

No. 13874

Supreme Court of Illinois

Deffenbaugh

vs.

Wrenn

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Plow continued and held at the Court House in Bloomington
within and for the County of McLean in the Eighth Judicial
Circuit of the State of Illinois. before the Honorable David Davis
Judge of the said Eighth Judicial Circuit, in a certain action
therein pending wherein Otha Deffenbaugh who sues for his use
and the use of McLean County, was plaintiff and Samuel Wren
was Defendant, in which cause final judgment was rendered at
the Special June Term of said Court, in the year of Our Lord One
thousand Eight Hundred and fifty seven.

Otha Deffenbaugh who sues for himself
& McLean County

vs

Samuel Wren

In Appeal

Be it Remembered that
heretofore, to wit, on the Twenty second day of January in the year of
our Lord Eighteen Hundred and fifty six, came said Defendant
by his Attorney and filed in the office of the Clerk of the Circuit Court
of McLean County a Transcript of a judgment rendered before
J. Lawrence Esq. a Justice of the Peace in and for said County, and
an Appeal Bond duly approved by said Justice, and thereupon
issued out of said Clerk office a writ of Summons, which said
Summons was in word and figures as follows, to wit,

State of Illinois

McLean County } The People of the State of Illinois.
To the Sheriff of Said County - Greeting.

We Command you to Summon Otho Deffenbaugh who sees as well for himself as for the County of McLean. if found in your County personally to appear before the Circuit Court of said County on the first day of the next term thereof to be holden at the Court House in Bloomington on the first Monday in the month of April next to answer unto Samuel Wrenn in an appeal by him taken from the judgment of J. Lawrence Esq. a Justice of the Peace. And have you then and there this writ and make return thereon in what manner you execute the same.

(LS)

Witness W^m. McCullough Clerk of the said Circuit Court and the Seal thereof hereto affixed at Bloomington this 4th day of February A.D. 1856.

William McCullough. Clerk.

By H. Burr Deputy.

Which said writ was by the Sheriff of said County returned into said Clerks office endorsed as follows to wit.

"Served by reading to Otho Deffenbaugh. Feb. 14th. 1856"

Serving & Return 60

Travel 20^m $\frac{1.00}{1.60}$

J. J. Price. Shff.

By E. B. Mitchell. Depty.

And thereupon, afterwards, to wit. at the April Term of said Court in the year last aforesaid. Present.

Hon. David Davis

Judge

A. M^cWilliams

Pros. Atty.

W^m. M^cCallough

Clerk.

John J. Price Esq.

Sheriff.

On the third day of said Term, being Wednesday the ninth day of April, the following order was made in this cause as appears of Record. to wit.

Cathy Deffenbaugh who sues for herself
& McLean County

vs

Samuel Wrenn

In Appeal.

This day comes said Defendant by his Attorney and moves the Court to dismiss this suit for want of formality in the Bond for costs herein filed. And the Court having heard and fully considered the same is of opinion that said motion be overruled.

And afterwards, to wit. on said ninth day of April in the year last aforesaid. further order was made in this cause. as appears of Record to wit.

Cathy Deffenbaugh. who sues &c

vs

Samuel Wrenn

In Appeal

This day by the agreement of the parties herein. It is ordered by the Court that this cause stand

continued at the costs of said Defendant.

And afterwards to wit. at the September Term of said Circuit Court. in the year last aforesaid. Present.

Hon. David Davis.	Judge
A. M ^o Williams.	Pros. Atty.
W ^o m. McCullough	Clerk
John J. Price.	Sheriff.

On Thursday, being the Eighteenth day of September the following order was made in this cause as appears of Record to wit.

Oathy Deffenbaugh, who sues for himself
& the County of MeLean

vs

Samuel Wrenn



In Appeal.

By the agreement of parties and the order of Court. this cause is continued.

And thereupon afterwards. at the April Term of said Circuit Court in the year of Our Lord One Thousand Eight Hundred and fifty seven. Present.

Hon. David Davis.	Judge
Ward H. Samon. Esq.	Pros. Atty.
W ^o m. McCullough. Esq.	Clerk.
Joseph H. Moore Esq.	Sheriff

On the ninth day of said Term. being Tuesday the seventh day of April the following order was made in this cause. and the same appears of Record. to wit

Cathy Deffenbaugh, for himself and
the County of McLean

vs

Samuel Wynn.

In Appeal.

This day comes said Defendant by his attorney, and moves the Court to continue this cause, and files herein his affidavit in that behalf. And said plaintiff not admitting the matters and things therein contained. And the Court being fully advised in the premises doth order that this cause stand continued at the costs of said Defendant. And on his motion. It is ordered by the Court that a writ of Attachment issue herein against William Corr. returnable to the next term of this Court, to compel his attendance as a witness in this cause, and that he be held to Bail in the sum of One Hundred Dollars.

And afterwards at the Special June Term of said Court held at the Court House in Bloomington on the fifteenth day of June in the year last aforesaid. Which said Special Term was held by virtue of an order issued by the Judges of said Court, ^{the said order was} and duly entered upon the records of the said Court.

Present

Hon. David Davis Judge

W^m. McCallough Clerk

Joseph H. Moore. Sheriff

On the first day of said Term, the following order was made in this cause, as appears of Record, to wit:

Oathy Deffenbaugh, for himself
& the County of McLean

vs

Samuel Wrenn

In Appeal

And now at this day come
said parties by their Attorneys, and by agreement the trial of this
cause is set for Friday, the first week of this term.

And on said Friday the nineteenth day of June, further order
was made herein, to wit

Oathy Deffenbaugh, for himself
& McLean Co.

vs

Samuel Wrenn

In Appeal.

And now at this day, all parties
agreeing thereto, It is ordered by the Court that the trial of this cause
be set for Wednesday next.

And thereupon, afterwards, to wit, at said June Term, on the
Twenty fourth day of June in the year last aforesaid.

Present, Hon. Jesse C. Norton, Judge of the Eleventh
Judicial Circuit of the State of Illinois, Presiding Judge
Wm. McCallough Clerk
Joseph H. Moore Sheriff.

On this day, final judgment was rendered in this cause, and
appears of Record in words and figures as follows, to wit.

Cathy Deffenbaugh, for himself
and the County of McLean

vs

Samuel Wrenn

In Appeal.

And now at this day come said parties, and this cause coming on for trial, thereupon comes a jury, twelve good and lawful men, to wit. Uriah Washburn, Edward Taylor, Jacob C. Mahan, Caleb W. Ford, Zachariah Simmons, Jesse Aldam, James Wood, James Ayers, Jeremiah Spruigan, George W. Thompson, William M. Lohr, and John Allison, who being duly tried, elected and sworn to well and truly try this cause, and a true verdict render according to the evidence, and having heard the evidence produced and the arguments of Counsel, retire to consider of their verdict, and having agreed upon their verdict, again come into Court, and for verdict say, "We the jury find the Defendant guilty, and assess the damages at fifty cents for obstructing the road, and one cent per day for thirty days continuance of the obstruction" Therefore it is considered by the Court that said plaintiff recover of said Defendant the sum of Eighty cents, his damages so assessed as aforesaid, and that he have execution therefor, and now comes said Defendant and moves the Court here that the costs of this suit be apportioned, and the Court having heard said motion doth order, that the cost heretofore adjudicated stand as they are, and are not to be included in this apportionment, that the Defendant pay all his own costs, that the plaintiff pay all the costs of his witnesses over four, including their fees and subpoenas, and that of the balance of plaintiff's costs the plaintiff pay one third and Defendant two thirds, and that execution issue therefor, and now said Defendant moves for a new trial in this cause and said motion being by the Court overruled, said Defendant comes

and prays an appeal to the Supreme Court of this State, which is allowed by the Court upon the condition that he file with the Clerk of this Court an appeal Bond, within sixty Days from this date, which Bond is to be approved by said Clerk. And twenty days are allowed said parties by the Court, to argue upon evidence and file a Bill of Exceptions herein.

And afterwards to wit on the seventeenth day of August, in the year last aforesaid came said Defendant and filed in said Clerks office, an appeal Bond, which said Bond is in words and figures as follows, to wit.

Know all men by these presents that we Samuel Wrenn and Henry Dickerson of the County of McLean and State of Illinois, are held and firmly bound unto Oath Deffenbaugh, who lives as well for himself as for the County of McLean, in the penal sum of One thousand 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 Bloomington this 17th day of August Anno Domini One thousand Eight Hundred and fifty seven.

The Condition of the above obligation is such that, Whereas the above Oath Deffenbaugh, who lives, &c. did on the 24th day of June, One thousand Eight Hundred and fifty seven, at a term of the Circuit Court then being holden, within and for the County of McLean and State of Illinois, obtain a judgment against the above bounden Samuel Wrenn, for the sum of Eighty cents and Cost of Suit, from which judgment, the said Samuel Wrenn has prayed for

and obtained an appeal to the Supreme Court of said State.
Now if the said Samuel Wren shall duly prosecute said appeal
and shall moreover pay the amount of the judgment, costs, interest
and Damages rendered and to be rendered against him, the said
Samuel Wren, 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.

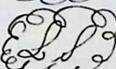
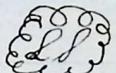
Taken and entered into before me
and approved this 17th day of
August, A.D. 1857.

W^m. McCullough Clerk.

By H. Burr, Deputy

Samuel Wren

H. C. Dickerson



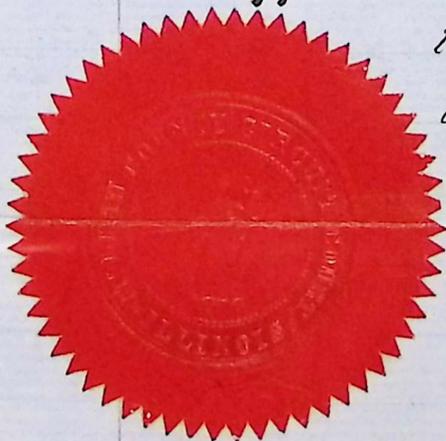
State of Illinois

McLean County I, W^m. McCullough, Clerk of the Circuit Court in
and for said County, do hereby certify that the foregoing is a correct
Transcript of the Records pertaining to the foregoing cause, as the
same appear in my office.

Witness my hand and the seal of said Court hereto
affixed at Bloomington this 27th day of April
A.D. 1858

W^m. McCullough Clerk

By Laeman Burr, Deputy



Received of Hannah & Scott, the sum of Four Dollars, in full
of Costs of this Transcript:

W^m. McCullough, Clerk

By L. Burr, Deputy

M^o Lean Circuit Court.

Oathy Deffenbaugh.

Who Sues. &c.
Appellee

W

vs.

Samuel Wrenn.

Record.

Filed April 28. 1854

L. Leland.
clerk

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Hanna Scott
for Appellee