

12984

No. _____

Supreme Court of Illinois

Chester et al

vs.

Rumsey

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 61.

1860

Chester
vs

~~Ramsay~~

12984

White

vs

Ramsay

Supreme Court of the State of Illinois
Grand Grand Jurors

Augustine Che
Margaret R. Charles J. in error } Error from
Oak County
Grant Court
John S. Rumsey, App. in Error

It is stipulated in
the Cause that the cost of error be determined
at the Costs of the plaintiffs in error.

Chicago January 1868 Dow & Fuller
Attys. for Plfs. in Error
Charles W. Tree
Attys. for App. in Error

Supreme Court
 Grand Jurors

Augustine Chester
 Manette W. Chester
 Jdts in Error

Edmund Ramsey
 Jdts in Error

Filed Apr. 20. 1860
 Ireland
 Ohio

Know all Men by These Presents, That on Augustine
Chester and Mariette Chester his wife
as principal, and Augustus P. Sharp
as security, are held and firmly bound unto Julian S. Runsey 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
Augustine Chester and Mariette his wife &
bind themselves, their heirs, executors, and administrators, jointly, severally, and firmly by
these Presents.

Witness, our ha

this 27th day of June A. D. 1859

The Condition of the above Obligation is such, That, whereas, the above named —
Julian S. Runsey
did, at the March Term of the Circuit Court,
held in and for the County of Cook in the State of Illinois, A. D. 1859 recover a
judgment against the above bounden Augustine Chester & Mariette
Chester his wife, in an action of ejectment for
the possession of certain lands & tenements with the privileges
& appurtenances, in the declaration in said cause mentioned &
& costs of suit for the sum of
Chester & Mariette Chester his wife to reverse which said judgment, the said Augustine
Chester & Mariette Chester his wife have sued out a Writ of
Error from the Supreme Court, within and for the Third Grand Division of said State. Now if the said
Augustine Chester & Mariette Chester his wife 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 the said Augustine Chester
& Mariette Chester his wife 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.

Augustine Chester [SEAL.]

Mariette A. Chester [SEAL.]

Augustus P. Sharp [SEAL.]

[SEAL.]

State of Illinois
Circuit Court

Personally comes Augustus P. Sharp
being duly sworn, on oath declares & says
that he is the ~~husband~~ whose name is subscribed
to the Bond ~~hereto annexed~~ to wit, Bond on
Insuperedear granted in the Supreme Court
the State of Illinois for the Third Grand Division
said State, in a certain cause then pending
wherein Augustus Charles Manette &
Chester are Plaintiffs in Error & Julian
J. Rumsey is Defendant in Error & that
the defendant subscribed said Bond this
20th day of June, A.D., 1857

And this defendant further says that
he has property in the City of Chicago,
County of Cook State aforesaid his worth over
above all his debts & liabilities, the sum
of five hundred Dollars, the penal sum
of said bond, in property subject to
execution. That he owns a house
unencumbered in the City of Chicago
Real Estate of the value of two
thousand Dollars at a low valuation
and is engaged in permanent business
in said City of Chicago & fully able to meet
the entire liability of said bond

Subscribed & sworn to
before me this 20. June 1857 Augustus P. Sharp
J. M. Church cl

⁶¹
Sup. Ct. State of Ill.
Third Division

Augustine Chester
v. ^{Real} Pfg. in Error

J. S. Ramsey
Def. in Error

2d Pfg. Bond

Filed June 21, 1859
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 Cook 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 Cook County, before the Judge thereof, between Julian S. Rumsey

plaintiff, and Ang [unclear] and Mariette N. Chester

defendants, it is said manifest error hath intervened, to the injury of the aforesaid defendants

as we are informed by their 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 21st day of June in the Year of Our Lord one thousand eight hundred and fifty-nine
L. Leland

Clerk of the Supreme Court.
by J. B. Rice Deputy

⁶¹
Augustine Chester et al

vs

Julian S. Runsey

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. H. Run Deputy

in June 21st 1839

L. Leland
Clerk



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

To the Sheriff of the County of *Cook*.

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 *Cook* County, before the Judge thereof, between *Julian S. Rumsey*

plaintiff, and *Augustine Chester & Mariette N. Chester*

defendants, it is said that manifest error hath intervened, to the injury of the said *defendants*

as we are informed by *their* complaint, *the* 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

Julian S. Rumsey

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 records 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 *Julian S. Rumsey*

notice, together with this writ.

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this *21st* day of *June* in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

L. Leland

Clerk of the Supreme Court.

by *J. B. Rice* Deputy

700
Augustine Chester et al

vs.

Julian S. Runney

Scire facias

Served by reading to the
within named Julian Runney
this 25th day of June 1859
1 Service 50
miles 10
Ficturs 10
\$ 70 Paid by
John Gray Sheriff
By A. C. Hering
Deputy

Filed June 9. 1868
d. Leland
Shirley



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

Pleas before the
Honorable George Manierre, Judge of the seventh
Judicial Circuit of the State of Illinois, and sole
presiding Judge of the Circuit Court of Cook County,
in the State aforesaid, and at a term thereof, begun
and held at the Court House in the City of Chicago
in said county, on the third Monday (being the
twenty first day) of March, in the year of our Lord
one thousand eight hundred and fifty nine, and
of the Independence of the United States, the
Eighty third.

Present, Honorable George Manierre, Judge of the
Judicial Circuit Illinois
Carlos Haven States Attorney
John Gray Sheriff Cook County
Attest: William S Church Clerk

Be it remembered that heretofore to wit: on the
fifth day of March 1859 Julian S Ramsey
Plaintiff by caption, and Oree his attorney filed
in the office of the clerk of the circuit court, in
and for the County and State aforesaid his Decla-
ration and Proof of service of the same against
Augustine Chester and Mariette A Chester defen-
dants which is in the words and figures following

-Do wit:

In the Cook county circuit court of the
February special term, in the year of our Lord one
thousand eight hundred and fifty nine.

State of Illinois

County of Cook &c.

Julian S. Rumsey Plaintiff by
Clarkson and Green attorneys Comes and complains
of Augustine Chester and Mariette A. Chester his
wife defendants who were notified by notice and
copy of declaration according to the statute in a
plea of ejectment. For that whereas the said plain-
tiff Julian S. Rumsey on the first day of February
in the year of our Lord one thousand eight hundred
and fifty nine was possessed of those certain lots
or tracts of land with the appurtenances situate
in the city of Chicago in the said county and known
designated, and described as follows viz. Lots
numbered Seven (7) and Eight (8) and the South
twenty nine (29) feet of Lot nine (9) and ten (10) in
block twenty four (24) in Wolcotts addition to the
city of Chicago together with the tenements and
erections thereon and premises, the said
plaintiff Julian S. Rumsey claims in fee and
the said plaintiff Julian S. Rumsey being so
possessed thereof the said defendants afterward, to
wit: on the Second day of February in the year of
our Lord one thousand eight hundred and fifty

2
nine entered into the said premises and ejected
the said plaintiff therefrom, and unjustly with-
hold from the said plaintiff the possession ther-
of, to the damage of the said plaintiff of fifty doll-
ars and therefore he brings suit &c.

Clarkson & Dree

Attorneys for Plaintiff

To Augustine Chester and Mariette A Chester
his wife the above named defendants, you are
herby notified that the declaration, with a copy
whereof you are now herewith served and to which
copy notice is subjoined, will be filed in the Cook
County Circuit Court of Cook County on the fifth
day of February A D 1839, being the twelfth day
of the special term 1839 of the said Cook County cir-
cuit court, that upon filing the same a rule will
be entered requiring you to appear and plead to the
said declaration within twenty days after the entry
of such rule: and ^{that if} you neglect so to appear and plead
a judgment by default will be entered against you
and the plaintiff will recover possession of the
premises specified in the said declaration, dated this
fifth day of March A D 1839

Clarkson and Dree

State of Illinois,

Cook County ss.,

Attorney for Plaintiff

Shaddens S Clarkson of Chicago in
said county being duly sworn deposes and saith

that on the fourth day of March A D 1839 he served
a copy of the within declaration and notice on the
within named Mariette A Chester one of the parties
defendant named in the within declaration, on
the premises named in said declaration, and that
he left another copy of the said declaration and
notice at said place with the said
Mariette A Chester, & by her delivered to the
within named Augustine Chester other defendant
in said declaration named, she being a white
person over the age of ten years, the said Augustine
Chester not being by me found upon inquiry on
said premises.

Subscribed & Sworn Shaddens S Clarkson
to before me this 5th day
of March A D 1839
Wm L Church Ck

And afterwards to wit: at the February Term
of said court, to wit: on the some day and year
last aforesaid the following proceedings, among
others, were had and entered of record therein in said
cause, to wit:

Julian S Rumsey
Augustine Chester 2d
Mariette A Chester

Effectment

16897

3
This day comes the said plaintiff by
Clarkson and Dree his attorneys and it appearing
to the court that a copy of said plaintiffs decla-
-ration herein and notice thereto attached and a
rule to plead in twenty days has been duly
served on the said defendants according to the
Statute in such case made and provided. It
is therefore ordered that the said defendants plead
to said plaintiffs declaration herein within twe-
-nty days from the date hereof or in default thereof
their default will be taken and entered of record.

And afterwards, to wit: at the March Term
of said court, to wit: on the twenty eighth day of
March A D 1839, the following proceedings, among
others, were had and entered of record therein in said
cause, to wit:

Juliom S Rumsey

Augustine Chester and
Mariette A Chester

Effectment

16897
This day again comes the
said Plaintiff by Clarkson and Dree his attorneys,
and the said defendants having failed to plead
to the said Plaintiffs declaration filed in this
cause as required by a rule of this court hereto-
-fore entered herein against them. Therefore on motion

of said plaintiffs attorney it is ordered that the default of the said defendants be and it hereby is taken and entered of record.

It is therefore ordered by the court that said plaintiffs do have and recover of the said defendants the possession of the lands and tenements in his declaration mentioned which is described as follows. To wit: Lots numbered seven (7) and eight (8) and the South twenty nine (29) feet of Lots nine (9) and ten (10) in Block twenty four (24) in Polcotts addition to the City of Chicago in the county of Cook and State of Illinois "together with all the privileges and appurtenances thereto belonging. And that a writ of possession issue therefor.

And it is further considered that the said plaintiff do have and recover of the said defendants his costs and charges by him about his suit in this behalf expended, and have execution therefor.

State of Illinois, }
COUNTY OF COOK. } S. S.

I, WILLIAM L. CHURCH, Clerk of the Circuit
Court of Cook County, in the State aforesaid, do hereby
certify the above and foregoing, to be a true, perfect and complete
copy of Declaration in affidavit Rules &
final judgment
in a certain cause pending in said Court on the
Common Law side thereof, wherein William S
Rumsey was plaintiff and
Augustine Chestn & Marietta Chestn were defendants

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the seal of our
said Court at Chicago, this Eighth day of June A. D. 1859

Wm L Church
Clerk.

Set a supererogatory issue in the cause
with Angustus & Sharp Savitz; bond in
the penalty of fine hundred dollars.

June 21. 1859

J. D. Carter

Supreme Court of
State of Illinois

Augustine Chester
vs

✓
J. J. Kewsey
Def. in Error

Record

In Supreme Court of the State of Illinois
Augustine Chester

vs. *William H. Chester*

Plaintiffs in Error

vs

Julian S. Rumbley

Defendant in Error

Error Circuit
Court of Cook
County

And now the said Plaintiffs in Error by
Dorot Fuller, their Attorney, come
and say that in the record and
proceedings aforesaid and also in
the giving of the judgment aforesaid,
there is manifest error in this,

- 1- That the said Defendant in error
did not give the notice prescribed
by the Statute, on making service
of ^{copy of} declaration in Exemption -
- 2- That the said notice bears date
the 5th day of March, 1859 & specifies
that on the 5th day of February 1859
said Defr. in error (Plaintiff below)
will enter a rule to plead - ^{on the} ~~to~~ (Defr. in
below) Plaintiffs in Error - which was
an impossibility.

- 3- That the said notice does not
specify on what day of what term

Said declaration would be filed as required by Statute - It appears by the notice that ^{the declaration} ~~it~~ was ^{to be} filed during a Term of Court but does not specify what Term -

4 - The service of said declaration on said ~~defendant~~ Augustine Chester was not sufficient. The affidavit does not show that said Augustine Chester was absent at the time of service - It does not state that service by copy was made upon a "white person of the family" of the age of ten years or upwards at the dwelling house of said defendant.

5 The service was insufficient because the facts set forth in the affidavit are not positively but inferentially averred -

6 Because the ~~rule~~ ^{plea} was not entered by special order of the Court -

7 - Because the affidavit is ~~to the~~

4 1/2 Because the service is stated to have been on the premises in "the declaration mentioned" and the facts in the affidavit even if properly set forth, ^{only} constitute the service contemplated where the premises are not actually occupied.

that the service was made on the ~~4th~~^{4th} day of March, 1859, and the notice bears date the Sunday of March, 1859, thereby falsifying the affidavit -

8. Because the record states that service of the rule w/plead was made upon the Deft. which is not shown by the affidavit of service

9. Because the notice is null and void as being a notice that the Defendant would do what it was impossible for him to perform

10 Because the declaration is entitled of the February Special Term and the notice is that said declaration must be filed ~~on~~^{on} the 5th day of February & the 12th day of same Special Term which ^{therefor} could not be of the February Special Term

11 - Because the declaration ~~is~~ is entitled ~~in~~ⁱⁿ the Cook County Circuit Court & there is no such Court & the notice is ^{concluded} in the same terms -

12 - Because the Defendants below,
(Plaintiffs in Error) could not know
if properly served, where or at what
time or when to appear & defend
said action -

13. Because said Defendants below
(Plaintiffs in Error) ~~conceded~~ were
never brought before the said
Court & judgment could not be
~~for~~ entered against them -

14 And because said record is in
other respects informal, incorrect
& void

And this they, the said ^{Plaintiffs in Error} ~~Defendants~~, Augustine
Chester & Minnie M. Chester are
ready to verify &c Wherefore they pray
that the judgment aforesaid, for the
errors aforesaid may be reversed,
annulled and altogether held for
naught & that they may be restored
to all things which they have lost
by occasion of the judgment aforesaid &
that the said Defendants in Error
may rejoin to the said Error ~~as before~~

Dow & Fuller

Attorneys for Pfs. in Error

~~Supreme Court~~
~~State of Illinois~~
61

Augustine Chester
vs

Plff. in Error

J. V. Krassey
Def. in Error

Record
Assignment
Errors

Filed June 21 1889
L. Leland
Clerk