, but that he had some idea of removing to Iowa & if he did he would not sell his cattle & that the trade was never made. The Plaintiff further proved that the defendants son-in-law had moved to Iowa, & that the defendant had been over two or three times since his removal from Plaintiffs place, & worked for his son-in-law, but

did not remove there & was there only temporarily, that a part of his goods was removed in the daytime from the Puffs place, but the last load went away about 9 o'clock at night & that he removed with his goods about six miles in the same County where he leased a house & small piece of land till the next fall & stated to the man of whom he leased that he had some thoughts of going to Iowa, but would not go at any rate until fall; that he wished to stay in Warren County, liked the Country, and would stay if he could buy him some land. The Plaintiff further proved that at the time of the removal of debt from his place, he had on hands a lot of hogs & that the debt drove these hogs to Monmouth & sold them at the Depot to a hog buyer from Boston.

The defendant proved that plaintiff and he could not agree about the terms of lease for the next year, and that he declined to sign the new lease drawn up by plaintiff on that account, that he had rented a place for more than ten days before he removed; that he was two or three days in removing his goods & chattels; that he borrowed a neighbors wagon to help move; that he farmed the leased farm during the next season; and that he went to Iowa to help his son because he had no team sufficient to work much land at home, the plaintiff having taken it away in this suit. The defendant proved that his family had never been out of the County

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since his removal & that he had been in the County except when he went to his son-in-law, that at the time the attachment writ issued he was moving from plaintiff's farm to a farm four miles off which he had leased for the succeeding year: that the plaintiff had notified him to leave plaintiff's farm before he left: that he moved all his property from plaintiff's farm to his new place, that he removed the said hogs there, and that he did not sell them for more than two weeks after the attachment issued: that the plaintiff saw him in the evening moving and told the Constable, who served the attachment that there was no hurry about serving it, until the next morning: that plaintiff said after the writ had issued that he did not believe that defendant ever intended to leave the State: that the plaintiff had been imposed upon by the stories of some of his lying neighbors about the defendant and was sorry he had issued it.

The Plaintiff offered & read in evidence a contract in writing between the parties which reads as follows, to-wit,

Contract.

(18)

The Plaintiff proved of his account, three hundred dollars against the defendant which was all the evidence offered by both parties. And he it remembered that the Plaintiff asked the following instructions which were given, to wit,

1

If the jury believe from the evidence that the defendant was about to leave this state with the intention of removing his effects from this state at the time of the making of the affidavit, then they will find for the Plaintiff on the issue on the plea in abatement, and assess the sum due the Plaintiff and return the same in their verdict.

2

Although the jury should believe from the evidence that the defendant intended to leave his family in this state, and made arrangements for their residence, yet if they also believe from the evidence that the defendant himself at the time of suing out the writ in this case, was about to leave the state with the intention of removing from the state his effects, they will find for the Plaintiff.

And also asked on his part the following instructions which were refused, to wit,

3

It is not necessary that the defendant should intend to leave the state immediately or within any limited time, in order for them to find

that he was about to leave.

4  
Although the jury should believe from the evidence that the defendant intended to remain in the state himself & keep his family here, yet if they further believe he was about to remove his property from the state they will find for the Plaintiff.

5  
If the jury believe from the evidence that the defendant was about to remove his property from the state to the injury of the Plaintiff then they will find for the Plaintiff.

To the decision of the Court in refusing said instructions the Plff then & there excepted. And the Court gave the following instructions on the part of the defendant, to wit.

General.  
The jury in judging of the intention of Wilson in being about to depart from the state of Illinois with the intention of removing his effects from this state, must take into consideration all the circumstances and acts of Wilson about the time of the serving out said writ together as shown by the evidence.

General.  
Unless the jury believe from the evidence that the defendant, at the time of serving out the attachment was about to depart the state, without the intention of removing his effects from this state, the jury will find for the defendant.

(20)

Given

Unless the Jury believe from the evidence that the defendant, at the time of suing out the attachment was about to depart the state, with the intention of removing his effects from the state, or by his fraudulent conduct, caused the plaintiff to believe that he so intended, the Jury will find for the defendant.

To the granting of which the Pff. then & there excepted. And upon the return of the verdict the Plaintiff moved for a new trial & assigned in support thereof the following reasons, to-wit,

- 1<sup>st</sup> " The Verdict is against the evidence
- 2<sup>nd</sup> " The Court refused to grant proper Instructions as prayed by Pff.
- 3<sup>rd</sup> " The Court gave improper instructions in behalf of Deft.
- 4<sup>th</sup> " By the law & evidence the verdict should have been for Pff.

But the Court overruled the motion to which decision the Plaintiff then & there excepted. And forasmuch as the said facts do not appear of record the said Plaintiff prays that this his Bill of exceptions be signed and sealed by the Court & made a part of the record which is accordingly done.

John S. Thompson (Seal)

Filed May 23<sup>rd</sup> 1857, at 5 P.M.

Wm Laferty CLK  
By L. O. Courtillot Deputy.

Pleas before the Honorable John. S. Thompson  
Judge of the tenth Judicial Circuit in and for  
the County of Warren and State of Illinois,  
At a Circuit Court began and held at the  
Court House in Monmouth Warren County Illinois  
on the Third Monday in the month of September  
in the year of our Lord one thousand eight  
hundred and fifty eight. It being the twentieth  
day of said Month.

Present Honorable John. S. Thompson Judge  
James H. Stewart States Attorney.  
William Laferty Clerk.  
Charles M. Mills Sheriff.

And afterwards, to wit, on the 2<sup>nd</sup> day of October  
AD 1858, the following order was entered upon the  
records of said Court which is as follows to wit,  
Ancient Pleas

vs

Attachment

Nathanial B. Wilcox

This day came the defendant by  
his attorney and moves the Court for leave to  
re-docket this Cause, and for judgment on the  
verdict of the Jury rendered herein heretofore at  
a former term of this Court, thereupon it is ordered  
by the Court that the motion be allowed.  
Therefore it is considered by the Court that the  
defendant have and recover of the said plaintiff  
his costs by him in this suit expended and

(22)

may have execution therefor, Thereupon came the plaintiff by his attorney and moves the Court to set aside the Judgment rendered herein for the want of notice to the plaintiff Whereupon it is ordered by the Court that the motion be overruled, to which overruling by the Court the said plaintiff excepted. Bill of exceptions to be filed during the present term of this court

State of Illinois, County of Warren  
Clement Price vs Nathaniel P. Wilson  
Circuit Court  
Sept Term 1858.

Be it remembered that the defendant appeared & entered his motion to re-instate this cause on the docket & for judgment on the verdict of the jury rendered herein at a former term of this Court, and the Court sustained the motion & rendered judgment thereon.

And thereupon the said Plaintiff appeared by his attorney & moved to set aside the order aforesaid because no notice was given to the Plaintiff & because there was no right to entertain said motion, but the Court overruled the motion to which decision the Plaintiff then & there excepted.

And because said

facts do not appear of record the Plaintiff  
swears that this his Bill of exceptions be  
signed, & sealed & made part of the record,  
which it accordingly.

John. S. Thompson Clerk

Filed Oct 2 1858

Wm. Laferty, CLK.

At a Supreme Court, begun and held at  
Ottawa, on Tuesday, the nineteenth day of April,  
in the year of our Lord one thousand eight  
hundred and fifty nine within and for the  
Third Grand Division of the State of Illinois.

Present, the Honorable John. D. Caton. Chief Justice

" " " Sidney Bress Associate Justice

" " " Pinckney H. Walker Associate Justice

Wednesday April 20<sup>th</sup> 1859

Acuent Pires

vs

Nathanial B. Wilson

Appeal from Warren.

On this day came the said  
appellant by Mead his counsel and moved the  
Court that the judgment of the Circuit Court in this  
behalf rendered be reversed and that the  
Cause be remanded because the said Appellee  
has failed to join in error in compliance with  
the ruling of the Court herein, which said motion is  
sustained by the Court, and it is ordered by  
the Court that the judgment of the Circuit Court  
in this behalf rendered be reversed, annulled

(27)

set aside and wholly for nothing esteemed,  
and that this cause be remanded to the  
Circuit Court for such other and further  
proceedings as unto law and justice shall  
appertain. And it is further considered by the  
Court that the said appellant recover of and  
from the said appellee his costs by him in this  
behalf expended, and that he have execution  
therefor. J. Lorenzo Leland, Clerk of the Supreme  
Court of the State of Illinois, do hereby Certify, that  
the foregoing is a true copy of the final order of  
the said Supreme Court in the above entitled  
Cause, of record in my office: In testimony  
whereof, I have set my hand and affixed the  
seal of the said Supreme Court, at Ottawa,  
this eleventh day of April in the year of our  
Lord one thousand eight hundred and sixty

L. Leland

(Seal)

Clerk of the Supreme Court  
by J. B. Rice Deputy.

Filed April 14 1860.

W. Laferty. Ck.

State of Illinois  
 Warren County } Pleas before the Honorable  
 Aaron Tyler Judge of the Tenth Judicial Circuit,  
 of the State of Illinois, At a Circuit Court begun  
 and held at the Court House in Mazon in the said  
 County of Warren and State of Illinois on the  
 Fourth Monday in the Month of October in the  
 year of our Lord One thousand eight hundred  
 and sixty. It being the 22<sup>nd</sup> day of said Month  
 and year.

Present

Now Aaron Tyler Judge  
 James H. Stewart State Attorney  
 Seth Smith Sheriff  
 Wm. Laferty Clerk.

And afterwards to wit, On the 1<sup>st</sup> day of Novem-  
 ber AD 1860. the following order was entered upon  
 the records of said Court, which is as follows  
 to wit,

Alonzo Pires

vs

Attachment.

Nathanil Wilson

This day came the Plaintiff and  
 files his affidavit and on his motion it is ordered  
 by the Court that this suit be continued until  
 the next term of this Court at the Plaintiff Cost.  
 Therefore it is considered by the Court that the  
 said defendant have and recover of and from  
 the said Plaintiff his costs by him at this term  
 of this Court laid out and expended and may

(26)

have execution therefor,  
State of Illinois }  
Warren County }  
}

Please before the Honorable Aaron  
Tyler Judge of the Tenth Judicial Circuit of the  
State of Illinois, at a Circuit Court begun and  
held at the Court House in Monmouth in the  
said County of Warren and State of Illinois on  
the third Monday in the Month of March in the  
year of our Lord one thousand eight hundred  
and sixty one, It being the 18<sup>th</sup> day of said Month  
and year.

Present Hon Aaron Tyler Judge  
James Stewart States Attorney  
David Turnbull Sheriff  
Wm Laferty Clerk

And afterwards to wit on the 8<sup>th</sup> day of April  
AD 1861 the following order was entered upon the  
records of said Court which is as follows,  
to wit,

Levent Pierce }  
vs }  
Nathaniel B. Wilcox }

Attachment.

This day came the defendant by  
his attorney and on his motion leave is given  
him to amend his 4<sup>th</sup> plea therein, and leave  
is given the said Plaintiff to amend his  
reply thereto. Thereupon the said Plaintiff enters his  
demurrer to the defendants 6<sup>th</sup> plea.

Correct

This day came the Plaintiff by his attorney and enters his motion for leave to withdraw the security on the Attachment bond and substitute other security in the place thereof. And afterwards to wit on the 6<sup>th</sup> day of April AD 1861 the following order was entered upon the records of said Court which is as follows to wit

Clement Pierce }  
vs } Attachment  
Nathaniel B. Wilcox }

This day again this cause coming on to a hearing of the Plaintiff motion to release the security herein on the attachment bond and give other security, After hearing the same it is ordered by the Court that the motion be allowed upon the said Plaintiff giving other good security on the attachment bond.

And afterwards to wit on the 10<sup>th</sup> day of April AD 1861 the following order was entered upon the records of said Court which is as follows to wit

Clement Pierce }  
vs } Attachment  
Nathaniel B. Wilcox }

This day came the Plaintiff by his Attorney and enters his motion for leave to amend his affidavit herein. Thereupon came the defendant by his Attorney and enters his Cross motion to

(28)

Strike this case from the docket,

And afterwards to wit

on the 12<sup>th</sup> day of April AD 1861 the following order was entered upon the records of said Court which is as follows, to wit,

Cement Pierce	}	
vs	}	Attachment
Nathanil B. Wilcox	}	

Ordered by the Court that this Cause be continued with the motion until the next term of this Court.

State of Illinois }  
 Warren County }  
 Please before the Honorable Charles B. Lawrence, Judge of the tenth Judicial Circuit of the State of Illinois, At a Circuit Court began and held at the Court House in the City of Mazon in Warren County and State of Illinois on the Fourth Monday in the month of October in the year of Our Lord One thousand eight hundred and sixty one, It being the twenty eighth day of said month.

Present: Hon Charles B. Lawrence Judge  
 James H. Stewart States Attorney  
 David Turnbull Sheriff  
 Wm Laferty Clerk.



(30)

Present the Honorable John D. Cator, Chief Justice  
" " " Sidney Brewster Associate Justice  
" " " Pinckney Walker Associate Justice  
Wednesday April 20 1859.

August Piser  
vs  
Nathaniel B. Wilcox  
Appeal from Warren.

On this day came the said appellant by Mead his counsel and moved the Court that the judgment of the Circuit Court in this behalf rendered be reversed and that the cause be remanded because the said Appellee has failed to join in error in compliance with the ruling of the Court herein, which said motion is sustained by the Court, and it is ordered by the Court that the judgment of the Circuit Court in this behalf rendered, be reversed annulled set aside and wholly for nothing esteemed, and that this cause be remanded to the Circuit Court for such other and further proceedings as unto law and justice shall appertain. And it is further considered by the Court that the said Appellant recover of and from the said Appellee his costs by him in this behalf expended, and that he have execution therefor. J. Lorenzo Leland, Clerk of the Supreme Court of the State of Illinois. Do hereby certify that the foregoing is a true copy of the final

order of the said Supreme Court, in the above  
entitled cause, of record in my office.

In testimony whereof, I have set my hand  
and affixed the seal of the said Supreme  
Court, at Ottawa, this eleventh day of April  
in the year of our Lord, one thousand eight  
hundred and sixty.

L. Leland  
Clerk of the Supreme Court.  
by J. B. Rice Deputy.  
Filed April 14<sup>th</sup> 1860


W. Laferty Clerk  
Which was filed in this cause on the 14<sup>th</sup>  
day of April 1860, and that was all the  
evidence except the record of the proceedings  
shown by the records of this Court heretofore  
entered in this cause which were also offered  
& read in evidence on part of defendant, and  
the Court being sufficiently advised in the  
matter, sustained the defendants motion &  
ordered the case to be stricken from the  
docket, to which decision the plaintiff  
excepted & still excepts. And the plaintiff  
prays that this his Bill of Exceptions be  
signed & sealed & made a part of the record  
which is done.

C. B. Lawrence (Seal).  
Filed Nov 14<sup>th</sup> 1861.  
W. Laferty, Clk.

(32)

State of Illinois  
Hann County

I Mr. Laferty Clerk of the  
Circuit Court in and for said County do  
hereby Certify that the foregoing is a true copy  
of the record and proceedings in the foregoing  
case as the same appears from the files and  
records of my office



In testimony whereof I have hereunto  
set my hand and affixed the seal of our  
said Circuit Court at my office in  
Moundville this 17<sup>th</sup> day of January  
AD 1862

Mr. Laferty Clerk

State of Illinois; Third Division  
Supreme Court April Term 1852

Clement Pierce

Nathaniel B. Wilcox

vs  
Error to Warren Circuit Court

And the said Clement Pierce Plaintiff in Error comes by his attorney and says that manifest error hath intervened in the proceedings whereof the foregoing is a record; and he assigns the following errors.

1. The Circuit Court erred in refusing to grant a new trial.
2. The Court erred in re-docketing said cause, and rendering judgment upon the verdict on the 2<sup>d</sup> October 1858.
3. The Court erred in refusing to set aside the said judgment.
4. The Court erred in striking said cause from the docket.

Wherefore he prays as

W. C. Gandy  
att'y for P<sup>t</sup> in Error

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L. Pierce

vs

A. B. Wilcox

Record

Filed April 22, 1862

L. Leland

Clerk

Fee \$6.50

Paid by Puff