

No. 12598

Supreme Court of Illinois

Mallett

vs.

Pearson

71641  7

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United States of }
North America }
State of Illinois }
Cook County }

Monday April 13th 1857

I appear before the
Honorable George Manierre Judge of
the Seventh Judicial Circuit of the
State of Illinois and presiding Judge
of the Circuit Court of Cook
County in said State at a trial
term thereof begun and held at the
Court House in the City of Chicago
in said County on the Second
Monday (being the thirteenth day) of
April in the year of our Lord One
thousand eight hundred and fifty
seven and of the Independence of
the United States the Eighty first
Present. Honorable George Manierre
Judge of ^{7th} Judicial Circuit
John L. Wilson Sheriff of said County
Carlos Canis States Attorney
Attest William L. Church Clerk

Be it remembered that herebefore
to wit: on the third day of December
in the year of our Lord one thousand
eight hundred and fifty six there was

filed in the Office of the Clerk of the Circuit Court of said County certain papers, transferred from the Recorder's Court of the City of Chicago among which was a certain affidavit which affidavit is in the words and figures following to wit;

State of Illinois }
Cook County } ss
City of Chicago } Personally comes
George T Pearson of said County who
says upon oath that Charles F Mallett
is indebted to said deponent in the sum
of Two Hundred and twenty five dollars
for the cause and reasons following to wit
said Mallett sold to said deponent on
the 25th day of May 1855 at Chicago in
Cook County aforesaid one corner
horse, and gave said deponent then and
there a bill of sale, and warranty of
the same in terms as follows;

"Know all men by these presents that
I, Charles F Mallett of Dixon in
consideration of the sum of One Hun-
dred and twenty five dollars to me paid
by George T Pearson of Chicago, do
hereby sell and convey unto the said

Pearson One barrel coloured horse
of the value of said One Hundred
and seventy five dollars to have and to
hold unto him the said Pearson forever.
And I hereby fully warrant the said
horse to be sound and well in health,
in every way and manner, and well
broke and kind to carriage and saddle
and that I have good right to sell and convey
the said horse to the said Pearson in
manner aforesaid.

In Testimony Whereof I have hereunto set
my hand and seal this 25th day of May
A.D. 1855.

In presence of *Chas P Mattett* (Jus)
L D Wilkinson

Yet notwithstanding said deponent said
said Mattett the said One hundred and
seventy five dollars and received the said
horse in good faith from said Mattett.
Yet the said horse was then and there
visions, fractious and dangerous in harness
and saddle, and not well broke;— and also
said horse was then and there diseased
unsound and ill in health; which vicin-
ness, fractiousness and unsoundness of
health was then and there well known
to said Mattett and unknown to this deponent

but he, the said Mallitt, intending, wishing and meaning them and there to deceive and defraud the said deponent, kept the same concealed and hidden from the said deponent. And the said deponent further says that, in addition to said horse being fractious and dangerous that soon after the date of purchase aforesaid said horse became more violently sick and diseased and entirely unfit for use in any manner, and in spite of careful attention and feeding died; and thus put this deponent to further cost for his keeping & attendance, and said deponent further says the whole of said sum aforesaid is justly due and owing by said Mallitt to said deponent; and further that said deponent is about to commence an action against said Mallitt for the recovery of the sum first aforesaid in the Recorder's Court of the City of Chicago, and said deponent says that the said sum aforesaid will be in danger of being lost, and that the benefit of whatever judgment may be obtained, will be in danger, unless said Mallitt be held to bail.

Subscribed & sworn
to before me this 18th day of
December A.D. 1858

George T. Pearson

Geo D Pearson }
 Charles P Mallett } Covenant

Dam \$225

Will the Recorders Court please issue
 cap. ad. resp. in above entitled cause
 returnable to the April term of said
 Court, directed to Sheriff Cook to
 execute and oblige

Wilkinson Dowd Pearson

Enclosed

Plffs Atty's

"Filed Dec 18th 1885 J A Haynes Clk

And also a certain writ of Capias
 ad Respondendum which said writ
 is in the words & figures following:
 to wit:

State of Illinois }

Cook County } 88

City of Chicago } The People of the State
 of Illinois to the Coroner of said County
 Greeting: We command you, That you
 take the body of Charles P Mallett found
 in your County, and safely him keep, so that
 he be and appear before the Recorder's
 Court of said City, on the first day of
 the next term thereof, to be holden
 at the Court House in Chicago, in

said County on the first Monday of April next, to answer unto George F Pearson in a plea of Covenant to the damage of the said plaintiff as he may in the sum of Two hundred & twenty five dollars. And have you then and there this writ, with an endorsement thereon, in what manner you shall have executed the same.

Witness, Philip A Hayne, Clerk of our said Court, and the seal thereof, at Chicago, this third day of March A.D. One thousand eight hundred and fifty six (1856)

(Seal) P A Hayne Clerk

Endorsed The Sheriff will hold the defendant to bail in the sum of Two hundred & twenty five dollars. P A Hayne Clk

Endorsed The within named Charles P. Mallitt is not to be found in my County April 1st 1856. Fees 1 Return to James Storch Coroner & 2 to Sheriff. As well as a certain declaration which declaration is in the words & figures following viz:

State of Illinois }
Cook County } ss
City of Chicago } The Recorders Court
of the City of Chicago, 3^d April Term 1857
Covenants

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George T Pearson Complainant of
Charles T Mallett now in custody of a
plea of breach of Covenant.

For that
whereas heretofore to wit: on the 25th
day of May AD 1885, at Chicago, to wit:
at Chicago, aforesaid, said Mallett
made his certain covenant or contract
under seal, which said covenant or
contract said plaintiff now brings here
in Court, the date whereof is, to wit
the day and year aforesaid (after reciting
as therein recited) it was witnessed, that
in consideration of the sum of One
Hundred and seventy five dollars paid
by the said plaintiff to the said defendant
there and there, said defendant, then and
there sold and delivered to said plaintiff
One sorrel colored horse and covenanted
and warranted among other things to and
with the said plaintiff, that said horse
was then and there sound and well
in health in every way and manner,
and well broke and kind to carriage
and saddle.

And the said plaintiff in fact
swears that although he paid, then and there
the said 175 dollars to said defendant

in good faith and received the said horse from said defendant, yet the said horse was then and there, vicious, fractious and dangerous in harness and saddle and not well broke and also said horse was, then and there, diseased, unsound and ill in health, which viciousness, fractiousness and unsoundness of health were then and there well known to said defendant, and entirely unknown to said plaintiff. But the said defendant, wishing, meaning and intending then and there to deceive and defraud the said plaintiff kept the same concealed and hidden from the said plaintiff. And the said plaintiff in fact saith that said horse, soon after said purchase became and was, and as a natural consequence of his previous disease and unsoundness more violently sick and diseased and entirely unfit for use in any manner, and subjected said plaintiff to great expense in and about the care and endeavoring to cure said horse, in spite of which said care said horse died.

And so the said plaintiff in fact saith that the said care and cost of the said

defendant has not been nor is kept, but is in fact broken — to the damage of the said plaintiff of two hundred and twenty five dollars, and therefore he sues &c.

William Dorr Pearson

Plffs Atty

To the deftor his Atty.

The following is a copy of the instrument upon which this action is brought

"Know, all men by these presents that I Charles F. Mallett of Oregon, in consideration of the sum of One Hundred and Seventy five dollars to me paid by Geo. F. Pearson of Chicago, do hereby sell and convey unto the said Pearson one sorrel colored horse of the value of said One Hundred and Seventy five dollars to have and to hold unto him the said Pearson forever — And I hereby fully warrant the said horse to be sound and well in health in every way and manner, and well broke and kind to carriage and saddle — And that I have good right to sell and convey the said horse to the said Pearson in manner aforesaid; In Testimony I have hereunto set my hand and seal this 25th day

of May AD 1855

Char. F. Mallitt (read)

Executed in presence of

L. D. Wilkinson

Endorsed.

"Filed April 24th 1856, P. H. Hogue Clerk"

Filed with the foregoing declaration
 &c was a certain alias writ of
 Capias ad Respondendum which
 said writ is in the words and
 figures following to wit:

State of Illinois

Cook County

City of Chicago

The People of the
 State of Illinois to the Coroner and
 acting Sheriff of said County, Greeting:
 We command you as we have often
 before commanded you, that you take
 the body of Charles F. Mallitt found
 in your County, and safely him keep
 so that he be and appear before the
 Recorder's Court of said City, on the
 first day of the next term thereof to be
 holden at the Court House in Chicago,
 in said County on the first Monday
 of June next, to answer unto George
 Pearson in plea of Covenant to the

Damage of the said plaintiff as he say
in the sum of two hundred and twenty five
dollars. And have you then and there
this writ, with an endorsement thereon
in what manner you shall have
executed the same

Witness, Philip A Hayne, Clerk of said
said Court, and the seal thereof, at
Chicago, this twenty second day of
May A.D. One thousand eight hun-
dred and fifty six



P A Hayne Clerk

Endorsed

"The Sheriff will hold the defendant to
bail in the sum of Two Hundred and
twenty five dollars. P A Hayne Clk"

Endorsed

"Executed by arresting the within
named Charles F Wallcut who gave bail
as per bond annexed, and was released
from custody May 22^d 1856

Fee 1 arrest

" 1 Mile

" 1 Return

App'g Bond

Amos S Beach Coroner
& Ex Officio acting Shiff
By J S Buckley Dep Shiff "

50
05
108.65
28.
Total \$165.65 by Clk

Returned with the writ aforesaid and attached thereto was a certain Bond, which said bond is in the words and figures following viz: Know, All men by these presents, That we Charles D Mallett and William R Loomis of the County of Cook and State of Illinois, are held and firmly bound unto James S Beach Coroner & Ex officio, acting Sheriff, of Cook County in the State of Illinois, in the sum of Five Hundred and fifty Dollars, lawful money of the United States, for the payment of which well and truly to be made to the said James S Beach Coroner & Ex officio, acting Sheriff as aforesaid or his successors in office, executors, administrators or assigns we hereby jointly and severally bind ourselves, our heirs executors and administrators,

Witness our hands and seals this 22nd day of May eighteen hundred and fifty six. The Condition of this obligation is such. That whereas George F Pearson has lately sued out of the Recorders Court of the City of Chicago, the County of Cook, a certain writ of *Capias ad respondendum*, in a certain plea of

Command against Charles P Mallitt
 returnable to the next term of the said
 Court to be holden at the Court House
 in the City of Chicago, in said County
 on the first Monday of June next
 Next, if the said Charles P Mallitt shall
 be and appear at the said Court, to be
 holden at Chicago aforesaid, on the
 said first Monday of June next; and in
 case the said William R Loomis shall
 not be received as bail in the said action
 shall put in good and sufficient bail
 which shall be received by the plaintiff
 or shall be adjudged sufficient by the
 Court, or the said William R Loomis
 being accepted as bail, shall pay and
 satisfy the costs and condemnation
 money, which may be rendered
 against the said Charles P Mallitt
 in the plea aforesaid, or surrender
 the body of the said Charles P Mallitt
 in execution, in case the said Charles
 P Mallitt shall not pay and satisfy the
 said costs and condemnation money
 or surrender himself in execution
 when by law, such surrender is
 required, then this obligation to be
 void; Otherwise to remain in

ads
George S Pearson

that is to say 1st The said instrument on which said action is founded is therein stated to be a certain covenant or contract under seal, whereas the same should be stated to be a contract under seal.

2^d It does not appear by said declaration that said instrument was delivered to said plaintiff.

3^d An action of covenant will not lie upon such an instrument and said declaration does not contain facts sufficient to constitute a cause of action because the same relates to matter in presenti; only.

4th The said declaration is bad for duplicity because the plaintiff has improperly joined and mited in the same count a cause of action upon contract under seal, and also a cause of action for fraudulent concealment which should be an action on the case and the said declaration is in other respects uncertain informal and insufficient. And this the said defendant is ready to verify wherefore by reason of such insufficiency in this behalf the said defendant prays judgment

and that said plff may be barred
from having or maintaining his aforesaid
action thereof against him &c

Anderson McAllister Smith

Defts Attys.

And the said plff avers that the matters
& things as in manner and form in said
plffs declaration set forth are good &
sufficient &c

W D Pearson

Plffs Attys

Endorsed

"Filed July 7th 1886 E St Hyne Clk"

And also a certain request to transfer
cause, which is in the words and
figures following viz:

Recorders Court of the City of Chicago
Charles P Mallett

ads

George S Pearson

To the Hon Recorders Court of the
City of Chicago.

The amount in controversy in this cause
exceeding the sum of One hundred dollars
& there having been no final trial therein
the Attorneys for the above named deft
herely request that the suit be transferred

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to the Circuit Court of Cook County
pursuant to the Statute in such case
made and provided

July 8th 1856, Edmund McAllister Smith
Defts Attys

Endorsed

"Filed July 8th 1856, P A Hayne Clk"

And also the following copy of record
which is in the words and figures
following to wit:

State of Illinois }
County of Cook } ss Records Court
City of Chicago } of the City of Chicago
November Term 1856

Friday November 14, 1856

7/12 George S Pearson }
Charles W Mallett } Co-Defendants

It is ordered by the Court that this cause
be transferred to the Cook County Circuit
Court upon the payment of costs.

"A true copy of an order entered
of Record in said cause

P A Hayne Clk"

Endorsed

"Filed Dec 3, 1856

W L Church Clk"

And afterwards to wit: on the 24th day of April in the year of our Lord one thousand eight hundred and fifty seven, the same being one of the days of the April Term of our said Circuit Court for said year the following among other proceedings in said Court were had and entered of record to wit:

George J Pearson } Defendant
Charles P Mallett } Plaintiff in

X This day came the said parties by ~~their~~ ^{their own proper persons} ~~Attorneys~~ and the Court having heard ~~them~~ ^{them} on the demurrer of the said defendant to the said plffs declaration herein and not being fully advised in the premises, takes the same under advisement.

And afterwards to wit: on the 29th day of the month and year last aforesaid and of the term of said Court aforesaid, the following among other proceedings were had and entered of record in this cause to wit:

George J Pearsons } Defendant
Charles P Mallett } Plaintiff in

This day came

X
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Plaintiff in his own proper person
~~he was present by the Court~~ and
the Court being fully advised and the
demurrer of the said defendant to
the said plaintiffs declaration, sustains
the same, with leave to the said
plaintiff to amend his said declaration
And that said defendant be ruled to
plead herein by Friday morning next

Afterwards and on the day and
year last aforesaid the said plaintiff
filed in this cause his certain amend-
ed declaration, which said
declaration is in the words and
figures following to wit:

State of Illinois	} H. The Recorder
Cook County	
City of Chicago	
Court of the City of Chicago, 20 April Term 1856	
Covenant	

George J Pearson complains of
Charles P Mallitt man in custody of
a plea of breach of covenant.

For that
whereas heretofore to wit: On the
20th day of May A.D. 1856, at Chicago,
to wit: at Chicago aforesaid, said
Mallitt made his certain contract
under seal, and then and there delivered

the same to the said plaintiff, which said contract said plaintiff now brings here in Court, the date whereof is, to wit: the day and year aforesaid (after reciting as therein recited) it was returned, that in consideration of the sum of One hundred and twenty five dollars paid by the said plaintiff to the said defendant, then and there, said defendant, then and there sold and delivered to said plaintiff, one sorrel colored horse, and warranted and warranted among other things to and with the said plaintiff that said horse was, then and there, sound ^{and} well in health in every way and manner, and well broke and kind to carriage and saddle.

And the said plaintiff in fact saith that although he paid, then and there the said 175. dollars to said defendant in good faith and received the said horse from said defendant, yet the said horse was then and there vicious, fractious and dangerous in harness and saddle and not well broke - and also said horse was then and there diseased, unsound.

and ill in health, which viciousness
fractiousness and unsoundness of health
were then and there well known to
said defendant and entirely unknown
to said plaintiff.

And the said plaintiff,
in fact saith that said horse, soon
after said purchase, became sick and was
and as a natural consequence of his
previous disease and unsoundness,
more violently sick and diseased,
and entirely unfit for use in any man-
ner, and subjected said plaintiff to
great expense in and about the care
and endeavoring to cure said horse,
in spite of which said care said
horse died.

And so the said plaintiff,
in fact saith that the said contract
of the said defendant has not been
nor is kept, but is in fact broken
to the damage of the said plaintiff
of two hundred and twenty five dollars
and therefore he sues &c &c

Wilkinson & Pearson
Plffs Atty

To the doct. or his Atty:

The following is a copy of the instrument upon which this action is brought:

Know all men by these presents that I Charles P Mallitt of Oregon, in consideration of the sum of One Hundred and seventy five dollars to me paid by George S Pearson of Chicago, do hereby sell and convey unto the said Pearson one sorrell colored horse of the value of said One hundred and seventy five dollars, to have and to hold unto him the said Pearson forever and I hereby fully warrant the said horse to be sound and well in health in every way and manner, and well broke and kind to carriage and saddle and that I have good right to sell and convey the said horse to the said Pearson in manner aforesaid. In testimony whereof I have hereunto set my hand and seal this 20th day of May A.D. 1858

Executed in presence of
 of L D Wilkinson } Chas P Mallitt

Endorsed

"Filed 29th April 1857 Wm L. Simons Clk"

And afterwards to wit; on the 4th
 day of May in the year last aforesaid
 it being as yet the April term of said
 Court, the following among other proceedings
~~in said Court, the following among other~~
 proceedings in this cause were had and
 entered of record in said Court

George T. Pearsons }
 vs } Defendant
 Charles P. Mallott }

This day came the said
 plaintiff in his own proper person and the
 said defendant ^{having} failed to comply with the
 rules of this Court heretofore entered in this
 cause to plead to the said plaintiff's amended
 declaration herein by a certain day therein
 mentioned, it is ordered that his default be
 and the same hereby is taken and entered
 of record. Wherefore said plaintiff ought
 to have and recover of said Defendant
 his damages herein sustained by occasion
 of the premises & thereupon in motion of
 plaintiff. It is ordered that a jury
 come to inquire of the said plaintiff's
 damages herein

24 And afterwards to wit; on the 30th day of
May in the year last aforesaid the said
plaintiff filed in this cause a certain contract
which contract is in the words and figures
following viz:

Know all men by these presents
that I Charles P Wallitt of Ohio, in
consideration of the sum of One hundred
and seventy five dollars to me paid by
George S Pearson of Chicago, do hereby
sell and convey unto the said Pearson
One sorrell colored horse of the value of
said One hundred and seventy five dollars
To Have and to hold unto him the said

Pearson forever, And I hereby fully warrant
the said horse to be sound and well in health
in every way and manner and well broke
and kind to carriage and saddle and
that I have good right to sell and
convey the said horse to the said
Pearson in manner aforesaid,

In Testimony Whereof I have
hereunto set my hand and seal this
20th day of May AD 1853
Executed in presence
of L D Wilkinson

Chas P Wallitt

seal

And afterwards to wit On the 30th day of May in the year A D 1857, it being as yet of the April Term of said Court, the following among other proceedings in said Cause was entered of record in this court

George J Pearson }
 vs } Defendant
 Charles P Wallitt }

This day again came the said plaintiff in his own proper person and thereupon the jurors of a jury to enquire of the plaintiff's damages in this cause also came to wit: P Prackem J A Knight, B H Cravens, S Spencer, G E Stearns, John Devitt, T J McMaster, A H Johnson, E B Bridges, A B Dalton, M Jukes J Cole, who, being duly elected, tried and sworn and did diligently to enquire of & ascertain the damages of the plaintiff's damages herein, after hearing the evidence adduced, arguments of ^{Plaintiff} ~~each~~ and instructions of the Court retired to consider of their verdict, and afterwards came into court and say We the jury find for the plaintiff

and a few his damages herein to the
 sum of One hundred and twelve
 Dollars and eight cents' Plaintiff
 Therefore the said ~~defendant~~ ^{Plaintiff}
 moves the Court for a new trial
 of this cause, and the Court having
 heard ^{him} ~~him~~ on said motion
 and being fully advised in the
 premises, overrules the same.
 Therefore it is considered that said
 plaintiff do have and receive of
 said defendant his damages of One
 hundred and twelve dollars and
 eight cents, in form as aforesaid
 aforesaid, together with their costs
 and charges by ^{him} ~~him~~ in this behalf
 expended, and have execution
 therefor.

State of Illinois }
 County of Cook } ss I William L
 Clerk of the Circuit Court
 of Cook County in the State
 aforesaid, do hereby certify that
 the above and foregoing is a true
 and perfect copy of all the papers
 filed & of the proceedings had and
 entered of record in a certain

came lately pending in our said
Circuit Court wherein George F.
Pearson was plaintiff and Charles
P. Mallitt was defendant so far
as the same appears from the
files & records of said Court.

In Testimony whereof I have
hereunto set my hand and affixed
the seal of our said Court at
Chicago, this 30th day of July
A.D. 1857

W. L. Church
Clerk

And now comes the said Charles P. Mallitt
plaintiff in error by W. K. McAllister his
attorney before the justices of the Supreme
Court of the State of Illinois and says
that in the record and proceedings aforesaid
and signing the judgment aforesaid
there is manifest error in this to wit
1st It does not appear that any process
was ever served on the said Charles P. Mallitt
or that the said Circuit Court had any jurisdic-
tion over his person, because no process was
issued from said Circuit Court, & he did not
appear therein, and there is no apparent

validity to any of the papers purporting to have issued out of or filed in the Recorders Court.

2nd There was no transcript made by the Clerk of the Recorders Court, to the Circuit Court as required by the provisions of the second section of the Act passed Feb 15th 1885 Entitled "An Act Concerning Inferior Courts in Cities," and the provisions of Sec 9 of 105th Chap of the Revised Statutes, nor are any of the papers purporting to have been filed in the said Recorders Court certified by the Clerk of said Court to be genuine.

3^d The said Court erred in requiring the said Mallett to plead to the said Pleurons amended declaration at the same term at which it was filed and in taking his default for not pleading.

4th The said Court had no jurisdiction to reverse said Judgment.

5th The said Amended declaration is insufficient to support the Judgment and for other errors the said Charles P Mallett prays that the judgment aforesaid be reversed.

W. R. McAllister

Atty for Plff in Error

Set supersedias issue. Bond two hundred
& fifty dollars, with Nathan Thompson & Andrew
J. Fuller sureties

J. D. Carson

Clark County Circuit Court

George W. Pearson

vs
Charles W. Wallcutt

Complete Record

22.

Filed September 12, 1887

J. D. Carson
Clerk

Dec 25 Paid by receipt

Sup Court

Charles P Mallott \ Application for Supersedeas,

^{vs}
George T Pearsons }

The plff in error asks for a supersedeas on the following ground:

The judgments purports to be rendered by the Court to his Court; but the record shows certain papers brought into that Court, entitled in "The Recorders Court of the City of Chicago". There is no transcript from the Recorder's Court, nor any proof of the genuineness of any of these papers so filed or brought in. Nor did the deft in person or by attorney appear in the Circuit Court. There was therefore a total want of jurisdiction over the person of the deft below to render the judgment.

The Act entitled "An Act concerning inferior courts within the State passed Feb 15 1855 (See 1st vol Purples Stat page 334) contains a provision in the second Sec, it is true, for a change of venue from the Recorder's Court to the Circuit; but it says also—
"and said suit shall be transferred agreeable to said request; And in the manner now required by law in cases of change of venue."

R.S. 529 Sec 9. Requires that the Clerk, when a change of venue is awarded, to make out "a full transcript of the record and proceedings in such cause, and shall certify & transmit the same to the proper court, together with all the papers filed in the cause and appertaining or forming a part of the record."

High vs Kirkpatrick 4 Scans 340
McBain vs Enloe 13 Ills 79,

The Court, if possessing jurisdiction, erred in permitting
Plff below to take judgment the same term of filing
amended Narr

Scates McAllister Jewett & Peabody
Atty for Plff in error,

Will Judge Centm please hand the Record
to the Clerk to be filed? Also Bond herewith sent
if Sup^r is allowed. Scates McAllister Jewett & Peabody
Chicago Sept 10th 1887

Sup Court

Charles P. Mallott

George J. Pearson

Mo for Supervisors

Filed September 12, 1887

L. Leland
Clerk

Chicago May 17. 1858.
75 Clark street.

Hon A. B. Scates.

Dr Sir.

Enclosed I send you
a stipulation on the suggestion of W K
McAlister Esq with a request that
you will present the same to the Court
& obtain an order agreeably to the
stip.

By doing this you will much
oblige.

Yours Respy

Wm Hopkins
for Geo. T. Pearson

77
Sup Court

Mallott

^r

Pearson

To be reinstated and
Continued

Filed May 26. 1858

L. Leland

CLK

Know all men by these presents that we
Charles P Mallett Nathan Thompson
and A. J. Fuller are held
and firmly bound unto George T Pearsons
in the penal sum of two hundred and
fifty dollars lawful money of the United
States for the payment of which well and truly
to be made, we bind ourselves, our heirs and
Administrators jointly severally and firmly by
these presents Witness our hands and seals
this 10th day of August A D 1857.

The Condition of the above obligation is such
that whereas the said George T Pearsons did on
the 30th day of May A D 1857 in the Circuit
Court of Cook County and State of Illinois
recover a judgment against the above bounden
Charles P Mallett for the sum of One hundred
and twelve dollars and eight cents together with
the costs of suit, upon which the said Charles
P Mallett has sued out a writ of Error from
the Supreme Court of said State to said Circuit
Court, Now if the said Charles P Mallett shall duly
prosecute his said writ of Error and shall pay the
judgments, costs, interest and damages, rendered
awarded and assessed in said Court, in case the
judgment aforesaid shall be affirmed by said
Supreme Court then this obligation to be
void and of no effect otherwise to
remain in full force and

and virtue,

Charles P. Mallett Seal
Nathan Thompson Seal
Andrew J. Fuller Seal

State of Illinois }
County of ^{Whiteside} Illinois } Sp.

Nathan Thompson & Andrew J. Fuller being duly sworn and severally depose and for himself says that he executed the foregoing bond as surety for Charles P. Mallett above named and deponents each for himself further says that he is a householder residing in the County aforesaid and that he is the owner of real estate situate in the County aforesaid of the value of more than five hundred dollars free and clear of all incumbrance and that he is worth more than the sum of One thousand dollars over and above all his just debts and liabilities.

Subscribed and sworn } ~~Paul Newton~~ JS
this Eighteenth day of August }
A D 1857 before me } Nathan Thompson
Paul Newton JP JS } Andrew J. Fuller

Sup Court
Charles P Mullett

vs

George T Plann
Bond

Filed September 12, 1839

L. Leland
Clk

STATE OF ILLINOIS, }
SUPREME COURT, }

ss. The People of the State of Illinois,
TO THE SHERIFF OF THE COUNTY OF *Cook*

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 *Cook* county, before the Judge thereof, between *George T. Pearson* plaintiff

and *Charles P. Mallett*

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

defendant

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 *George T.*

Pearson

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 *first Tuesday after the third* Monday in *April* next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall see fit; and further to do and receive what said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *George T. Pearson* notice, together with this writ.

WITNESS, The Hon. WALTER B. SCATES, Chief Justice of our said Court, and the Seal thereof at Ottawa, this *12th* day of *September* in the Year of Our Lord One Thousand Eight Hundred and Fifty-*Seven*

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

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THE FIRST AND ONLY, ACCORDING TO LAW: THE SEVERAL ME COMING TO

...the Supreme Court of the State...

As we are informed by the complaint, the record and proceedings of which said

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Feb. 10 '15

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April Dec. 1858 — C. 4/1/1

Edw. J. Sullivan

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Charles P. Muller

George Pearson

dei per

Feb 24 1854

Bellevue
Ill

State of Illinois (City of Chicago) I George Pearson the within named do hereby admit due personal service of the within Sci Fa and enter my appearance in proper person, this nineteenth day of April A.D. 1858 — Geo. T. Pearson

STATE OF ILLINOIS, }
SUPREME COURT, ss.

The People of the State of Illinois,
TO THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY OF *Cook* 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 *Cook* County, before the Judge thereof, between *George T. Pearson*

plaintiff, and *Charles P. Mallett*

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 should be corrected if any there be, 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 plaint 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 *first Tuesday after the third Monday in April* 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. WALTER B. SCATES, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this *12th* day of *September* in the Year of Our Lord One Thousand Eight Hundred and Fifty-*Seven*,

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

Clerk of the Supreme Court



Charles R. Mallett
George H. Pearson
Writ of Error

This writ of error is
to operate as a supersedeas
and as such is to be
obeyed by all concerned.

L. Leland
by J. B. Rice, Deputy

Filed September 12 1857
L. Leland
clerk

County, before
General

signify to clerk of the Circuit Court of
the County of the State of Illinois

the judge thereof, between

of a plea which was in the Circuit Court of

in the record and proceedings, as also in the rendition of the judgment

to the clerk of the circuit court for the county of

supreme court.

In Supreme Court

Chas P Mallett

Plff in Error

George T Pearson

Def't in Error

It is hereby stipulated
that this cause be re-instated
& the ~~defendant's~~ ~~case~~ ~~be~~ ~~re-instated~~ - court. &
on the docket of this court. &
leave given to the defendant
to join in Error - & Case continued

Chicago May 17 - 1858 -

W. H. McAllister

Atty for Plff in Error.

G. T. Pearson
in pro. per.

Supreme Court,

Chas. P. Mallett

Geo. T. Pearson

Stipulation

²²
H. Charles P. Mallett
77 vs 22
George Pearson

H.

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