

No. 14022

Supreme Court of Illinois

Crocker

vs.

Illinois State Hospital
for the Insane

Pleas held at Jacksonville ~~in~~
and for the County of Morgan and
State of Illinois, before the Hon,
David M. Woodson Judge of the first
Judicial circuit of said State on
the 26th day of October A. D. 1853

John Crocker

^{vs}
The Illinois State Hospital
for the Insane

vs
Cave

It is remembered
that on the fifth day of October 1853 the plaintiff in
this cause filed in our said office the following
Receipt and account to wit

John Crocker

^{vs}
The Illinois State Hospital
for the Insane

vs
Mumpkin
Damage \$307.10
The clerk of the circuit
court will please give a summons in the above
entitled cause to the Sheriff of Morgan County to be
served and returned forthwith

M. Connell & English for Plff
Illinois Hospital for the Insane
vs
John Crocker
Pl Services for Mrs Crocker as matron for said
institution from May 3rd /53 to Aug. 3rd /53. \$75.00

And afterwards to wit, on the same day the following
summons issued upon the Receipt filed in this
cause to wit,

State of Illinois
Morgan county vs
The People of the State of Illinois

To the Sheriff of said County Greeting:—
We Command you to Summon the Illinois State
Hospital for the Insane, if they can be found in your
County to be and appear before the Judge of our
circuit Court to be holden at Duckrunville within and
for the County of Morgan on the 3rd Monday of
Oct. inst, to answer unto John Crocker in a plea of
trespass on the case upon promises, Damages three
hundred dollars, \$300.00— and of this writ make
legal service and due return, at the time and
place aforesaid—

(cell) Witness Charles Hardin Clerk of our
said Court at Duckrunville this 5th
day of October 1853—

Charles Hardin Clerk.

which writ was afterwards returned by the Sheriff
of said County endorsed as follows, to wit,

Served the within summons by receiving the
same to Fleming Stevenson the President of the
Board of Trustees for the Illinois State Hospital
for the Insane, and by delivering him a true
copy of this writ— October 5th, 1853—

Martin H. Capell Sheriff M.C.

And afterwards to wit on the same day the Plaintiff
filed the following declaration in this cause
to wit—

State of Illinois } In the Circuit Court of said
Morgan County } County at the October term A.D. 1853.
John Crocker complains of the Illinois State Hospital
for the Insane to wit, in the State of Illinois at
Duckrunville at the County aforesaid, in custody
in a plea of trespass on the case in promises,

For that whereas heretofore, to wit, on the 3rd day
of August A.D. 1853 the said defendant was indebted
to said plaintiff in the sum of Twenty five dollars
for three months service, rendered said defendant,
by Mary St. Crocker wife of the said defendant,
plaintiff, as matron of said Hospital, being her
salary as matron at three hundred dollars per
year, and being so indebted the said defendant
undertook and promised said plaintiff to pay him
the said sum of money when thereunto requested,
yet the said defendant not regarding the said
promise and undertaking has not paid the said
sum of money, nor any part thereof, altho often requested
so to do, but to pay the same totally refused, &
still doth refuse to the damage of said
plaintiff of three hundred dollars, wherefore
he sues &c.

McConrad & English for Deft

And afterwards to wit on the 21st day of October
the defendant filed the following demurrer to
the plaintiffs declaration in this cause to wit.

And the defendant by William Brown and
P. Yates her attorneys, comes and defends the wrong,
and injury when &c; and says that the plaintiff
to have and maintain his said action, against
her, ought not, because he says, that the matters
in the plaintiffs declaration, and as therein pleaded
are not sufficient in law, to enable him to have
and maintain his said action against her,
wherefore for want of &c. She prays Judgment &c.
Wm Brown & P Yates for Deft

And afterwards to wit on the 25th day of October
AD 1853 at the October term of the Court aforesaid
the following order was made in this cause
to wit

This day came the defendant and filed
their demurrer to the plaintiff's declaration,
which being joined and the matters of law
arising thereon being argued, it is overruled,
and the defendant saying nothing further in
bar or preclusion of the plaintiff's action, it is
considered and adjudged by the Court that the
plaintiff recover of the defendant his damages
sustained by reason of the nonperformance of
certain promises and undertakings lately made,
and because these damages are unknown to
the Court, it is ordered that the writ of enquiry
ipso &c directed &c

And afterwards to wit 26th day of October 1853
at the same term of the Court aforesaid the
following order was made in this cause to wit

This day came the plaintiff by his attorney,
and to enquire into and assess the damages
in this cause there came a jury to wit Amos
G. Whitcomb, Benjamin Pyatt senr, Peter S. Caspell,
Charles R. Miller, Robert Jones, Joseph Rogers,
Lewis Deaton, Lewis McKay, Jeremiah Cox,
Jesse Dunnevan, John Smith and Merim
Somrell, who being selected tried and sworn, well
and truly to enquire into and assess the damages
aforesaid, after hearing the testimony adduced,
upon their oaths do say that they assess said
damages to the sum of Seventy five dollars,

And therefore considered and
adjudged by the Court, that the plaintiff recover
of the defendants, the damages aforesaid, in
manner and form aforesaid aforesaid, and also
his costs herein expended.

And afterwards to wit on the fifth day of
November 1853 at the same October term of
the Court aforesaid, the following Order
was made in this cause to wit -

On Motion of the defendants an Appeal
is allowed from the Judgment in this cause to
the Supreme Court upon their entering into bond,
with Benjamin Pyatt or William Butler as
security in the penal sum of One Thousand
and fifty dollars to be perfected in thirty days.

And afterwards to wit on the 23rd day of
November 1853 the defendant filed the
following appeal bond in this cause to wit,

Know all men by these Presents, that
the Illinois State Hospital for the Insane, and
Benjamin Pyatt jr, are held and firmly bound, unto
John Crocker, in the penal sum of One Thousand
and fifty dollars, for the payment of which
we and truly to be made, we bind ourselves,
our successors, heirs, executors, jointly severally, and
firmly by these presents, Witness our hands and
seals this 15th day of November A.D. 1853.

The Condition of the above obligation is
such, that whereas the said John Crocker,
did on the 26th day of October, 1853, in the
circuit Court, within and for the County of

Morgan and State of Illinois, recover a Judgment
against the above foundation the Illinois State
Hospital for the Insane, for the sum of Seventy
five dollars and Cents of rent, from which
Judgment of said Circuit Court, the said the
Illinois State Hospital for the Insane, has
prayed for and obtained an appeal, to the
Supreme Court of said State, now of the record,
the Illinois State Hospital for the Insane, shall
duly prosecute said appeal with effect, and
shall moreover, pay the amount of the judgment,
cents interest and damages, rendered and to
be rendered against them, 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 —

A. Stevenson President of
Board of trustees of Ill
State Hospital for the Insane

Genj. Pyatt jr.

(seal)

State of Illinois

Morgan County

3 J. Charles Hardin Clerk of
the Circuit Court of said County do certify that
the foregoing pages contain a true and perfect
copy of the record and proceedings had in
the case of John Overker, against the
Illinois State Hospital for the Insane, as
fully and completely as the same remain of

Recd on file in my office -

On this whereof I have herunto
set my hand and affixed the seal
of said Court at Jacksonvill this
12th day of December A.D. 1853
Charles Hardin Clerk

Fees \$2.50

In the Supreme Court of the State
of Illinois, 2nd Grand Division -
Dec. Term 1853.

Illinois State Hospital for the Insane. Appellant
vs $\frac{3}{2}$ Appeal from Morgan
John Crocker - Appellee -

And the appellant in this cause,
by her attorneys, comes & says, that in the record
and proceedings in this cause in the court be-
low there is manifest error - and makes
the following assignment of errors -

- 1st. The court erred in overruling the demur-
rer filed by appellant said Hospital.
- 2nd. The court erred in rendering a judg-
ment against said Hospital.
- 3rd. The court erred in not render-
ing a judgment for said Hospital
for costs -

Stuart, Edwards &
Brown for appellant.

Pointed in Error
Atty General

81
Morgan Circuit Court.

John Cowker.

vs

The Illinois State
Hospital for the
Insane.

Copy of Record

Filed 14th Dec^r 1853

W B Marroy

14022

Paired

Ill. State Hospital for the Insane -
No 3 Appeal
J. M. Higgins -

~~Name~~

No 3 Appeal
John Crocker

In reply.

In every action there must be an actor or res - in being - liable to be sued with capacity to sue & be sued.

The ~~of~~ defendant in these suits - has no existence, as a corporation, or quasi corporation -

The Ill. State Hospital - see Act 1847 - 52. ~~does not~~ makes the trustees of the Ill. State Hospital for the Insane, a corporation -

~~The~~

It is ^{admitted} ~~assumed~~ that an execution can not be issued against the property of the Institution - & if so - no suit can be maintained - because *executio est finis legis* - It is the fruit of the suit, & if ~~the~~ that cannot be enjoyed - the reason for the institution of the suit fails, & when the reason fails the law ~~fails~~ ceases.

There is no contract in either of these cases upon which an action can be maintained -

W. Brown for the
defendant -

All State Hos-
pital for Ins
ane

vs 3 Appeal
J. M. Higgins

vs 3 Appeal
John Brooker

Prints made
by Brown

The Hospital for the insane
as } Dependent Brief & abstract
John Crocker }

This was an action brought by Crocker
for the wages of his wife who was appointed Matron for
said Institution and Judgment rendered for Crocker

The suits brought to this court by the corp-
oration ~~to this court~~, and it is concluded that said corporation
cannot be sued and all persons who contract with said corporation
is without remedy

The defendant in error contends that this
is a corporation having power to hold real and personal property
to make contracts and debts and therefore may sue & be sued

It is a well settled principle that Corp-
orations may make verbal contracts and may be sued
thereon, see *Angell and Ames on corporations*, page 325, 326
and the cases there cited

For the Charter of this Hospital Stat 1847, page 52
see *McConnell for Sept in E*

Hospital

vs

Crocker +

Hospital

vs

Higgins +

Dependants abstract
and brief +

Scales, J. The summons and declaration were against the "Illinois State Hospital for the Insane". The error assigned is the overruling a demurrer to the declaration, which counted for services rendered by Crocker's wife as matron of the hospital, for a fixed compensation.

The only question presented that we need to determine, is whether an action will lie against the hospital, in the name ~~in~~ ~~the name~~ in which it is sued. We are of opinion the action will not lie. The same question is settled at this term in the case of the same party, plaintiff in error, v. Higgins, and the appropriate remedy pointed out.

Judgment Reversed

2 Division
Dec. 7. 1853

Insane Hospital

v

Crocker

States