

STATE OF ILLINOIS--*Third Grand Division.*

SUPREME COURT.--April Term, A. D. 1858.

CLEMENT PIERCE,
vs.
NATHANEL B. WILCOX. } Appeal from Warren.

A B S T R A C T .

This was a proceeding by attachment commenced by the appellant against the appellee in the Warren Circuit Court.

The affidavit set forth indebtedness upon an account, and averred that "said Wilcox is about to depart from this State with the intention of having his effects removed from this State." The defendant plead in abatement of the writ and traversed the allegation, on which issue was joined.

A trial was had by a jury before Hon. John S. Thompson at the March Term 1857. The verdict was for the defendant. The plaintiff moved for a new trial which was overruled and exception taken. Judgment was rendered for costs, and appeal taken.

On the trial evidence was offered by the plaintiff tending to show that the defendant intended to remove from the State and take with him his effects, but did not show when he proposed to leave this State. The proof showed that this writ was sued out and the defendant did not go but remained in the State.

The plaintiff asked the following instructions which were refused, and exception taken.

3. It is not necessary that the defendant should intend to leave the State immediately, or within any limited time in order for them to find that he was about to leave.

4. Although the jury should believe from the evidence that the defendant intended to remain in the State himself and keep his family here, yet if they further believe he was about to remove his property from the State they will find for the plaintiff.

The appellant assigns for error the refusal of the Circuit Court to grant a new trial.

GOUDY & JUDD,
Appellant's Attorneys.

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Supreme Court
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Clement Price
vs
Josh. B. Wilcox

Abstract

Goway & Inaa
Appellants vs. Depts.

Filed April 23. 1858
S. Belmont
Clerk