

No. 13058

Supreme Court of Illinois

Meyers

vs.

Stackpole

71641  7

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division.

1860

No. 23.

Meyers
vs

Stadpole

13058

Know all Men by These Presents, That William Myers

as principal, and John Myers _____
as security, are held and firmly bound unto William Stackpole _____ in the
penal sum of five hundred dollars _____ good
and lawful money of the United States, for the payment of which, well and truly to be made, the said
William Myers and John Myers _____
bind themselves ~~then~~ heirs, executors, and administrators, jointly, severally, and firmly by
these Presents.

Witness, our hands and seals _____

this 22nd/₁₁ day of July A. D. 1858,

The Condition of the above Obligation is such, That, whereas, the above named
William Stackpole _____
did, at the June _____ Term of the Circuit _____ Court,
held in and for the County of Lee _____ in the State of Illinois, A. D. 1858 recover a
judgment against the above bounden William Myers _____

for the sum of two hundred and ^{eighty} ~~ninety~~ eight
dollars & ninety eight cents & cost of suit _____
to reverse which said judgment, the said William Myers _____
has sued out a Writ of
Error from the Supreme Court, within and for the Third Grand Division of said State. Now if the said
William Myers _____
shall duly prosecute said Writ of Error, and pay, or cause to be paid, all judgments, costs, interest and
damages which the said Supreme Court shall adjudge against him _____
and abide the order and judgment of said
Supreme Court in this behalf, then this obligation is to be void, otherwise to remain in full force and effect.

William D. Myers [SEAL.]
John Lee [SEAL.]
[SEAL.]
[SEAL.]

William Myers
#7 07 23

William Stuckpole
Supdr. Bond

Filed July 23. 1858
L. Leland
Clerk

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

To the Clerk of the Circuit Court for the County of Lee 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 Lee County, before the Judge thereof, between
William Stackpole

plaintiff, and William Myers

defendant, it is said mani-
fest 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 Su-
preme 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. John D. Caton, Chief
Justice of our said Court and the Seal
thereof, at Ottawa, this 23rd day of
July in the Year of Our Lord
our thousand eight hundred and fifty-eight.
L. Deland

Clerk of the Supreme Court.

by A. B. Rice Deputy

^{77 23}
William Myers

v

William Stackpole
Writ of Error

This writ of Error is
made a Supersedeas
and as such is to be
obeyed by all concerned

L. Leland Clerk
by J. B. Rice Deputy

Filed July 23. 1858
L. Leland
Clerk



United States of America
State of Illinois
Lee County

} Set
In the Lee County Circuit Court

William Stackpole
" "
William Myers

Plas in the matter of
Petition for Mechanic's Lien

" State of Illinois
" Lee County
" William Stackpole

} Bill Filed February 20th A.D. 1859
Lee County Circuit Court
of the April Term A.D. 1858

" "
" William Myers

} Mechanic's Lien

To the Honorable John Custree
Judge of the Circuit Court in and for the County
of Lee and State of Illinois

Humbly complaining
unto your Honor, your Petitor respectfully sheweth
that, heretofore to wit, at the time of the making
of the Contract hereinafter stated One William
Myers was, and still is the owner and in
the possession of the North East Quarter of the
North West Quarter of Section Twenty seven in
Township twenty two North of Range Eight East
of the 4th Fourth P.M. in said Lee County
that so being the owner aforesaid of said piece
of land, the said William Myers, heretofore to wit: on
or about the twenty first day of August A.D. 1858

and within said County, contracted and agreed with the said Complainant, who was then & there exercising the trade and profession of Stone Cutter in said County, that he the said Complainant should cut and furnish certain stone & do certain other work and labor, & as a Mechanic and furnish certain other Materials upon and for the building, and erection of a Dwelling house upon said land before herein described & for all which the said Myers agreed with & promised this defendant to pay him what the same should be reasonably worth when thereunto afterwards requested: that in pursuance of said agreement, the said Complainant did so proceed to furnish said labor & materials as such Mechanic a particular statement, and account of which is hereto attached and marked Exhibit (A) and which Complainant asks may be made a part of this Petition, all of which labor and material was used & applied in and about the erection and completion of said dwelling house upon said land, amounting in all to the sum of Two Hundred & Ninety three Dollars and Ninety Eight Cents, which said amount is and has for a long time heretofore been due & payable, yet the said William Myers to pay the same, although often thereto especially requested, hath not as yet paid the same or any part thereof, but the same remains due and unpaid

wherefor your Orator prays that he may have his liein
 upon the said premises, according to the Statute
 in such cases made and provided, and that
 an account may be taken in the matter, and that
 said premises may be sold to satisfy your Orator's
 said demand, and that your Orator may have
 such further and other relief as to your Honor
 shall seem meet, and Equity and good conscience
 require - as in Duty bound your Orator will ever
 pray

Heaton & Atterton

Sol^r for Orator

William Stackpole

Exhibit (A) referred to in the foregoing

William Myers

1857

To William Stackpole Dr

August	21 st	To 1 door sill 4 ft long x 3 ft 2 in wide	=	8 ft 8
"	"	" 1 " " 4 ft 2 in x 3 ft 1 in	=	8 8
"	"	" 1 " " 4 ft x 2 ft 1 "	=	8 4
"	"	" 21 Window Sills 4 ft each	=	84 -
"	"	" 1 door Sill 7 ft 3 x 3 ft 1	=	15 1/2
"	"	"		124 9/16 \$ 74 85
"	"	" 13 ft Water table w 60°		135 - 52 80
"	"	" Labor on House		3 00
"	"	" 17 Window Caps @ 3 ft 10 in		65 2
"	"	" 1 Door Cap 6 ft x 1 ft 6		9 -
"	"	" 3 Window Sills 3 ft 10 ea		11 6
"	"	" 5 Window Sills 4 ft ea		20 0
"	"	" 10 " Caps 3 ft 10		38 4
"	"	" 1 door Sill 6 ft 3 x 2 ft 1		14 1
				155 1 94 85

Exhibit Continued & brought over

Summons

The People of the State of Missouri

We command you that you summon William Ayers if he shall be found in your County personally to be and 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 Dixon in said Lee County on the 2nd Monday of April next to answer unto William Stockpole in a certain Petition for a Mesne-
-conick Lien filed by said Petitioner on this day against the said Defendant. And unto you then and there this Writ with an endorsement thereon in what manner you shall have executed the same.

Witness Geo. E. Haskell Club of Fair Court

and the seal thereof at Dixon this

20th day of February A.D. 1858

Wm. E. Haskell, Clerk

Joseph. Ball Sept 26/47 "

Some of the within by reading the same, and
copy with the within named Defendant

July 24 1858

Olivia Wheeler Smith, Esq. Boston 26th

(5)

At a Term of the Circuit Court in and
for the County of Lee in the State of Illinois, begun
and holden at the Court House in Dixon in
said County on the 22nd Monday in April
Anno Domini One Thousand Eight Hundred
and Fifty Eight, then Present

Honorable John V. Eastace Judge,

Robert C. Burchell State Attorney,

Geo. C. Haskell Clerk,

Dwight Wheeler Sheriff.

Be it remembered that on the 19th day of
April A.D. 1858 (the same being one of the regular
days of said April Term, the following entry ap-
pears to us of Record in this behalf

" William Stackpole

4

William Myers

} Petition for Mechanic's Lien.

On this day comes the Plaintiff
by Heaton & Heaton his Attorneys, and the
said Defendant being now three times solemnly
called, came not but herein made default
whereupon this case is referred to Charles N.
Seaverway Master in Chancery of this
Court to take and report proof "

And afterwards to wit on the 3rd day of May, 1858
the same being one of the regular days of said April
Term, the following entry appears to us of
Record herein.

(6)

William Stackpole

William Myers

Petition for Mechanic's Lien

Now on this day again comes the Petitioner by Watson & Atherton his Solicitors and files his Report of the Master in Chancery to whom this case was referred; And it is now ordered by the Court, that the said Report stand approved, unless cause be shown to the contrary by tomorrow morning

Master's Report 11th May 3rd 1855

William Stackpole

William Myers

In the Lee County Circuit Court
April Term of 1855

In pursuance of an order of this Court, made in the above cause, by which it was referred to one of the Masters of this Court to take and report testimony & evidence to said Court, I Charles A. Sweeney one of the Masters of this Court, do respectfully certify & report that on the first day of May 1855 being attended by Messrs. Watson & Atherton Solicitors for the Petitioner, evidence & testimony was produced on the part of said Petitioner as follows to wit:—

(7)

"

"

"

John P. Robinson being by me ^{first} duly sworn
to tell the ~~whole~~ truth, the whole truth and
nothing but the truth, testified as follows

"Interrogatory 1st What is your name, age, and place of residence

"Answer 1st My name is John P. Robinson, twenty six
years of age, reside in Dixon Lee County, Illinois

"Interrogatory 2nd Do you know the parties to this suit. Plaintiff
and Defendant, & are you acquainted with the
premises described in the Plaintiffs Petition herein

"Answer 2nd I am -

"Interrogatory 3rd What is the business and occupation of said
Plaintiff

"Answer 3rd A Stone Cutter

"Interrogatory 4th Do you know of the Plaintiff furnishing Defendant
with work and materials for the erection of a
house for Defendant

"Answer 4th I do -

"Interrogatory 5th What kind of Material and labor was so
furnished & when was it finished?

(8)

Answer 5th It was stone Caps & Sills, for the doors and windows, and a water table for a Dwelling house and also some job work in setting water table on said house, during the summer of 1857

Interrogatory 6th Where were the said Materials and labor furnished and used &

Answer 6th They were furnished and used in the erection of a dwelling house, for the Defendant, upon the premises in the Plaintiffs Petition described

Interrogatory 7th Look upon the account now shown you and marked Exhibit (W) & state if the same is as near as you now recollect of the labor and material so furnished

Answer 7th I think it is a true statement

Interrogatory 8th State whether the prices in the said Bill charged are reasonable & the ordinary Market Value of such labor and material at the time they were so furnished

Answer 8th They are

Interrogatory 9th What are your means of knowledge of the amount of labor and materials so furnished by said Plaintiff

(9)

"Answer 9th I built the said Defendant's house & was
" present when said work & material was so furnished

"Interrogatory 10th Did the said Plaintiff furnish and cut for said
" Defendant all the lime stone used in the Erection
" of Defendant's house & what kind of stone was so
" used

"Answer 10th He did; the stone he used was Batavia stone

" John J. Robinson

" Subscribed & sworn to before me

" this 1st day of May A.D. 1854

" Charles W. Leaveway Master in Chancery

" And I do further certify ^{and report} that the account or memorandum
" hereto attached & marked Exhibit H (1) & making a
" part of this my report, was by said Petitioner produced
" & opened in evidence

" William Myers
" 1857

To William Stuckpole Dr

August 21 st	To 1 Door Sill 4 ft long 3 1/2 ft by 8 ft	8
"	" 1 " " 4 ft 2 in X 2-1	8.8
"	" 1 " " 4 ft 2 2 ft 1	8.4
"	" 21 Window sills 4 ft each	84. -
"	" 1 door Sill 7 ft 3 in X 2 ft 1	15.1 1/2
		<u>124.9 1/2</u>
		124.9 1/2 - 66.8 = 74.88

(over 1)

brod over

(10)
August 21st

74.84
82.80
3.00

To 135 ft water table 60⁰⁰
" " " Labor on House
" " " 17 Window Caps e 3 ft 10 ea
" " " 1 Door Cap left x 1 ft 6
" " " 3 Window Caps 3 ft 10 ea
" " " 5 Window Sills 4 ft ea
" " " 10 " " Caps 3. 10 ea
" " " 1 door sill 6 ft 3 x 2.3
" " " "
" " " 4 Window Sills 3 ft ea
" " " 1 Moulded Cap 7 ft 6

63 ft 2
9. -
11. 6
20. -
35.4
14.1
158.1
12 -
7.67 350.

94 55
7 20
26.25
288.98

All of which is respectfully submitted
Dated Dixon Lee County

May 3rd 1858
Charles N. Lowmway
Master in Chancery

Rec 7500

(11)

At a Term of the Circuit Court in and
for the County of Lee in the State of Illinois
begun and holden at the Court House in
Gibson in said County on the third
Monday of June Anno Domini One
Thousand Eight Hundred and Fifty Eight
then present

Honorable John V. Coates Judge
Robert C. Churchill State Attorney
George E. Tashell Clerk
Joseph Ball Deputy Clerk
Orin Wheeler Sheriff

As it remembered that on the eighth
day of July 1858, the same being one of the
regular days of said June Term the follow-
ing entry appears to us of Record in this behalf
William Shackleton

vs
William Myers } Petition for Mechanic's Lien.

On this day comes the Petitioner by Heaton & Atherton his
Solicitors & the said Defendant having been heretofore called at a prior Term of this
Court came not but made default therein, Wherefore the said Petition was taken
pro confesso against the said Defendant, and thereupon the case was referred to
the Master in Chancery of this Court to take and get Proofs as to the amount
and Value of Materials & Work & Labor furnished by said Conf. Defendant &
how long received and used by said Defendant in the building and erection of
the buildings named in the said Conf. Defendant's Petition herein filed and
report such proofs to the Court.

And afterwards on this day (the said Master in Chancery having

13

make said sale to the highest and best bidder at Public Auction
for cash, and upon making such sale that he execute and de-
liver to the purchasers thereof a deed for the premises so sold,
conveying to such purchaser, all the right, title and interest of the
said Defendant to said premises; and that out of the proceeds
of such sale to pay the costs of this proceeding, and to pay to
the said Complainant the amount so due him as his said Lien
and judgment herein if said premises shall sell for so much,
and the balance of the proceeds of said Sale if any shall
remain shall be paid to the said Defendant according to Law."

STATE OF ILLINOIS, } ss.
Lee COUNTY.

The People of the State of Illinois, to the Sheriff of said Lee County—GREETING:
WE COMMAND YOU,

That of the goods and chattels, lands and tenements of William Meyers to wit:—
The North East Quarter of the North West Quarter
of Section Number Twenty Seven (27) in Township
Number Twenty Two (22) North of Range Number Eight (8)
East of the fourth principal Meridian, situate in the County
of Lee and State of Illinois

Defendant in your County, you cause to be made the sum of Two Hundred and
Eighty Eight Dollars
and Ninety Eight Cents, which William Stackpole

Plaintiff
lately in the Circuit Court of said Lee County, at a Term thereof begun and held at
Dixon in said Lee County, on the 3rd Monday of
June A. D. 1858, on certain Mechanics Lien

recovered against the said Defendant and which by the said Court was adjudged to the said Plaintiff for
his Damages by him in this behalf sustained

And also, the further sum of Fourteen Dollars
and ten Cents, which were adjudged to the said Plaintiff for costs and charges
in that behalf expended, whereof the said Defendant does stand convicted as appears to us of Record: And
have you these moneys ready to render to the said Plaintiff for Damages debt and costs
aforesaid, and make return of this Writ with an endorsement thereon in what manner you shall have executed
the same, in ninety days from the date hereof.

WITNESS George E. Haskell Clerk of said Court, and
the seal thereof, at Dixon in said County,
this 24th day of July A. D. 1858
George E. Haskell Clerk.

L.S.

CIRCUIT COURT.

FEE BILL,

PLAINTIFF'S COSTS,

William Stackpole

vs.

William Myers

Dec case 2 terms 20 Out 20 appt 20 atts 25 Sums 45 40
Sps 45 40 15 papers 25, Mo to default 20 Out to call 25 20
Out Default 20 Sub 2 25 20 Out referring to Master 20
Out to report 20, Out to report 20, Out to sales 20 From 60 Out
Out of cost 20, Out of cost 20 Out of cost 25 100 10 Sums 15
Execution 40 14 400 15 Ret 10 Dec ret 14
Bill of cost 30 Copy of same 20 Out of cost 35
Sums 15 on Sums 90 Now (Horrick on 160
Masters fees Seven way 75.00

14 10

This Transcript to 4.00

This copy of cost 20 Out of cost 35

I, Geo. E. Haskell Clerk of the Circuit Court, do hereby certify that the
above and foregoing is a true copy from my Fee Book of Plaintiff's costs in the above entitled suit.
Witness my hand and the seal of said Court.

Geo. E. Haskell Clerk.
Myself J. C.

(31)

State of Illinois }
Lee County }
(16) } J. S. George & Haskell Clerk
of the Circuit Court, in and for the
County and State of said, do hereby certify, that
the foregoing matter is a full true and correct
transcript of all the proceedings of Record therein
& that I have carefully compared & examined the same.
In Witness whereof I have set my hand
and the seal of said Court at Dixon this
20th day of July A.D. 1858
George E. Haskell Clerk
Myself. Paul Dep't.

Now comes the said Abner plaintiff
error and assigns as error in the above record
1. That the time set forth in the Petition is an
impossible time.
2. The contract is not sufficiently set
out.
3. It is not stated ~~how~~ in said petition
what the demand is.
4. The Petition is wholly insufficient to
maintain the procedure.

Let a supersedeas issue. Bond
five hundred dollars, John Abner
Security

S. C. Eaton

And the said Miller Stockpale
dependent on this Court by Hrotan
his attorney comes and says there
is no such error in this case
as is by the said Plaintiff in error
herein supposed &c

Now Hrotan be left
in error

William Myers
23
William Stackpole

Filed July 23, 1858
L. Leland
Clerk