

No. 13309

Supreme Court of Illinois

Throop

vs.

LB
Cody, Impl.

United States of America }
State of Illinois, Cook County } ss.

Pleas before the Honorable the Judges of the
Superior Court of Chicago within and for the
County of Cook and State of Illinois at a
regular term of said Superior Court of Chicago
begun and holden at the Court House in the
City of Chicago in said County and State on the
first Monday being the sixth day of February in
the year of our Lord one thousand eight hundred
and sixty and of the Independence of the United
States of America the Eighty fourth,

Present The Honorable John M. Nelson, Chief Justice
of Superior Court of Chicago

Wm H. Higgins & Grant Goodrich, Judges

Carlos Howe, Prosecuting Attorney

John Gray, Sheriff of Cook County

Attest - Walter Kimball, Clerk.

Be it remembered that herefore to wit on the thirteenth day of February (being one of the days of the said February Term of said Court) in the year of our Lord One thousand eight hundred and sixty the following proceedings were had in the undermentioned Cause and entered of record in said Court, to wit,

" Amos G. Throp and
James H. Seville . . .

(vs)

Assumpsit

Albert G. Ellishope and
William Colby . . .

This day comes said Plaintiffs by Jarville, Smith & Thomas their Attorneys and said defendant William Colby by Robert S. Blackwell his Attorney also comes and counsel being heard on the Demurrer of said Defendant herein pleaded in bar to plaintiffs declaration in this cause and due deliberation being thereupon had and the premises fully understood it appears to the Court that the demurrer is not sufficient in law to bar said Plaintiffs from having and maintaining their action against said Defendant William Colby the demurrer is therefore overruled, with leave to said Defendant to plead over and said defendant saying nothing further in bar or preclusion of plaintiffs action against him whereby he remains therein undefended against said plaintiff and it is ordered his default be and is hereby entered of record herein, for want of further plea, in this behalf therefore said

Plaintiffs ought to have and recover of said defendant William Colby impleaded with Albert G. Ellishorp their damages sustained herein by reason of the premises and the Court now here after hearing the proofs and allegations submitted by said Plaintiffs and being fully advised in the premises assesses their damages herein to the sum of One hundred and fifty five dollars and fifty three Cents.

Therefore it is considered said Plaintiffs do have and recover of said defendant William Colby impleaded with Albert G. Ellishorp their damages of One hundred and fifty five dollars \$155.53 and fifty three Cents in form aforesaid by the Court here assessed and also their costs and charges in this behalf expended and have execution therefore.

And afterwards to wit on the Sixteenth day of February (being the day of the said February term of said Court) A. D. Eighteen hundred and sixty the following further proceedings were had in said cause, and entered of record in said Court to wit.

" Amos G. Throop and
James H. Scoville . . .

(u)

Albert G. Ellishorp and
William Colby . . .

Assumpsit.

And now comes said defendant William Colby and prays an Appeal herein to the Supreme Court which is allowed to him on filing Bond in Three

hundred dollars with security to be approved by a Judge of Court within ten days

And thereupon accordingly on the twenty second day of February in the year of our Lord eighteen hundred and sixty came said defendant Colley and filed in the Office of the Clerk of said Court his Appeal Bond in said cause which said Bond is in the words and figures following that is to say,

"Know all Men by these Presents that we William Colley and Corrado V. Colley of the City of Chicago in the County of Cook and State of Illinois are held and firmly bound unto Amos. G. Throop and James H. Scudder of the same place in the sum of Three hundred dollars lawful Money of the United States of America to be paid to the said Amos G. Throop and James H. Scudder their co-executors administrators and assigns for which payment well and truly to be made we bind ourselves, our and each of our heirs executors and administrators jointly and severally firmly by these Presents.

Sealed with our seals and dated this Eighteenth day of February in the year of our Lord one thousand eight hundred and sixty.

Whereas on the thirteenth day of February in the year of our Lord one thousand eight hundred and sixty in a trial then had in a cause then pending in the Superior

Court of Chicago, in the County of Cook and State of Illinois wherein Amos G. Throp and James H. Scoville were Plaintiffs and Albert C. Elstner (the said Albert C. Elstner having not been served with process) and William Colby were Defendants, a judgment was recovered against the said William Colby (the said Albert C. Elstner not having been served with summons) for the sum of One hundred and seventy four dollars. And whereas also the said Defendant, then and there prayed an Appeal to the Supreme Court of the State of Illinois, which prayer of the said defendant was granted by the said Court.

Now therefore the Condition of this obligation is such that if the above bounden William Colby shall prosecute his said Appeal with Effect and without delay and shall moreover pay or cause to be paid the said judgment interest and costs in case the said Judgment shall be affirmed by the said Supreme Court then and in that event this obligation shall be void else to remain in full force and virtue"

(Signed) "Wm Colby" (Seal) "Seal"
Approved by me C. V. Colby

Grant Goodrich

Attorney at Law

State of Illinois }
Cook County ... }

C. V. Colby being first duly sworn and depose and say that he is a resident of the City of

Chicago in the County of Cook and State of Illinois;
that he is worth over and above all his just debts the sum
of Three hundred dollars And further deponent saith not.
Sworn to and subscribed before
me this 22nd day of February A. M. Colby"
A. D. 1860
Walter Kimbale - Clerk.

"State of Illinois }
Cook County . } ss.

I Walter Kimbale Clerk of the Superior
Court of Chicago, within and for the County of Cook in the
State of Illinois Do hereby Certify the above and foregoing
to be a full true and correct Transcript of the Appeal
Bond now on file in my office together with the orders and
Judgment entered of record in said Court in a certain
suit therein wherein Amos G. Thrope and James W. Scoville
were Plaintiffs and Albert C. Ellis and William Colby
were Defendants And I do hereby further Certify that
neither the said Defendants, nor any other person in their
or either of their behalf, have taken any record of the proceedings
in said suit, nor have they or either of them taken any step
whichever towards prosecuting said appeal, since the filing of
said Appeal Bond, & taking a record of said proceedings
My testimony whereof I have herunto set my hand and
affixed the Seal of said Court at Chicago in said County
the 25th day of April A. D. 1860.

Walter Kimbale Clerk



33-4

Superior Court of Chicago

13309

Amos. G. Throop et al

vs

William Babby . . .
implet

Return

Certificate of
non prosecution of appeal

Filed Apr. 26. 1860
L. deland
Clk.

Throop et al
vs
Babby

1860 53
05
Fees \$2, 77 65
\$2.50 paid by Appalty
Wm. Throop