

14570

No. _____

Supreme Court of Illinois

Daniel Seagrav^{E5}

vs.

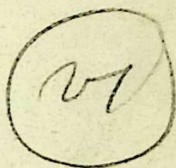
City of Alton

Scagavy.

v2.

City of Hlton

No number



State of Illinois
Supreme Court December Term 1850
Daniel Sagaray

vs
The City of Alton
Error to Madison County

I Seth T. Sawyer hereby enter
myself as security for all costs
that may accrue to the officers of the
Supreme Court or the opposite party
in the above entitled cause and obli-
gate myself to pay or cause to be paid
the same in full or under of the laws
of this State. Dated this 4th day of Decem-
ber A.D. 1850. Seth T. Sawyer

The Clerk of the Supreme Court
will please issue a return
in Error directed to the Sheriff of the
County of Madison State of Illinois
according to law returnable to Springfield
at the next Term of Supreme Court to be held
me

I am very truly

Seth T. Sawyer
Atty for Df

Alton. Dec 4th 1850

Wol. Mr. B. Warner

Dear Sir

Herewith please find
a Record in case of Scagraves vs
City of Alton from Madison by an
agreement made in the Record the
case goes to Springfield.

I have executed a bond for costs
if it is not sufficient I will have it
corrected when I come up

Please give the summons
& forward to me at this place at your
earliest moment. Also inform me
as to its number by the Decket. &c

I am truly yours &c
John F. Sawyer

State of Illinois
Madison County } ss.

Please of Record in the Circuit
Court of Madison County State of
Illinois before the Honorable William H. Woodward
Judge said Court. Be it remembered that
on the eighth day of February 1849 a paper
was filed as follows, to wit,

"State of Illinois
Madison County vs. Madison Circuit Court
March Term A.D. 1849

David Seagraves
vs. } Trespas on the Case on
City of Alton } promises Damages \$350.00

The Clerk of the said Court will
please give a Summons in the above
entitled suit returnable at the said Term
of said Court, directed to the Sheriff of Mad-
ison County and oblige me
Alton February 6th 1849. I am very respectfully
Yours Sth^d & Large

William Tyler Brown Esq. City of Alton
Clerk Cir. Court

And afterwards on the eighth day of Feb-
ruary 1849 there was filed a Summons
in words and figures as follows to wit

"State of Illinois
Madison County } ss. The People of the State of
Illinois

To the Sheriff of Madison County Greeting
We command you, that you Summon
The City of Alton to appear before the
(over)

Circuit Court of Madison County on the first
day of the next Term to be holden at the Court
house in Edwardsville, on the Third Monday
in the month of March A.D. 1849 to answer
unto Daniel Leagues of a plea Pesspass
on the case on promises to his Damage Three
Hundred And Fifty Dollars, as he says.
And have you then and there this writ.

Witness My Seal Brown, Clerk of
said Circuit Court and the seal
thereof at Edwardsville this 8th
day of February in the year of our
Lord One Thousand eight Hundred
and Forty Nine Wm. T. Brown Clerk

Afterwards on the sixteenth day of March
1849 the said Summons was returned by
Andrew Miller Sheriff of Madison County
affidavit to the Clerk of said Court with his
return thereon endorsed as follows

"I have duly executed this by reading
the same to R. Ferguson Mayor of said
City and John W. Calvin Clerk of said
City February 18th 1849 A Miller Sheriff
U.C.

"Sheriff for Serving \$0.50

"Postage 87c

"Return 12c \$1.50"

By C. L. Murray
Deputy

And afterwards on the Sixth day of March
1849 affidavit of the Plaintiff filed his Declara-
tion as follows, to wit.

"State of Illinois
Madison County ss Of the March Term of the
Madison Circuit Court in the year of our
Lord 1849

The City of Alton was Summoned to answer
Daniel Seagraves of a Plea of Trespass on the
Case on Promises. And thereupon the said
Daniel Seagraves by Seth S. Sanger his attorney
comes and complains of the City of Alton
For that whereas heretofore, to wit, on the first
day of February, in the year of our Lord 1849 at
the City of Alton in the County of Madison and
State of Illinois, the City of Alton was indebted
to the said Daniel Seagraves in the sum of Three
Hundred and fifty Dollars of lawful money of
the United States for the board, meat, drink, lodging, wash-
ing, clothing, & nursing, and other necessities fur-
nished by the said Daniel Seagraves to and for
one Burrell Reeves for a long space of time
to wit, for the space of Eighty Six weeks and at
the special instance and request of the
said City of Alton, and being so indebted to
the said Daniel Seagraves the said City of
Alton, afterwards, to wit, on the day and year
aforesaid at the City of Alton aforesaid in
consideration thereof undertook and
faithfully promised the said Daniel Seagraves
to pay him the said sum of money when the
said City of Alton should be thereunto afterwards
requested. And the said Daniel Seagraves
avows that the said Burrell Reeves ~~was~~ on
the first day of July 1847 and from that
day to the said first day of February 1849
was a pauper living and residing in the City
of Alton aforesaid and that he the said Burrell
Reeves had lived and resided in the City of Alton
for a long period of time before the said first
day of July 1847, to wit, for the period of five years

next before the said first day of July 1847

And whereas also afterwards, to wit, on the first day of February in the year 1847 aforesaid at the City of Alton in the County of Madison aforesaid in consideration that the said Daniel Scagraves at the special instance and request of the City of Alton aforesaid had before that time furnished and provided meat, drink, bedding, clothing, and nursing for one Burrill Reeves, for a long space of time before that time, to wit, for the space of Eighty six weeks, the said Burrill Reeves then and there being a pauper in the City of Alton aforesaid during the whole of said time, and along time before, to wit, for the space of Two years and being so indebted to the said Daniel Scagraves, the said City of Alton, to wit on the day and year aforesaid at the City of Alton aforesaid in consideration thereof undertook and then & there faithfully promised the said Daniel Scagraves to pay him so much money as he then & there reasonably deserved to have therefor; and the said Daniel Scagraves avers, that he reasonably deserved to have of & from the said City of Alton the further sum of Three ~~Dollars~~ and fifty cents per week for each and every week he so furnished & provided the said Burrill Reeves as aforesaid, whereof the said City of Alton afterwards, to wit, on the day & year last aforesaid had notice.

And also, for that whereas heretofore to wit, on the first day of July in the year of our Lord 1847 and from that day hitherto one Burrill Reeves was a pauper in the City of Alton and had been a resident of said City of Alton for a long space of time before

that day, to wit for the space of years, And
being wholly unable to support or provide for himself,
And being such a pauper was a proper charge
upon the said City of Alton for his support and
Subsistence clothing and Medical Attendance
and of all which the said City of Alton after-
wards, to wit, on the day and year aforesaid had
notice, And whereas the said Daniel Scagaves
from the said first day of July in the year 1847 afo-
-said to the first day of February 1849 had furnished
him the said ~~Bornell~~ ~~Ever~~ with meat,
drink, lodging, washing, clothing, nursing, and Med-
-ical Attendance during the whole of said time & at
the special instance and request of the said City of
Alton, and in consideration of the Diseases the said
City of Alton afterwards, to wit, on the first day of Feb-
-ary 1849 aforesaid at the City of Alton aforesaid under-
-took and faithfully promised the said Daniel Scagaves
to pay him ~~such~~ ~~sum~~ of Money as he seasonably
deserved to have of & from the said City of Alton as
aforesaid for the same. And the said Daniel
Scagaves averrath reasonably deserved to have
of & from the said City of Alton the sum of
Three Hundred and fifty dollars of like
lawful money and of which the said City of
Alton had notice, to wit, on the day & years aforesaid
when of the said City of Alton afterwards, to wit, on the
day & year last aforesaid had notice

Nevertheless the said City of Alton not regarding
its several promises & undertakings hath not
as yet paid the said Daniel Scagaves the said
Several Sums of Money or any or either of them
or any part thereof (although often requested to do)

(over)

But ~~the~~ said City of Alton to pay him
the said Daniel Scagraves, hath hitherto
wholly neglected and refused and
still doth neglect and refuse, To the
Damage of the said Daniel Scagraves
of the sum of Three Hundred and Fifty
Dollars and therefore he brings his
Suit to

Seth S. Sawyer
Atty. for Plff.

And afterwards to wit on the Twenty first
day of March 1849 the said City of Alton
by Billings & Parsons its Attorney filed its
Demurrer to the said Declaration as follows
to wit

"The City of Alton

ad

And the said Defendant
Daniel Scagraves, ~~is~~ ^{is} by Billings and
Parsons its Attorney comes and defends the
wrong and injury where to and says, that the
said Declaration and the matters therein
are not ^{good and} sufficient in law for the said
Plaintiff to have or maintain his aforesaid
action against the said Defendant and that
he the said Defendant is not bound in law
to answer the same and this he is ready
to verify, wherefore by reason of such insuffi-
ciency in this behalf the said Defendant
prays judgment and that the said Plaintiff may
be barred from having or maintaining his
aforesaid action therefor against him &c

Verdict in Demurrer

Billings & Parsons
Seth S. Sawyer for Plff. Atty. for Def.

And afterwards on the Twenty second day of
March 1849 the following order of said Court
was made of Record, to wit,

" Daniel Seagraves
" as } Assumpsit
" City of Alton

" At this time comes Defendant
" by their attorney and file a demurrer to the Plain-
" tiffs Declaration. And the Court after hearing
" the argument of counsel on the same
" and being sufficiently advised of and con-
" sidering the premises considers that the same
" be overruled.

And afterwards on the Twenty eighth day
of March 1849 aforesaid the said Defendant
filed their plea of general issue as follows to
wit,

" State of Illinois
" Madison County } ss Madison County Circuit
" Court of March Term of A.D. 1849.

" Daniel Seagraves
" vs. } Plea of Non Assumpsit
" The City of Alton And the said Defendants
" Defendant in this suit by Billings & Parsons
" their Attorneys come and defend the wrong and
" injury, when so, and say that they did not under-
" take and promise in manner and form as
" the said Plaintiff in this suit has above
" thereof declared against the said Defend-
" ant and of this they put themselves upon
" the Country, And the said Plaintiff likewise
" do Billings & Parsons
" Seth P. Sawyer for Plaintiff Attorney for Defendants

And afterwards on the Twenty-eighth day of March 1849 aforesaid was entered of Record the following to wit,

"Daniel Leagraves

vs

City of Attow

} Assumpsit

At this day came the parties by their attorneys and being ready for trial there came a jury, to wit, Daniel McKittenger, John L. Whaling, Harry Spaulding, Samuel Brown, Samuel Lybels, Henry D. Good, Albert H. Goodman, Benjamin L. Dorsey, George V. Cochran, James Maher, John J. Parker, and Charles Sebastian, twelve good and lawful men, who being elected, tried, and sworn, well and truly to try the issues joined between the parties after hearing the Evidence and the arguments of counsel upon their oaths say "We the jury find the issue for the Defendants". Whereupon the Plaintiff by his Attorney moves the Court for a new trial and the Court being ~~advised~~ advised in regard to said motion overrules the same. It is therefore considered by the Court that the Defendants, recover of & from the Plaintiff their proper costs in this behalf expended and have execution &c. By agreement to wit of Error if Prosecuted to go to Springfield.

Afterwards on the day and year aforesaid was filed in said Court the following Bill of Exceptions to wit,

"Leagraves

vs

City of Attow

} Be it remembered that on the trial of this suit the Plaintiff requested the Court to instruct the jury as follows, to wit,

1st That if the jury believe from the evidence that Burnell Reeves was resident of the City of Alton on the day of July 1837 the day of the passage of the City Charter & that he has resided therein from that day to the 1st of February 1849 and that during that time or any portion thereof he has become a pauper (that is a person unable to support himself) and that he had no Father, Mother, Child or Children, Grand Child or Grand Children, Brother or Brothers, Sister or Sisters of sufficient ability (Sister or Sisters (ever married) to support him, and that he was brought to the house of the Plaintiff for support. And that he gave notice thereof to the Common Council of the City of Alton and requested them to provide for such Pauper, and that the said Common Council neglected or refused to provide the necessary support for him, and that the Plaintiff provided the same, and it was necessary for said Pauper, they are bound to find for the Plaintiff what he reasonably deserved to have for such support.

2^d That if the jury believe from the evidence that the said Reeves was a poor person residing in the City of Alton, and that he had become unable to support himself from bodily afflictions, and that he had none of the persons described in the Statute who are required to maintain their poor kin, and that the said Reeves was brought to the house of the Plaintiff wholly destitute, and that he notified the Common Council of the City of Alton of that fact, and requested the same to furnish him with

(Over)

the necessary support, and that the said City by
her agents did supply the said Reeves for any len-
-gth of time as such pauper, and that afterwards
the said Common Council of the said City know-
-ing of the destitution and inability of the said Reeves
to support himself neglected and refused to
provide for him, and that the Plaintiff furnished
such necessary support as his condition re-
-quired, they are bound to find for the Plain-
-tiff and assess his damages to such sum
as the support was reasonably worth so
furnished by him.

3^d That if the jury believe from the Evidence
that the Plaintiff furnished meat, drink, and sui-
-ment for the said Burrill Reeves such as his
necessities required, and that he was a pauper
(that is a person without property or ability to sup-
-port himself) after having notified the Common
Council of the City of Alton of his situation and
requested the same to provide for him a support
and their refusal or neglect to provide the same
for him, they must find for the Plaintiff such
reasonable sum as his meat drink and
clothing was reasonably worth

4th That if the jury believe from the
Evidence that the Common Council has
neglected to provide by ordinance or
otherwise for the support of the pauper
in the City of Alton, and that the said Bur-
rill Reeves is a person who is unable to
support himself from bodily infirmity

and that the Common Council of the said City was notified of that fact and neglected to provide for him such necessary support and that the Plaintiff furnished the same for him that they are bound to find for the Plaintiff such reasonable sum as the support so furnished was reasonably worth

John T. Sawyer
for P^t

Which Instructions the Court refused to give. To the opinions of the Court in refusing to give the said several Instructions so asked for by the said Plaintiff, the said Plaintiff excepts and tenders his several bills of Exception to the said several opinions of the Court here and prays that the same may be signed & sealed by the Court now here and may be made a part of the Record. All which is accordingly done.

And Be it further remembered that on the trial aforesaid the said Defendants asked of the Court to instruct the jury as follows, to-wit,

1st That unless the jury believe from the evidence that Burrill Reeves was a pauper and that the defendant or its authorized agents made a special contract with the Plaintiff to support or render service to him (the said Burrill Reeves) they must find for the defendant

2^d That if the jury believe from the evidence that any members of the Pauper Committee of the City of Alton gave money to the Plaintiff merely

as a gift for taking care of Bunch Rivers
it is no evidence of a contract, and the
fact of the City paying them back the
money is not sufficient evidence of a
special contract for his support.

3^d That unless the Plaintiff has proved
that the proper officers of the City of Alton
requested the Plaintiff to render the services
for which he has sued them the jury should
find for the Defendant.

4th That if the jury believe from the
evidence that the Plaintiff rendered the
services mentioned in the declaration at the
express request of the proper officers of the
City of Alton then they must find for the
Plaintiff which said several Instructions so asked
for by the said Defendant the said Court gave
to the jury as the law, to the giving of the said
four several Instructions so asked for by the
Defendant, the said Plaintiff excepts and says
that this his said Bill of Exceptions to the said
several opinions of the Court in the giving
of the several Instructions aforesaid may be
signed sealed and made a part of the record
in this suit. All which done accordingly

W. H. Woodward (Seal)

And afterward, to wit, on the Twenty Ninth day
of March 1849 aforesaid the following Bill of Exceptions
was filed, to wit,

Daniel Seagraves
of City of Alton } Be it remembered that on
the trial of this cause
the Plaintiff called upon William Haydon who
testified that he was one of the Common Council
of the City of Alton in 1845 & 1846 & from that
time to the present, that he was Chairman
of the Pauper Committee in said City in 1845
& 1846 who provide for the pauper, that during
that time Dr. Hask, who was City Physician
informed him of Brunell Reeves being at the house
of the Plaintiff in a destitute condition, and that
he as such committee afterwards paid to the
Plaintiff the sum of One Dollar and Seventy five
cents a week for some six or twelve months the
exact time not recollecting, that he did not visit
the said Reeves nor did he know him, that there
was no express bargain made for the payment of
said sum, that subsequently he quit paying the
Plaintiff and told plaintiff they would not bestow
any further assistance that he was not on the
Pauper Committee for the years 1846 & 1847 & 1848
& 1848 that in September 1848 he was appointed in
conjunction with Thos. Plowdridge as pauper
Committee. That applications were frequently
made by Plaintiff to him & to the Common Coun-
cil for Relief for said Reeves and that it had been
refused, he is still on said Committee.

Robert Ferguson testified that in 1847 & 1848 he
was on the Pauper Committee of the Common Council
that during the months of May, June, & July he per-
mitted to the Plaintiff the sum of ten dollars in
sums of one or two dollars at a time towards the

support of the said Reeves, but that at the
times he gave them as donations not as
due for his support. That the Plaintiff mar-
ried a sister of Reeves That he never made
any contract with Plaintiff for his support
nor would he do so for he thought him able
to support himself & not a pauper.

That Plaintiff requested him to furnish
relief for him that he is now Mayor of the
City of Alton. That at the time he furnished
the said Money to the Plaintiff he did not
know whether the City would refund him or not
but they had done so. The said Burnell Reeves
is about 45 years old & worked for Leagues
the Plaintiff at the time of the last payments
by him he told Plaintiff he would not pay him
any more, but told him to apply to the Com-
mon Council, he did so apply & the Common
Council referred him to the Pauper Com-
mittee. The matter was brought before the
Common Council one or twice.

John M. Calvin testified that he was Clerk
of the Common Council, that on January
12 1844 a petition was presented to the Common
Council ~~for relief~~ for Burnell Reeves that
the Council passed a resolution refer-
ring the matter to the Pauper Committee.
He knows of no ordinance or resolution
defining the duties of the Pauper Committee.

George Armstrong testified that he had
known Burnell Reeves for 6 or 7 years or
longer, that he had no property that he was
not capable of taking care of himself.

He has felt at uncertain times I of course
mind & is getting worse he has two or three chil-
-dren, thinks two boys and a girl the oldest
boy 12 or 13 ^{or 14} years old they are bound to
Starr or some one. Reever has been
taken care of by Plaintiff ever since he
lived then ordinary board & lodging worth
\$2.00 per week. Witness lives within about
one hundred feet of the Plaintiff and sees Reever
every day & has done so since he has lived at
Plaintiff's. Has seen him ~~cut timber~~ cutting
wood or carrying water but is able to do but
little

John Hagraves testified that the
said Reever is now living with him & has been
for five weeks past. He has known him
since 1833 he has felt then as factor & rights
has been ready ever since. he has known
him and is getting worse that his work is not
worth anything. That it is worth three dollars
a week to take care of him. Reever & he has lived
with Plaintiff for the past five or six years
& he has taken care of him. His very dif-
ficult to take care of and that Reever has
none of the persons mentioned in the Statute
as required to take care of him as a pauper
in the State of Illinois if at all

Franklin Winsock testified that he had
known the said Reever five years, thinks
him not able to take care of himself
That during the past winter was at work
for Plaintiff & Reever was taken out with
them but it was so much trouble to take

care of him that he had to be taken back to the house to keep him from ~~feeling~~ ^{being} hurt or killed and it was more work to get any thing of him than it was worth.

Isaac Seagraves testified that he had known Reeves for the last 14 years has kind fits ever since at times has several in a night ~~has~~ heard Plaintiff once or twice talk with the Hon. Haydon of the Pauper Committee concerning him some two or three years since also heard him talk with Woodridge during the last winter and request him to take care of him for would not take care of him for less than five dollars per week mitup is son of the Plaintiff. Reeves is very troublesome at times.

Middletown testified that he had known Reeves for the past year & that he is insane & not capable of taking care of himself, thinks him a fit subject for an Insane Asylum. He was present at the meeting of Common Council on 1st of January 1849 when the subject of Reeves was brought up before that body & heard Plaintiff say to the said Common Council if they would take him Reeves away and take care of him he would pay them fifty cents a week as he had before offered ~~them~~ to do.

George T. Brown testified that in 1846 & 1847 or from Sept 1846 to September 1847 he was Mayor of the City of Alton & that while he was in that office there was some relief afforded to Reeves could not say how much, he knows of no contract for his support. That he knew Reeves for five years since.

Reeves was before him as a witness & at times appeared wholly confused and appeared to have little mind

Edward Keating testified on part of the defendants that a Pauper Committee was chosen each year in Common Council with power to act as overseers of the Poor as in the County, that there was nothing on the Ordinances or books of the City defining their duties, this has been the custom and practice for years in the Common Council

John Haydon recalled & testified that he had not acted at all under the resolution of the 12th of January referring the case of Beville Reeves to the Pauper Committee he had left the matter to the control of Woodbridge his Co-Committee.

And this was all the testimony given in said suit

And now the Plaintiff moved the Court for a new trial for the following reasons, to-wit:

1st That the Court misdirected the jury as to the law governing this case.

2^d That the verdict is against the law.

3^d That the verdict is against the evidence.

4th The verdict is against law and evidence.

5th The verdict is for the Defendant when it should have been for the Plaintiff

Sol^l Hanger

Att^y for P^l

Which Motion the Court overruled and gave judgment for the Defendant and against the Plaintiff for costs, to which opinions

of the Court in Overruling the said Motion
for a new trial and in rendering judgment
against the said Plaintiff as aforesaid the
said Plaintiff excepts and prays that
this his bill of Exceptions may be signed
sealed and made part of the Record herein
All which is done accordingly

Wm. H. Underwood

State of Illinois }
Madison County 388

I Wm. S. Brown Clerk of the Circuit
Court within and for the State and County aforesaid
hereby Certify that the foregoing Exemplification
contains a full true and complete copy of
proceedings, Judgment & Record in the above
entitled Cause, as fully, truly and completely
as the same is now of Record in said Circuit Court.

In Testimony whereof I have
hereunto signed my name
and affixed the Seal of said
Circuit Court at Edwardsville
this 21st day of November 1858.

Wm. S. Brown
Clerk

Checks fees for making Record

14536 words at 10 cents per 100 = \$4.53

Notarials and Seal

1.25

\$4.88

And now at this day coming the said
Plaintiffs in Error by Seth T. Sawyer, his attorney
and for errors in the proceedings below
and judgment of the Court below assigns
the following to wit,

1st There is manifest error in this,
That the said Court below refused to give
the 1st Instruction asked for by the said ~~Plaintiffs~~
when by the law of the land it should have given
the same.

2^d There is manifest error in this, That
the said Court refused to give the 2^d
Instruction asked for by the said ~~Plaintiffs~~
when by the law of the land he should have
given the same.

3^d There is manifest error in this, that
the said Court refused to give the 3^d In-
struction as asked for by the said ~~Plaintiffs~~
when by the law of the land he should have
given the same.

4th There is manifest error in this, that
the said Court refused to give the 4th
Instruction as asked for by the ~~Plaintiffs~~ when
by the law of the land he should have given the
same.

5th There is manifest error in this, That
the said Court gave to the jury as the law
applicable and governing the said case the said
fourth Instruction as asked for by the said ~~Plaintiffs~~ ~~Defendant~~
when by the law of the land he should have
refused to give the same.

6th There is manifest error in this That the
said Court gave the 5th Instruction as asked
for by the said ~~Plaintiffs~~ ~~Defendant~~ when by the law of

of the land he should have refused
to give the same

7th There is manifest error in this That
the said Court gave to the jury the 3^d In-
struction as asked for by the said Defendant
when by the law of the land he should have
refused to give the same.

8th There is manifest error in this That
the said Court gave the 4th Instruc-
tion as asked by the said Defendant
when by the law of the land he should have
refused the same.

9th There is manifest error in this That
the Court misdirected the jury as to the
law governing the case.

10th There is manifest error in this
That the Court refused to grant a new
trial when by the law of the land he
should have done the same

11th There is manifest error in this
That the Court gave judgment for the said
Defendant when by the law of the land he should
have given judgment for the said Plaintiff.

For the errors aforesaid and other
errors in the proceedings Judgment and Rec-
ord aforesaid the said Plaintiff prays
that the said judgment so given by the
said Circuit Court of Madison County
aforesaid may be reversed annulled
and for nothing esteemed and that
such other proceedings in said suit may
be awarded by this honorable Court
as right and justice and the law requires
se

Wm. H. Sawyer
Atty for Plaintiff

Scinder in error
Pillings & Parsons
Act for act

Supreme Court

Daniel Seagrave

vs.

The City of Alton

Errol & Madison

Filed Dec 7th 1858