

No. 1457~~6~~ - A

Supreme Court of Illinois

Hall

vs.

Marks

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 82

J. W. Middleton & Co., Stationers, 196 Lake St.

Hall
75

Mark

1864

14574

Know all Men by these Presents, That

William Hall

as principal, and Russel

R. Hall

as security, are held and firmly bound

unto Sewellyn clarks

in the penal sum of six hundred dollars -
good and lawful money of the United States, for the payment of which, well and truly
to be made, the said William Hall & Russel R.
Hall

bind themselves, their heirs, executors and administrators,
jointly, severally and firmly by these Presents.

Witness, the hands and seals of the said William
Hall & Russel R. Hall

this 31st day of October A. D. 1863.

The Condition of the above Obligation is such, That, whereas the above named
Sewellyn clarks

did, at the September Term of the Circuit Court,
held in and for the County of Jackson in the
State of Illinois, A. D. 1863 recover a judgment against the above bounden William
Hall on a motion for permission to plead
& to set aside a default ^{judgment} entered September
10th 1863.

for the sum of two hundred

& forty nine dollars

to reverse which said judgment, the

said William Hall

has sued out a Writ of Error from the Supreme Court, within and for the Third
Grand Division of said State, which Writ of Error is made a Supersedeas. Now if the
said William Hall

shall duly prosecute said Writ of Error, and pay, or cause to be paid, the amount of said
judgment, and all judgments, costs, interest and damages which the said Supreme Court
shall adjudge against him

and abide the order and judgment of said Su-
preme Court in this behalf, then this obligation is to be void, otherwise to remain in full
force and effect.

William Hall
Russel R. Hall



[SEAL.]

[SEAL.]

No.

SUPREME COURT,

THIRD GRAND DIVISION.

William Hall

vs.

Stewellyn Clarks

SUPERSEDEAS BOND.

Filed Nov. 27th 1863,*L. Siland* Clerk.

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

To the Sheriff of La Salle 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 St. Alb County, before the Judge thereof, between

Shelby Clark

plaintiff....., and

William Hall

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

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

Shelby Clark

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

Shelby Clark

notice, together with this writ.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 25 day of November in the year of our Lord One Thousand Eight Hundred and Sixty-Three.

L. Island

Clerk of the Supreme Court.

William Hall

No.

vs.

Shewell Marks

SCIRE FACIAS.

FILED... Apr. 20... A. D. 186 4Shewell Clerk.State of Illinois }
Saville County }^{es}

I have duly executed
the within writ by
returning the same to
the within named
Defendant Shewell
Marks on this the
19th day of January
A.D. 1864

H. R. Milligan Shff
Per J. J. Bond DeptyFees Service & Ret Co
Mileage 30- $\frac{1.50}{\$3.10}$ Marks resides at
Chandota.

Wm. Hall Piffin ^{vs} } Executor to
Sennely Meyeke } of Le Roub County
State of Minnesota
Roub County }

Re: Wm. R.
Hall being first duly
sworn on Oath Subscribed
~~Wm. Hall~~ the Piffin now
is a man worth four or
five thousand dollars
and owes the payment
of all debts and demands
consisting of an insurance
firm and cattle horses hay
and farming utensils and
he is not willing to accept
four hundred dollars
Thos. this offer is worth
at least five thousand
dollars and owes
the payment of all debts
and demands consisting of
a farm of two hundred
acres in Le Roub County
and personal property,
He makes this offer for
the purpose of satisfying his
being taken as security in
the case above entitled

James J. Leland

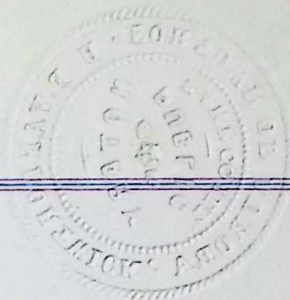
James J. Hall

16th day of Oct. 1863
Wm. J. Van Nostrand Notary Public

52
Mr Hull
As

L. Munkes

Offr of R Hull
Investigating
buro



Filed Apr. 27. 1863.
L. Leland
Clerk.

STATE OF ILLINOIS, }
SUPREME COURT, }

ss. The People of the State of Illinois,
To the Clerk of the Circuit Court for the County of De Kalb — 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 De Kalb County, before the Judge thereof, between

Sewellyn Marks

Complainant, and

William Hall

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

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. JOHN D. CATON, Chief Justice of
our said Court, and the Seal thereof, at Ottawa, this
27 day of November
in the Year of Our Lord One Thousand Eight Hun-
dred and Sixty three.

L. Seland
Clerk of the Supreme Court.



William Hall

No.

vs.

Stewlyn Clark

WRIT OF ERROR.

*This Writ of Error is made a
Supersedeas, and as such is to be
obeyed by all concerned.*

L. Seland

Clerk.

FILED

Apr. 27th A. D. 1863

L. Seland

Clerk.



United States of America
State of Illinois DeKalb County

Page 1

Pleas before the Honorable
Theodore D. Murphy Judge
of the Thirteenth Judicial
Circuit in the State of
Illinois at the September
Term of the DeKalb County
Circuit Court begun and
held at the Court House
in Sycamore in said
County on the second Monday
(the same being the fourteenth
day) of September in the
year of our Lord one thousand
eight hundred and sixty
three and of the Independ-
ence of the United States
the eighty eighth.

Present, the Hon Theodore D. Murphy Judge
Amos B. Com. State Attorney
Henry Safford Sheriff

Attest Caleb W. Brown Clerk

Court opened by Proclamation

So it Remembered That hereofore to wit
on the 20th day of August 1863 there

was filed in the office of the Clerk of the Circuit Court of said De Kalb County, a certain Declaration in Assumpsit, which said Declaration in Assumpsit, is in words and figures following, that is to say: —

State of Illinois vs
De Kalb County

In the Circuit Court
of De Kalb County
In Vacation after
the February Term
AD 1863.

Llewellyn Marks Plaintiff in this suit
by Chas Kellum his attorney, complains of William
Hall, the Defendant, who was summoned etc. in
a plea of Trespass on the case on promises
For that whereas the Defendant, heretofore, to-wit: —
on the twenty eighth day of March in the year
of our Lord one thousand eight hundred and
sixty one, at Chabbona Grove in said County of
De Kalb, made his certain Promissory Note, and
then and there delivered the same to the Plaintiff
in and by which said Note, said Defendant
by the name, style and description of Wm
Hall, promised to pay to the order of the said
Plaintiff, by the name style and description
of L. Marks, Two hundred Dollars on the mid-
dle of June next after the date thereof with

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trust at the rate of ten per cent per annum
for value received. By means whereof, and by
force of the Statute in such case made and
provided the said Defendant became liable to
pay said Plaintiff said sum of money mentioned
in said Note; and being so liable, in consideration
thereof, then and there undertook and promised to
pay the same to the said Plaintiff, according to the
tenor and effect and true intent and meaning of
the said Note, to-wit: at the place aforesaid.
And Whereas also the said Defendant afterwards
to-wit: on the first day of April in the year of
our Lord one thousand eight hundred and eighty-two
to-wit: at Chabbona Grove in said County, became
and was indebted unto the Plaintiff in a large
sum of money to-wit: - Three Hundred Dollars
for money before that time lent and advanced to,
and paid, laid out and expended for said De-
fendant for said Plaintiff at said Defendant's
request; and for money before that time had ^{and}
received, by said Defendant, to and for the use of
said Plaintiff; and also in like sum for
Goods, Wares and Merchandise, before that time
sold and delivered by said Plaintiff to said
Defendant, at like special instance and re-
quest; and also in like sum for the labor, care
and diligence of said Plaintiff before that
time done and performed by said Plaintiff

Page 4

for said Defendant and at the like instance ^{and} request of said Defendant; and also in like sum then and there found due and owing said Plaintiff on an account stated between them; and being so indebted said Defendant in consideration thereof, then and there undertook and promised to pay said Plaintiff said several sums of money above mentioned, when therunto afterwards requested.

Yet the said Defendant not regarding his said promises and undertakings, but contriving etc., although often requested so to do, has not paid said Plaintiff either of said sums of money above mentioned or any part thereof, but so to do has hereto wholly neglected and refused, and still do neglect and refuse to the damage of said Plaintiff of Three Hundred Dollars, and therefore he brings this suit &c

Chas Kellum Plaintiff

Copy of Instrument ^{and} Account sued upon,
\$200.⁰⁰ Chabbona Grant N^o 64
March 28th 1881

Middle of June after date, I promise to pay to the order of E. Marks Two Hundred Dollars. Value Received at ten percent Interest (signed) W^m Hall

The instrument declared upon in this

5- Suit is the Plaintiffs only cause of action.

William Hall

To Elevellyn Marks D^r

To money lent and advanced \$300.
 To money expended and paid out for \$300.
 To money received for use of \$300.
 To Goods, Wares and Merchandise \$300.
 To Labor and Services \$300.
 To balance on account, stated \$300.

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On which is endorsed as follows to-wit:-

Filed this 20th day of August 1863

Wm Brown Clerk

Be it further Remembered that on the day and year last aforesaid to-wit: on the said 20th day of August 1863, there was issued out, of the office of Clerk of the Court aforesaid, a certain Summons, which said Summons together with the Sheriffs return thereon endorsed as in words and figures following. That is to say:

State of Illinois
 De Kalb County

The People of the State of Illinois to the Sheriff of said County (Greeting). - We command you that you summon William Hall, if he is to be found in your County, to answer the

~~Page~~

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Declaration of Shewellyn Marks in an action
of Trespass on the case on Promises - damages
claimed Three Hundred Dollars - which said
Declaration was filed in the office of the
Clerk of the Circuit Court of De Kalb County
on the 20th day of August A.D. 1863

Now, unless, the said Defendant, shall within
twenty days from the date hereof plead to
or otherwise answer said Declaration. Judg-
ment will be entered against him by default

(L.S.)

Revenue Stamps
to the amount of
Fifty Cents
in full

Witness M. Brown. Clerk of
said Court, and the Seal
thereof at Gycam in said
County this 20th day of August
A.D. 1863.

M. Brown Clerk

(Sheriff's Return)

I have served this writ by reading the same
to the within named William Hall the 25th day
of August A.D. 1863. and at the same time de-
livered to him a certified copy of the Decla-
ration filed in the case.

Fees - Service 50
Paper 50
Writ 1.25
Return 10
\$2.35

Henry Tafford Sheriff

7 It is further Remembered. That afterward to-wit, on the 10th day of September A.D. 1863 the following proceedings were had and entered of Record in said Cause. That is to say:—

Llewellyn Marks } September 10. 1863
William Hall } Trespass on Promises,
~~Assumpsit~~

~~Page 6~~ This day came the Plaintiff by Charles Kellum his attorney, and it appearing that due service of process had been had upon the Defendant ten days before the rule day to plead. That a copy of the Plaintiffs Declaration herein filed, duly certified under the Seal of the Court, had been delivered to the Defendant, and that he had failed to plead or otherwise answer said Plaintiffs Declaration, within the time prescribed by Law, but makes Default, which Default is ordered to be, and now is taken and entered of Record. Judgment by Default is therefore entered against the Defendant and in favor of the Plaintiff for the amount of his Damages. And it ^{appearing} that this Suit was instituted upon an Instrument in Writing for the Payment of money only, the Clerk thereupon computes and assesses the Plaintiffs Damages to be Two Thousand

~~Page~~
6

and forty nine Dollars. It is therefore con- sidered that the Plaintiff have and Recover of the Defendant. the sum of Two hundred ^{and} Forty nine Dollars. his Damages as aforesaid assessed, together with his costs herein expended and that he have execution therefor.

Be it further Remembered That afterwards to-wit:- on the 15th day of September A.D. 1863 the same being one of the days of the September Term of said Court for said year the following among other proceedings were had and entered of Record in said Court in said cause, that is to say:-

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Llewellyn Marks }
v } Tres. on case on Promises.
William Hall }

This day comes the Plaintiff by Kellum his attorney, and the Defendant by Parks, his attorney also comes. and the Defendant moves the Court, to set aside the default and Judgment herein, and for leave to come in and plead, and to quash the execution and arrest the Judgment. And the Court being fully advised orders that said motion be denied.

9 to which ruling after Court in denying said motion, the Defendant by his Counsel excepts, which is allowed and there noted of Record.

Page 8 And be it further Remembered that on the said 15th day of September AD 1863. There was filed in said cause the following Bill of Exceptions to-wit:-

Llewellyn Marks	}	At Hall Co Cr Court
William Hall		September Term
		AD 1863.

Be it Remembered That on the 15th day of September AD 1863. the said Defendant comes and presents the following affidavit and moves the Court to be permitted to come in and plead in the above cause, and that the Default entered heretofore on the 10th day of September AD 1863 may be set aside, and presents the following affidavits (To-wit) the affidavits of William Hall and L F Parks)

(Affidavit of William Hall)

Llewellyn Marks	}	In Hall Co Cr Court
William Hall		In Vacation after Feb Term AD 1863

William Hall, being duly sworn on each does depose and say that he is the Defendant

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out in the above cause. - That the consideration
of the State sued on was two hundred Dollars
of what was known as "Stump Tail Currency" or
discredited Bank Bills. upon Illinois Banks
represented to be good by the Plaintiff, and taken
as good without knowledge to the contrary, on the
part of the Defendant, and that Plaintiff knew ~~the~~
said Bank Bills were at a discount, at the time
he, Defendant, got the same; And Defendant
states that the said Two Hundred Dollars, in
Bank Bills, were worth only One hundred and
Forty three Dollars. And Defendant lost on the same
Fifty seven Dollars. And Defendant further
states and shows to the Court, that the State is
unconscious in this, to-wit:- that Plaintiff stipulated
to take ~~fifteen percent~~ for interest on the full
sum of said money, set forth in said State
fifteen percent, per annum, and Defendant,
agreed to pay the same. This affiant further
states and shows that the summons was
read to him while returning from a funeral
and your affiant understood that he was
summoned to appear before the Circuit Court
at this term of Court, on the 14th day of September
1866. And he had no idea or notion that a judg-
ment could be obtained until Court set, and he under-
stood that such was the fact, and in accordance
with that fact he employed P. F. Parks as his at-

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torney in this cause. This application to set aside
the Default in this cause is not made for delay
but that Justice may be done him and to obtain
his rights.

Sworn and Subscribed William Hall,
before me this 15th day
of September A.D. 1863
C. M. Brown / Clerk
J. K. Whittemore / Deputy.

Page 10 (Affidavit of P. J. Parks)

P. J. Parks being duly sworn on oath says that
on Thursday of last week at about four o'clock
P.M., on the tenth day of September A.D. 1863, he
was employed and retained in the above case
and he truly and firmly believes that at the
time the Defendant then believed that the
case was a case to be adjudicated at this Term
of Court, and at the time of being so retained
Judgment had been obtained against said
Hall.

Sworn to & Subscribed P. J. Parks
before me this 15th day
of September A.D. 1863.

C. M. Brown / Clerk
J. K. Whittemore / Deputy

On which is endorsed - Filed Sept 15, 1863. C. M. Brown
The Court being fully advised, overrules the mo-

P. 274

tion of the Defendant, and refuses to allow the Defendant to come in, to which ruling of the Court the Defendant excepts and prays that this his Bill of Exceptions may be signed and sealed by the Court, which is done.

J. D. Murphy seal

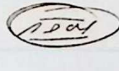
Judge of the 1st Judicial Circuit

Oycamaw Sept 15, 1863.

And be it also remembered that on the same day and in the ~~above~~ case the Defendant moves the Court, to quash the execution and arrest the Judgment in the ~~above~~ case, and in support of this motion prones that the Judgment was rendered in vacation. No session of the Circuit Court then and then being open. That the Hon J. D. Murphy was not in the County of De Kalb and no other Circuit or other Judge was then and then present in said County holding Court for him but on the contrary thereof the Judgment was rendered before O. M. Brown, Clerk of said Court. - no Court of which he is Clerk being in session for the transaction of business - The Court being fully advised, overrules the motion of the Defendant to which ruling of the Court, the Defendant at the time excepts. To all of which

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various rulings above noted in these two Bills of
Exceptions. The Defendant at the time accepts
and prays that this his Bill of Exceptions
may be signed and sealed by the Court &
made part of the Record herein which is
done this 15th day of September 1863

J. L. Murphy 
Judge re

Page 12 On which is endorsed as follows. to-wit:
Filed Sept 15. 1863
C. W. Brown Clerk

State of Illinois
DeKalb County

J. Caleb W. Brown
Clerk of the Circuit

Court in and for said County in the State
aforesaid. Do hereby certify that the
above and foregoing contains true copies
of the following papers in a certain Suit
and proceedings lately pending in said
Court wherein L. Lealyn Marks was
Plaintiff and William Hall was the

1863

Wm. H. Hurl
Reposs in current
L. Munkes

Exhibit to De Rullo
Abstract

Page 2

August 30th 1863
found H. C.
Counting on note
\$200., deems, &

Page 3-

Common Count-
Writ. issued,
Summary Ref. to
open in location
and find Deems & C
as being met;
Return of Sheriff

Page 5-

Page 6

Deems met in location
before Clerk for
\$249., Sept. 10 1863

Page 7

Sept. 15 1863 Ref.
comes in open Court
and moves Court to
Set aside judgment
Court denies motion
and sets except-

Page 8

Bill of exceptions
found Sept. 15
1863

Page 9

Respectful of President of
Mrs Anne Sharning
a deference to one
hundred dollars of
Deed not Give for
Stumptail Mummy
and using Mummy
and Puff in case
did not know it. Left
in case did
Supposed to appear
at this time of Court
Puff and it so to
understand it.

Page 10

Apparent of Puff
his sitting up
Sept-10 1863 Court
Told case was for
next Term, heard it.

Page 11

Puff in case passed
no Court. Deed out of
the County, Court not
in Session, Deed not
understood by Clerk in
position, no Deed
no Court and no

Power of Court - Clerk
Cannot Refuse
Judicial Act;
Relying upon
those facts - must
the Court to grant
execution and
arrest. Duty must
motion be made
Rely upon

The Plaintiff in this case
and signs the following writ
upon the record.

First - The Court must in
referring to the case the
defendant;

Second - A Clerk cannot do a
Judicial Act; and the Court
must in referring to the case
the execution and arrest
The judgment.

Third - There are other and
manifest cases in the said
record and proceedings in
said case

~~to the Court~~
~~the Court~~

rendering.

There was Error in ~~the ordering of the~~ the
Judgment in manner and form as
the same was therein rendered.

The Judgment is contrary to law

B. J. Parks
for Plff in Error

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Mr. Hunt
Clerk
L. Mendels

Received a check
& copy of judgment
errors

Filed Nov. 27. 1863.
L. Deland
Clerk.