

13312

No. _____

Supreme Court of Illinois

Ill. Cent. R. R. Co.

vs.

Rack

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 14.

Ills Cent
vs

~~Pepper~~

Anton

1861

~~1861~~

STATE OF ILLINOIS, } ss. The People of the State of Illinois,
SUPREME COURT,

To the Sheriff of the County of

La Salle

Greeting :

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the *County* Court of *La Salle* County, before the Judge thereof, between *Anton Rack*

plaintiff, and *The Illinois Central Rail Road Company*

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

Defendant

as we are informed by *the* complaint, of said defendant 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

Anton Rack

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 *Anton Rack*

notice, together with this writ.

Witness, The Hon. JOHN D. CATON, Chief Justice
of our said Court, and the Seal thereof, at Ottawa,
this *8th* day of *March* in the
Year of Our Lord One Thousand Eight Hundred
and Fifty-*nine*

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

~~14, 126~~ 31
The Illinois Central
Rail Road Company
vs
Anton Rack.
Seize

Anton Rack not
found in my county
April 19 1889

MT .10 car
J. Warner Shff
by J. L. Porter depy

Filed April 22 1889
L. Leland
Clerk

D. L. Hough
Plff's atty

STATE OF ILLINOIS,
SUPREME COURT,

ss. The People of the State of Illinois,
To the Clerk of the County Court for the County of LaSalle Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the County Court of LaSalle County, before the Judge thereof, between Anton Rack

plaintiff, and The Illinois Central Rail Road Company

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

as we are informed by the complaint of said defendant 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 plea 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 LaSalle, 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. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 8th day of March — in the Year of Our Lord one thousand eight hundred and fifty-nine.

S. Leland

Clerk of the Supreme Court.

By J. B. Rice Deputy

The Illinois Central
Rail Road Company
vs
Anton Rack
Writ of Error

Filed March 8. 1859
L. Seland
Clerk

STATE OF ILLINOIS, }
SUPREME COURT, ss.

The People of the State of Illinois,

To the Sheriff of the County of

La Salle

Greeting:

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the County _____ Court of La Salle County, before the Judge thereof, between Anton Rack _____

plaintiff, and The Illinois Central Rail Road Company _____

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

_____ as we are informed by the complaints of said defendant 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 ^{as we have hereby commanded you} Command You, That by good and lawful men of your County, you give notice to the said Anton Rack _____

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 record 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 Anton Rack _____

_____ notice, together with this writ.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 24th day of March in the Year of Our Lord One Thousand Eight Hundred and Sixty.

Clerk of the Supreme Court.

~~24~~ 14
La Salle

The Western Rail Road Co.

No.

vs.

Anton Rack.

SCIRE FACIAS.

FILED

April 19

A. D. 1860

L. L. Linnell

Clerk.

Executed this writ
by reading the same
to Anton Rack this
12th day of April 1860
54 NT 60
30 ml 150
910

H. Warner Shiff
by J. L. Porter Deputy



1.

LaSalle County Court September Term 1855
State of Illinois

LaSalle County ss

Plas Proceedings and judgments
held and taken in and before the LaSalle County
Court in the State of Illinois at the Court House in
Ottawa in the County of LaSalle of September Term
thereof to wit- of the third day of September in the
year of our Lord one thousand eight-hundred
and fifty five and of the Independence of the
United States of America the Eighteenth
Hon^{ble} H. J. Patton Presiding

Be it ~~remembered~~ remembered that heretofore to wit- on the 11th
day of August A.D. 1855- a Transcript and bond were
filed in the office of the clerk of the County Court
of said County which were in the words and
figures following to wit-

Anton Rack v. The Illinois Central Railroad Company
For Killing cow. Damages \$30

May 21st 1855 issued summons returnable on the 31st
inst- at 3 o'clock P.M., Subpoena for jury.

Summons returned by E. Clark Constable endorsed
served May 24th 1855 by leaving a true copy with
O. A. W. agent of the I. C. R. R. Co at Mendota The
President of the Company not residing in the County.

May 31st 1855 after hearing the proofs in this case it
is decided that the said Anton Rack have a jud-
gment against the said Illinois Central railroad

Company, for the sum of Twenty Seven (\$27.) Dollars
and costs of Suit June 20th can be applied to the
County Court

Constables fees on summonses & subpoenas \$1.75
Wm. Hockstetter & Const. Peter Rack Frank Meyer
Henry Ruedy & Albrecht Gabriel Pohl fifty cents each
as witnesses sworn & claiming fees \$3.50

Our fees Don summons 36 Sub 18 7, others 44
one trial one day \$2.00 and Judgment 25 2.25
and Appeal 25 Transcript & Bond 75 1.00

Total fees Due \$4.75

State of Illinois } Total costs \$9.45
LaSalle County }

I hereby certify that the above
Transcript contains a correct statement
of the proceeding had in the premises before me as
appears by my docket given under my hand
and seal this 11th day of July 1855

C. W. Gilman C. J. Clerk

Know all men by these presents that we the Illinois
Central Rail Road Company and C. A. D. of
the County of LaSalle and State of Illinois are
held and firmly bound unto Anton Rack of the
County & State aforesaid in the penal sum of
Twenty Three Dollars Lawful money of the
United States for the payment of which well
and truly to be made we bind ourselves our heirs
executors and administrators jointly severally and
firmly by these presents. Witness our hands

and seals this twentieth day of June A.D. 1853.

The condition of the above obligation is such that whereas the said Norton Peck did on the thirty first day of May A.D. 1853, before Charles H. Gilman a justice of the peace for the said County of LaSalle recover a judgment against the above bounded Illinois Central Rail Road company for the sum of Twenty Seven Dollars & costs from which judgment the said Illinois Central Rail Road company have taken an appeal to the County Court of the County of LaSalle aforesaid & State of Illinois. Now if the said Illinois Central Rail Road company shall prosecute their 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.

Approved by me at my Illinois Central Rail Road
Office this 20th day of June by O. A. agent
June A.D. 1853

C. H. Gilman C. J.

Afterwards to wit on the same day a summons was issued out of the office of said clerk in the words and figures following to wit-

The People of the State of Illinois to our sheriff of our county of LaSalle greeting
Whereas in a certain cause lately pending in our

Court held before Charles B. Leman Esquire one of the
 Justices of the Peace in and for our County of LaSalle
 wherein Anton Rock was plaintiff and the Ill. Cent.
 Rail Road Company was defendant Judgment has
 been rendered by said Justice against the said
 deft from which the said Defendants have appealed
 to our LaSalle County Court. We therefore command
 you that you summon the said Anton Rock that
 he personally be and appear in our said LaSalle
 County Court before our Judge thereof on the first
 day of the next Term of said Court to be held at
 the Court House in Ottawa on the first Monday in
 September next at Ten o'clock in the forenoon and
 abide by and perform the judgment of our said
 Court in the premises



In witness whereof we have caused the seal
 of our said Court to be hereunto affixed and
 attested by Samuel H. Raymond our clerk thereof
 at Ottawa 11th day of August 1855-

Endorsed
 executed this writ by reading the same
 to Anton Rock August 17, 1855 J. M. Harris depy

S. H. Raymond clk

per & ret 50
 25 miles 125

Afterwards to wit- on the 3 day of September A.D. 1855
 the same being one of the days of said Term of
 the LaSalle County Court the following proceedings
 were had and entered of record to wit-

Anton Rock

vs

Illian Central Rail Road Co.

Appeal

This day comes the plain-

Pliff by Chumacero his attorney - as well as defend-
ants by Bough his attorney - Whereupon the plain-
tiff by his said attorney enters his motion herein
to dismiss the appeal for want of sufficient bond
which motion after hearing the arguments of
counsel is overruled by the court.

Afterwards to wit on the 4th day of September AD 1853 -
the same being one of the days of the September Term
thereof of the LaSalle County Court the following
proceedings were had and entered of record to wit:

Anton Rack,

vs

Appeal

Illinois Central Rail Road Co

This day again come the
plaintiff by Chumacero his attorney - and the defendants
by Bough their attorney who enters his motion
herein to dismiss this writ for want of jurisdiction
which motion after hearing the arguments of counsel
is overruled by the court to which ruling of the
court the defendants by their said attorney then
and there excepted - Thereupon come the following
jurors of a jury to wit: Joseph C. Mcmill William Ely
Marvin W. Dimick Taylor Forrest Amram Boone William
L. Black Lewis Lussan Asaiah Rogers George Miller
George Hill Samuel J. Stilson and William
McCormick, who were duly elected tried and sworn
to well and truly try the issues herein according

6.

to the evidence - after hearing the evidence and arguments of counsel - the jury retire to consider of their verdict - who after due deliberation thereon had return into court the following verdict - to wit - we the jury find for the plaintiff in the sum of Thirty dollars -

Whereupon the defendants enters his motion for a new trial herein.

Afterwards to wit - on the 10th day of September A D 1855 - the same being one of the days of the September Term of the LaSalle County Court the following proceeding were had and entered of record to wit -

Arton Rack

vs

Chas. A. Phelps

Illinois Central Rail Road Co

This day again came the parties by their said attorneys - and after hearing the arguments of counsel on the motion for a new trial herein the motion is overruled by the court, to which ruling of the court the defendants then and there excepted.

It is therefore considered by the court that the plaintiff have and recover of the said defendants the said sum of Thirty dollars for his damages and also his costs and charges by him herein expended, as well as in the court below - and that he have execution therefor.

Afterwards to wit on the 14th day of September 1855
 The same being one of the days of the September Term
 of the LaSalle County Court the following Bill of
 exceptions was filed which is in figures and words
 following to wit-

Anton Rack

vs

Appeal

Illinois Central Rail
 Road Company

LaSalle County Court
 September Term A D 1855

Be it remembered that at
 the trial of this cause at the September Term of the
 said LaSalle County Court A D 1855 the said Anton
 Rack to maintain the issue on his part
 introduced William Vorkstam who being sworn
 testified that he was at Mendota and heard ^{that} his
 hifer was killed by the cars on the Rail Road when
 he went back he went to see it The gravel train
 was covering it up It was the Plaintiffs hifer
 The legs were broken - found bones - from appearance
 the hifer had been shoved along on the track some
 fifteen paces hifer was with calf found bones and
 hair on the track - hifer was worth thirty dollars -
 and was killed in May last three miles south of
 Mendota on Illinois Central Rail Road. There were
 five or six of the gravel train men bringing the
 cow. William Rack being sworn testified that he
 knows the cars on the Illinois Central Rail Road

Killed the plaintiffs cow - the cow worth \$30 or \$35. Last
 spring she was killed three miles south of Mendota
 on John Demerits land. Knows what killed the cow
 it was the afternoon passenger train from Mendota.
 On cross examination he testified that - I saw the train
 kill the cow was at home three quarters of a mile off
 Don't know whether the train was thrown off the
 track. I saw them immediately, which is all the
 evidence in the case. The counsel for plaintiff closed
 his case, where upon the counsel for the said Illinois
 Central Railroad company moved the said court
 to dismiss the said suit for want of jurisdiction
 in the justice of peace before whom the said suit
 was originally commenced - which motion was
 overruled by the said court, to which decision of
 the said court in overruling said motion to
 dismiss, the counsel for the said Illinois Central
 Railroad company then & there excepted. And there-
 upon the jury rendered a verdict in favor of the
 plaintiff & assessed his damages at thirty dollars.
 Whereupon the counsel for the Illinois Central Rail-
 road company moved the said court to set aside
 the aforesaid verdict & for a new trial by reason
 of the said verdict being against the law of the
 case & also by reason of the same being against the
 evidence. But the court overruled the said motion
 & gave judgment against the said Illinois Central
 Railroad company -

9.

To which decision of the said court in reversing
the said motion to set aside the verdict aforesaid
& to grant a new trial & giving a judgment against
the said Illinois Central Railroad Company the
counsel for the said Company then & there excepted
& praye that this bill of exceptions may be signed
sealed & made a part of the records which is done

Henry A. Cotton 

State of Illinois
LaSalle County

I, Philip Julius Clerk of
the County Court of LaSalle County do hereby
certify that the above and foregoing
is a true full and complete copy of
all the orders of court and also of the
papers on file in said cause purporting
to have been transcribed

In Testimony Whereof I have
hereunto set my hand and
the Seal of said Court at Ottawa
this Twentieth day of February AD
1858

P. Julius Clerk

Ans \$2.25

And now comes the said Illinois Central Railroad Company Plaintiff in Error says that in the record proceedings aforesaid there is manifest error in this to wit

1st The Court Erred in overruling the motion on the part of plaintiffs in error to dismiss said Cause for want of jurisdiction

2^d The Court Erred in overruling the motion for a new trial

3^d The Court Erred in rendering judgment as aforesaid in manner of form aforesaid

Campbell
for Pltffs in Error

The Illinois Central
Rail Road Company
14 vt St
Anton Ruck

Transcript

Filed March 8. 1859
L. Leland
Clerk