

No. **12219**

Supreme Court of Illinois

Guyer

vs.

Andrews

71641  7

At a term of the Circuit Court begun and held at
the Court House in the City of Rock Island within
and for the County of Rock Island and State of Illinois,
on Monday the Sixth day of May A.D. 1850, To wit on
Friday the Tenth day of said Month of May, as yet of the
said May Term before the Hon William Kellogg Presiding
Judge of the Tenth Judicial Circuit in the State of Illinois

Be it remembered that heretofore to wit on the
Eighteenth day of April A.D. 1850 Samuel Andrews caused
to be filed in the Clerk's Office of our said Court a certain
transcript of judgment and bonds on appeal to said
Court in a certain suit instituted by said Samuel
Andrews against Samuel Guyer before E. R. Bean Esq. a
Justice of the Peace of said County of Rock Island,
which said transcript is in the words and figures
following to wit

Samuel Andrews } Suit in Trespass. Damages \$95.00
vs. }
Samuel Guyer } Summons issued to R. J. Cobb, Const
the 6th of April 1850, returnable on
the 12th inst at 10 o'clock a.m. said

J. P. fees	Summons returned duly served April 11 th
Docket 12 1/2	Subpoenas issued on the part of the Plff
Summons 18 3/4	to J. Grover, D. Brownlee, H. Gilmore, J. Coff,
Judgment 25	W. C. Buffum, C. Simmont, and J. E. Babcock,
Venue 18 3/4	Said Subp. returned duly served April 11 th
3 Subp. 56	1. Subp on part of Deft to W. H. Alloway,
15. Vouches 94	J. Grover, J. Conet, and W. L. Lee, said
Const (R. J. Cobb)	Subp. returned duly served, at the day
fees, Series of	unknown set for trial, the parties appeared,
Summons 30.	Application on the part of Deft for venue,
2. Subp 1.97	Venue issued to P. S. Albert Const
	and returned served on the following

Const. P. S. Alborts
fees. seems July 50 persons to wit, Jacob Sailor, Owen Dean
Attorney, same 50 Samuel Wakefield, Elton Cropper, C. C. Sho-
seid. July 1 Subp 70-1000 and A. C. Buffum, who were duly sworn
Wit A. C. Buffum and after hearing the testimony returned
fees — 50 a verdict for the deft. and judgment is
July fees 1.50 rendered in favour of the Deft. and
Additional costs Against the Plt for costs of suit taxed
Entr appeal. 25 at \$8.04 April 13th 1850 Plt prays an
Trans. 25 appeal - April 15 files his bonds which
Bonds - 50 is approved, and appeal allowed to
be in writ Court,

State of Illinois
Rock Island County J. E. R. Bean a Justice of the peace
in and for said County do Certify that
the foregoing is a true and complete transcript of the
proceedings, and judgment rendered in the case of
Samuel Andrews Plt vs Samuel S. Guyer Deft. and
also that the papers accompanying the transcript are all
the papers filed before me appertaining to said case,
Given under my hand and seal this 18th day of
April 1850, E. R. Bean J. P. Seal

and which said Bond on appeal is in
the words and figures following to wit

State of Illinois
Rock Island County Know all Men by these Presents,
That we Samuel Andrews and David
Kierors are held and firmly bound unto Samuel S. Guyer
of said County, in the penal sum of Twenty Dollars
and — cents, good and lawful money to the payment
of which, we jointly and severally bind ourselves, our
Heirs and legal Representatives, firmly by these

Presents, Sealed with our Seal and dated this 15
day of April A.D. 1850, the condition of the above
obligation is such, that whereas the said Samuel S
Geyer did on the 12th day of April A.D. 1850, before
E. R. Bean a Justice of the Peace, for the County of Rock
Island recover a judgment against the above bounden
Samuel Andrews, for the sum of Eight $\frac{4}{100}$ Dollars; from
which judgment the said Samuel Andrews has taken
an appeal to the Circuit Court of the County of Rock
Island, aforesaid, and State of Illinois, Now if the said
Samuel Andrews 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,

Samuel Andrews 
David Weaver 

Approved by me, at my Office, in Rock Island this 15
day of April 1850,

and be it remembered that afterwards to
wit, at a term of the Circuit Court begun and held at
the Court House in the City of Rock Island within and for
the County of Rock Island and State of Illinois on Monday
the Sixth day of May 1850, and to wit on Wednesday the
Eight day of May as yet of the said May term the
following record was made and entered in said
entitled cause To wit, —————

Samuel Andrews

vs.

S. S. Geyer

} Appeal;

} This day came the parties herein
by their attorneys, and the jurors of a
jury to wit Joseph Martin, Joseph B Smith,

Jno Edgington, George Gouvy, A H Cutler, A Burgo
J Cook, James Titterington, Bartlett Jackson,
P H Wilcher, E M Beardsley, and George Walter
who were duly sworn well and truly to try the issue
joind and after having heard the evidence and
arguments of Counsel herein retired to their room
in charge of an Officer to consider their verdict,
and afterwards to Wit on Thursday the ninth day of
May A.D. 1850 as yet of the said May Term of the Court
aforesaid the ^{following} further record was made and entered
in the said cause to wit, —————

"Samuel Andrews.

vs.

S. S. Geyer

} Appeal

This day came the parties herein
and the jury impaneled herein on yesterday
who returned into Court their verdict in the words
and figures following to wit, "We the jury find the
defendant guilty and assess the damages at forty seven
dollars" Whereupon Defendant enters his Motion for a
new trial herein," — and afterwards to wit
on Friday the Tenth day of May as yet of the same
May Term of said Court, the following further order
was made and entered in said cause to wit —

"Samuel Andrews.

S. S. Geyer

} Appeal

This day came the parties and this cause
coming on to be heard on defendant's
Motion for a new trial herein and the Court being
sufficiently advised of the premises overrules the said
Motion, It is therefore ordered that the plaintiff have
and recover of the defendant the sum of forty seven
dollars damages assessed by the jury at a former day

of the Term, together with his costs in this behalf expended, and that he have execution therefor."

And be it remembered that on the same day last aforesaid and of the term aforesaid the said Defendant by his counsel caused to be filed in said Court his bill of Exceptions herein duly signed, which Bill of Exceptions is in the words and figures following to-wit, —

"State of Illinois } Rock Island Circuit Court
County of Rock Island } May Term A.D. 1850 —

Lemuel Andrews.

vs.

Stephen S. Guyer

Trespass

on Appeal

Be it remembered that on the trial of the said cause the said Plaintiff to maintain the issue on his part proved that the said Defendant took certain articles of Personal Property from the possession of the said Plaintiff and proved the value of the said Property so taken, —

The said Defendant to maintain the issue on his part proved that at the time the said Personal Property was so taken he the said Defendant was acting collector of Taxes of the County of Rock Island in which the said Property was taken, and in which County the said Plaintiff resided at the time last aforesaid, and further for the purpose of maintaining the said issue on his part and to justify the taking of said Property as such collector and for the nonpayment of Taxes, the said Defendant brought into Court a certain Book purporting to be the assessors book of said County

for the Year A.D. 1849. And purporting to contain the List of Lands Town Lots and personal property in the County of Rock Island State of Illinois with the Names of owners and the Value of Property assessed for the Year 1849. by Wm^m Holloway, _____

The said defendant then proved to the Court that the said William Holloway was acting assessor for the said County of Rock Island, for the Year A.D. 1849. that said Book was returned to the Office of the Clerk of the County Commissioners Court as the assessors return of the valuation and list of taxable property in the said County for the Year A.D. 1849. and that now belonging to and constituted a part of the records remaining in the Office of the Clerk of the County Court of said County, on the first page of the said Book was attached an affidavit in the following form. _____

State of Illinois. *Yes*

Rock Island County } I William Holloway do solemnly swear
that I will faithfully diligently and impartially perform all the duties required of me by Law as the assessor of Taxable property in the County of Rock Island and that I will in no instance value any Lands as low as at three Dollars per Acre which I believe to be worth more. _____

Sworn and subscribed before me } Wm^m Holloway
This 19th day of February 1848. _____

Free O'Wilkinson J.P.

It was proved that the said oath was taken before the said Assessor entered upon the discharge of his duties as Assessor for the Year 1849. and that the date to the jurat thereto should have been February 19th 1849, instead of February 19th 1848, it was also shown by

evidence that the said affidavit was not attached to the said book until the 12th day of April A.D. 1850, by the said assessor, but that the said affidavit had been left by him in the Clerk's Office of the County Commissioners and County Court of said County,

The said defendant then offered the said book in evidence to the jury and to read therefrom to the jury the following portion thereof contained therein to wit,

Names of Owners,	Part of Section,	Section,	Town,	Range,	S.
F. B. Babcock,	E side NW 1/4	36.	18	2	10
"	E " SW 1/4	36	"	"	"
"	E 1/2 NW 1/2 SW 1/4	36	"	"	"
"	SW end S part N.W.	31	"	"	1 W
"	SW 1/2 E 1/2 S. E.	31	"	"	"
"	S. E 1/4	21	17	2	W
"	N. part SW 1/4 E	23	"	"	"
"					
"					
Lemuel Andrews,					

To the introduction of which evidence to the jury the said Plaintiff objected, the Court sustained the objection and excluded the said evidence from the jury to which ruling of the Court the said Defendant excepted which was all the material evidence in the case, —

The jury returned a verdict for forty Seven Dollars in favour of the said Plaintiff.

The said Defendant moves the Court to set aside the said Verdict and grant a New trial in said cause for the reason that the Court erred in excluding the said evidence from the jury which motion was overruled by the Court and the Defendant excepted to the ruling of the Court in so doing, —

And for as much as the said Matters do not appear of record the Judge of the said Court hath signed and sealed this Bill of exceptions of the said Defendant according to the Statute in such cases made and provided, and made the same a part of the records in said cause.

Wm Kellogg Seal

State of Illinois

Rock Island County. J. S. Frezer Wilson Clerk of the Circuit Court within and for said County do hereby certify that the foregoing pages contain

a true and perfect copy of the transcript and bonds on an appeal in the cause of Lemuel Andrews against Samuel S. Guyer and also of the Bill of exceptions filed by the Defendant in said cause and also that the said pages contain a true and perfect copy of all orders and judgments made and entered of record in said cause, all as fully and completely made as the same remain of record ~~now~~ on file in my said Office. In Witness whereof I have herunto set

My hand and affixed the Seal of said Court at Rock Island this 18th day of May A.D. 1850

J. Frezer Wilson Clerk.

Rock Island

Primer

Acres	Value per Acre	Value of Land	Lot	Block	Name of Town	Value of Lots	Total Value of Land and Lots	Horses and Mules	Cattle	Hogs and Sheep	Carriges and Wagons	Money	Other personal property	Total value of personal property	Total value of Real Estate	Remarks
8	150	1200														
58	8	464														
20	8	160														
2 3/4	111	300														
26	6	156														
111	2	222														
30	6	180														
und 3/4 feet	135		7	12	R 1st old town	800										
33 by 41 feet			8	11	" " "	100	3582									* Includes the stores in R 916 and Camden
								200	20		100		100	420	420	

State of Illinois ss Supreme Court
Third Grand Division
June Term A.D. 1850

Samuel S. Guyer

Samuel^{vs} Andrews

Error to Rock Island

And the said Samuel S. Guyer
by his attorney and says that in the said
judgment and the records and proceedings
in said cause there is manifest error

And the said Samuel S. Guyer by his
attorney shows to the Court here, and assigns
for error upon the said record in the
said cause:

1. The Circuit Court erred in excluding
proper evidence from the jury when offered
by the defendant below

2. The Circuit Court erred in excluding
from the jury the afebor's book offered in
evidence by the said defendant below.

3. The Circuit Court erred in not permitting
the said defendant below to read the said
afepment of the property of the said Samuel
Andrews from the said Book

4. The Circuit Court erred in overruling
the motion for a new trial of the said
defendant below

5. The said Court erred in rendering
judgment against the said defendant below.

Wherefore for cause of the said error
the said Samuel S. Guyer by his attorney prays
the Court here that the said judgment and the
proceedings therein be reversed, set aside, and
for nothing held. And this the said ~~Plf~~ in error is
ready to verify.

Julius Manning for
Plf in error

And the said ~~Defendant~~ Defendant
in Error comes and says that in
the Record and proceedings and
in the rendition of the Judgment
aforesaid there is no Error in
wherefore prays that said Judgment
may be affirmed
Done 14th 1850

Attest
Wm. H. Drayton
for Sept

Thos. J. Gayles
vs
James L. Anderson
Applicant of Error

Filed June 10. 1850.
Wm. H. Drayton Clk.

Frederick Wilson Clarke,

34
Bant. B. Guyer
121
Samuel Andrews

Transcript

Filed May 24, 1880.
L. Ireland Clk.

State of Illinois, }
 Supreme Court, } SS.

The People of the State of Illinois

TO THE SHERIFF OF *Rock Island* County—*Greeting*:

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the circuit court of *Rock Island* county, before the Judge thereof, between *Cemuel Andrews* Plaintiff, and *Samuel S. Guyer*

defendant it is said that manifest error hath intervened to the injury of the said

Samuel S. Guyer as we are informed by *his* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *Cemuel Andrews*

that *he* be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the *Second* Monday in *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Cemuel Andrews* notice, together with this writ.

WITNESS, the Hon. *Samuel H. Treat*
 Chief Justice of our said Court, and the seal thereof,
 at Ottawa, this *24th* day of *May*
 in the year of our Lord, one thousand eight hundred
 and *forty*.

L. Keland

Clerk of the Supreme Court.

I served this writ by reading it in the hearing of
the mittim named Samuel Ferguson this and handing
him a true copy of this, ^{under the} 27th day of May 1850

L. Guyer Sheriff Rock
Island Co Ill

Summy 50

Putn 10

1 mil 5

65

Filed May 31. 1850.
A. Veland Clk.

To Shff. of Rock Island
June 1st 1850.

34
Samuel S. Guyer
vs
Samuel Ferguson
Dei Facio

Samuel S. Guyer }
34 }
Samuel Andrews }

Enos to Rock Island.

Sept. 25, 1850

Appr. 25, fil. & ent. paid 30, bill of ent 25, .80

Appr. 25, ent. & ent. 25, fil. & ent. 15, Shiffs. ent. 10, .75

Sh. for 135, ent. satipm. 25,

4.50

Chas. F. 3.05

State of Illinois, ss.

Supreme Court—Third Grand Division, at Ottawa:

The People of the state of Illinois to the ^{Clerk or any Constable} ~~Sheriff~~ of Rock Island county--- Greeting:

WE COMMAND YOU, that of the goods and chattels, lands and tenements of Samuel Andrews you cause to be made the

sum of three dollars and five

1-3 cents, the amount of the foregoing bill, which is due and unpaid, and is a true copy from the Fee Book in my office; and hereof make due return in ninety days.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 5th day of September - A. D. 1850.

L. Ireland Clerk of the Supreme Court.

Samuel S. Geyer

vs
Leeward C. Andrews

For Bill in \$3.05-

I Return this writ Satisfied in
full and amt Waived as per Clerk's
instructions Nov 8th 1880 S. S. Geyer
Sheriff R. S. Co. SD.

Filed Nov. 12, 1880.
Shelton W.

Samuel S. Guyer

34

Ever to Rock Island.

Samuel Andrews

Rdfrs. Costs =

Fil. transcript. 15, fil. mas 5, Sh. case 10, ent. apper. 25, .55

Fil. proc. 5, Mnt of mas & fil. 55, Sci. fa. & fil. 80, fil. abster 20, 1.55

Prop. sum 150, Ent. argt. 25, Ent. subm. 25, Ord. taking time 25, 2.25

Ord. revy. 25, Ord. revdy. 25, fil. opm. 5, Ent. judt. & opinion 1.50 Copy of sum 1.50, 3.55

Ent. of. ex al 25, Ent. judt. 25, Ord. for extn. 25, Sh. judt. 25, bill of costs 25, 1.25

Copy 25, execution 25, fil. & Sh. 15, Shffs. etc. 10, postage 20, .95

Transcript re. 3.00 Ent. satisfactory 25, 3.25

Shffs. fee = Serv. & Ent. Sci. fa. 60, mil. 1 mile 5, .65

Amty 14.00

at true copy from my fee book as taxed & recorded therein.
S. Leland Clk. S. C.

State of Illinois, ss.

Supreme Court, Third Grand Division, at Ottawa:

The People of the State of Illinois, to the ~~Sheriff~~ ^{Coroner or any Constable} of Rock Island County---Greeting:

WE COMMAND YOU, That of the goods and chattels, lands and tenements, and real estate of

Samuel Andrews

you cause to be made the sum of fourteen dollars and
_____ cents costs in the said Supreme Court, which

Samuel S. Guyer

lately recovered against him before the Justices of our said Supreme Court, as appears to
us of record, and make return hereof in ninety days.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice
of our said Court, and the Seal thereof, at Ottawa,
this fifth day of September
in the year of our Lord one thousand eight hundred
and fifty

S. Leland Clerk of the Supreme Court.

This Execution & Fee bill came into my hands
this 11th day of Sept - 6th 1850 7 o'clock P.M.

W. Calkins Const.

Returned this Execution & Fee bill satisfied
this 21st day of Oct 1850

S. S. Guyer Sheriff Rock Island Co

W. Calkins Spt. Sheriff Rock Island

Samuel S. Guyer

Remitted & drawn

Execution

Bill of costs \$14.00

Fee Bill 3.00

Amount \$17.00

Paid Nov. 12. 1850
Rock Island Ill.

Guyer is drawn
Bill of costs \$14.00

I. Re this writ for Calkins deputy
Satisfied in full and amount mailed to
the Clerk this 8th day of Nov 1850
S. S. Guyer

State of Illinois, Oct.

The people of the State of Illinois,

To the Clerk of the circuit court for the county of *Rock Island* Greeting:

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Rock Island* county, before the Judge thereof, between *Samuel Andrews* —

plaintiff and *Samuel S. Guyer* —

defendant it is said manifest error hath intervened to the injury of the aforesaid —

Defendant —
as we are informed by *his* complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay, send to our Justices of the Supreme Court the record and proceedings of the plaintiff aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the county of La Salle, on the *second Monday in June* — next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. *Samuel H. Kent* Chief Justice of our said Court, and the seal thereof at Ottawa, this *24th* day of *May* — in the year of our Lord one thousand eight hundred and *fifty* —

L. Ireland

Clerk of the Supreme Court.

Daniel V. Guyer
vs.
Samuel Andrews
Wit of Ewer

Filed May 24, 1858.
Meland Chk.

Clerk of the Supreme Court.

one thousand eight hundred and fifty-

in the year of our Lord

and thereof at Ottawa, this 24th day of

Chief Justice of our said Court and the

WITNESS the Hon.

ing to law.

we may cause to be done therein, to correct the error, what of right ought to be done according-

before our Justices respectively at Ottawa, in the County of Le Galle, on the 22nd

happened, with all things touching the same, under your seal, so that we may have the same

presented to our Justices of the Supreme Court the record and proceedings of the hearing

and command you that if judgment thereon, you do distinctly and openly without do-

it be corrected in due form and manner, and that Justice be done to the parties afore-

being, and being willing that error, if any there be,

it be easily manifested error, both in order to the injury of the same.

judgment of a Just which was in the Circuit Court of the Eastern District of the County of Le Galle, before

the Justices thereof, between

the Justices thereof, between

judgment of a Just which was in the Circuit Court of the Eastern District of the County of Le Galle, before

the Justices thereof, between

judgment of a Just which was in the Circuit Court of the Eastern District of the County of Le Galle, before

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the Justices thereof, between

judgment of a Just which was in the Circuit Court of the Eastern District of the County of Le Galle, before

the Justices thereof, between

Rack Island May 18th 1850
Clerk of the Supreme Court

Sir

Enclosed you will find a writ of Error which you will please put on your docket for trial, and also you will find five dollars which I understand to be in accordance with an order of said Court. as part of the fees in the Case, you will please notify me if any thing more is wanting to ensure my case a hearing. I Supersede a Supersedeas will issue to stay the Collection of the Judgment. You will please Mark Julius Manning Attorney for me defendant
Yours truly

J. S. Sawyer

Geyer vs Andrews

Prize

31
8
248

5
8
72
17
504
22
1,224

Filed May 24, 1880.
S. Ireland Clk.

To the Clerk of the
Superior Court
Darius
J. C.

State of Illinois vs Supreme Court
Third Grand Division
June Term A.D. 1850

Samuel S. Guyer
Lemuel Andrews vs Error to Rock Island
Abstract

This was an action of Trespass tried before a justice of the peace of Rock Island County and taken by appeal to the Circuit Court of Rock Island County.

On the trial in the Circuit Court Andrews, who was the plaintiff below, proved that Guyer took certain personal property from Andrews, and proved its value.

Guyer then proved that at the time of the taking of such personal property he was the acting collector of taxes of said County, where the property was taken; and for the purpose of justifying the taking of such property for the non-payment of taxes he introduced the assessor's book of said County for the year 1849. He proved that William Holloway was the acting assessor for the said County for that year, that the said book was returned to the office of the Clerk of the C. C. Court as the assessor's return of the valuation of the taxable property for 1849 in said County, and that the said book now belonged to and constituted a part of the records of the office of the County Court. The said book purported to contain the assessment as made by the said Holloway.

On the first page of said book was attached an affidavit in the following form

"State of Illinois
Rock Island County I William Holloway do solemnly swear that I will faithfully diligently and impartially perform all the duties required of me by law as the assessor of taxable property in the County of Rock Island, and that I will in no instance value any lands as low as at three dollars per acre which I believe to be worth more."

The oath was taken before the assessor entered upon the discharge of his duties: The affidavit was not attached to the said book until April 12th 1850 but was left in the Clerk's office of said County

Euyer then offered the book in evidence, and offered to read therefrom the affidavit against Andrews but the Court excluded this evidence from the jury

Judgment was rendered against Euyer for \$47.00 A motion for a new trial was made and overruled

The assignment of error questions the correctness of the decision of the Court in excluding the affidavit as evidence for the collector, Euyer

Julius Manning
for p^l in Error

J. J. Guyer
vs
Samuel Andrews

Abstract

Filed June 11, 1850.
L. A. Clark Clk.

34.

Samuel S. Guyer
vs
Samuel Andrews

12219

Prepared
E. J.

1850