

No. 13521

Supreme Court of Illinois

Williams.

vs.

People ex-rel., Chicago &
Rock Island R. R. Co.

71641  7

Pleas before the Court M. E. Hollister Judge of
the Ninth Judicial Circuit of the State of Illinois
at a term of said Circuit Court begun and
held at the Court House in Princeton within
and for the County of Bureau on the second
Monday in the month of December in the year
of our Lord One thousand eight hundred and
Sixty.

Present Court M. E. Hollister. Judge
Geo. W. Radcliffe, Clerk
David E. Norton, Sheriff

(Of the second day of said term)

Tuesday morning 9 o'clock December
11th A. D. 1860. Court met pursuant
to adjournment. Present same as
yesterday, except Daniel M. Donald
Sheriff, in place of David E. Norton.

The People of the State of Illinois
vs. The Chicago & Rock Island
Rail Road Company

vs.

Petition for Mandamus

Joseph S. Williams

And now come Peters &
Winslow Attorneys for Relators and file their petition
herein, with notice to defendant and his acceptance
of service thereof, and the same are in the words
and figures following, to wit:

" To the Honorable Circuit Court of the County
" of Bureau and State of Illinois at the December
" Term thereof A. D. 1860.

" The People of the State of Illinois
" on the relation of the Chicago and
" Rock Island Rail Road Company
" vs.

" Joseph S. Williams
" State of Illinois, Bureau Co. Is. - Your Relators
" The Chicago and Rock Island Rail Road Company
" respectfully represent that they are a body
" Corporate, duly Incorporated under the laws of
" the State of Illinois - That on the twentieth day
" of November A.D. 1860, the above named Joseph
" S. Williams was an acting Justice of the Peace
" in and for the said County of Bureau and residing
" in the Town of Princeton - that in his Capacity of
" Justice of the Peace the said Joseph S. Williams
" issued a Summons in the name of the People
" of the State of Illinois - directed to any Constable
" of said County Commanding them to Summon the
" relators by the name of The Chicago and Rock Island
" Rail Road Company to appear before him at his
" office in Princeton on the 24th day of November
" 1860 at 10 o'clock A.M. to answer the Complaint
" of Matthias Fritchey - for a failure to pay him
" a certain demand not exceeding One hundred
" Dollars - and Commanding him to make due return
" as the law directs which Summons was under the
" hand and seal of the said Justice and bore
" date the 19th day of November A.D. 1860 - That
" the said Summons was duly served upon the
" Relators and duly returned by Orrin Bill the
" Constable who served the same on the twentieth

" day of November A. D. 1860, but as five days did
" not intervene between the true date of the issuing
" the said summons and the return day thereof
" your Relators did not deem themselves under any
" obligation to obey the same and therefore did not
" appear before the said Justice on the return day thereof.
" Your Relators further represent that on the return
" day of said summons the said Joseph S. Williams
" acting as Justice as aforesaid proceeded to hear
" the proofs offered by the said Matthias Fitchey
" in support of his claim and upon hearing the same
" rendered judgment in favor of said Fitchey and
" against your Relators for One hundred dollars
" and costs which costs are computed at Nine
" Dollars and ninety cents - and the said Justice
" thereupon entered his said judgment and the said
" Computation of costs thereon in his Docket. Your
" Relators further show that the said docket in
" the part thereof purporting to give the record of
" the proceedings of the said Court and particularly
" of the date and description of the process issued
" therein contains the following entry " Summons issued
" November 19. 1860 returnable the 24th day of November
" at 10 o' clock A.M. 1860 - which is the only entry
" in said docket concerning the date and description
" of the process so issued in said Court against your
" Relators. - And your Relators further show that
" immediately after the rendition of the Judgment aforesaid
" they by one of their Attorneys Robert F. Winslow Esquire
" applied to the said Justice and requested him to
" amend the date of the said summons and of the date

" of the issue thereof in his Docket from the 19th November
" to the 20th November, so that the date might correspond
" with the true date of the issuing thereof, and although
" the said Justice admitted that the said Summons
" was issued on the 20th day of November as the fact
" was and not on the 19th November, yet he refuses
" to alter the date either on the Summons or docket as
" he was so requested to do, and he still neglects
" and refuses to make such alteration which neglect
" and refusal on the part of the said Justice, and
" the said erroneous entries so made by him is a
" violation of his duty and your Relator is thereby
" injured, inasmuch as they are prevented from
" obtaining a reversal of the said Judgment on
" the ground of the want of Jurisdiction in said
" Joseph S. Williams. the said Justice to render
" the same and your Relators have no remedy
" for the injury so done to them except by the
" writ of Mandamus.

" Your Relators therefore pray the Honorable
" Court that a writ of Mandamus may issue
" from said Court directed to said Joseph S.
" Williams Esquire. Commanding the said Joseph
" S. Williams to amend the date of the Summons
" issued by him at the ~~date~~^{suit} of Matthias Fitcher
" against The Chicago and Rock Island Rail Road
" Company by changing the same from 19th day
" of November to the 20th day of November A.D. 1860
" and also to amend the entry of the issuing of
" said Summons in the said Justice's Docket from
" the 19th to the 20th of November 1860, or show

" Cause forthwith why such alteration should not
" be made, and that your relators may have
" such other and further relief as to the said Court
" shall seem meet.

Peters & Winslow
Atty's for Relators

" State of Illinois }
" County of Bureau } ss. Robert F. Winslow
" being first duly sworn on oath saith that the
" matters and things set forth in the foregoing
" petition contained are true in substance and fact.
" Sworn to and subscribed Robert F. Winslow
" this 5th day of December
" A.D. 1860. before me
" Char. J. Peckham
" Notary Public

" State of Illinois }
" County of Bureau } ss. In Circuit Court of said
" County, 10 December
Term 1860.

" The People of the State of Illinois
" ex rel. The Chicago & Rock Island
" R. R. Co.

" 123.
" Joseph S. Williams
" To the above named Joseph
" S. Williams - You will please to take notice
" that upon the petition of the above named Relators,
" with a copy of which you are herewith served,
" we shall on the first day of the December Term

" of said Court A.D. 1860, or as soon thereafter
" as Counsel can be heard, move that the writ
" of Mandamus issue out of said Court directed
" to you and Commanding you as is in said
" Petition prayed.

Yrs. truly

Peters & Winslow

Attorneys for Relators

" Dated Princeton December 5th 1860.

(and on the back of which notice is written as follows
to wit:)

" I admit service of the notice of which the within
" is a copy and of the copy of the Petition therein
" mentioned.

" Dated December 5. 1860.

Joseph S. Williams

(Of the fifteenth day of said term)

Wednesday morning December 26th

A.D. 1860. 9 o'clock A.M. - Court

met pursuant to adjournment.

Present same as yesterday.

The People &c. ex relations

The Chicago & Rock Island

Rail Road Company

vs.

Petition for mandamus

Joseph S. Williams

And now come Peters & Winslow
Attorneys for the Relators and present their Petition
filed herein and the defendant by Stipp, Sparling
& Gibbons his Attorneys who in open Court admit the

truth of the petition of Relators so far as the same is
a purported statement of facts, and also waived
the issuing of an alternative writ of Mandamus herein.
And after argument of Counsel upon defendant's
general demurrer to said petition, the Court being
now fully advised herein considers that Relators'
said petition is sufficient in law to authorize the
issuing of writ of Mandamus herein, And it is
thereupon ordered by the Court that peremptory
writ of Mandamus be awarded against the said
defendant commanding him to alter the date of
said summons as in said petition prayed for, and
it is further considered by the Court that defendant
pay all the costs of this writ.

(Of the twenty second day of said term)

Thursday Morning January 3rd
A.D. 1861. 8 1/2 o'clock A.M. - Court
met pursuant to adjournment.
Present same as ~~yesterday~~ before.

The People ^{vs.} ex relations
The Chicago & Rock-Island
Rail-Road Company
vs. Petition for Mandamus
Joseph S. Williams

And now Comes defendant
by his Attorneys aforesaid and files his Bill of
Exceptions herein in the words and figures following
to wit:

" State of Illinois & Circuit Court of the December
Bureau County, Jo. 3 Term A.D. 1860.

" The People of the State Petition for mandamus on
" of Illinois the relation of the Chicago
" vs. & Rock Island Rail Road

" Joseph S. Williams Company

" Be it remembered that on the trial of the said
" cause, at the said Term of the said Court, it
" was agreed by the parties to the said suit that
" an alternative writ of mandamus should be
" waived, that the facts alleged in the said petition
" should be, for the purposes of this suit, admitted
" to be true, and that if said Court should be of
" the opinion that the facts alleged in said petition
" do by the law of the land authorize the issuing
" of a writ of mandamus, then the said Court
" should issue a peremptory writ of mandamus
" in said cause, with right to the defendant to
" except to the judgment of said Court, and prosecute
" an appeal or writ of error therefrom, and thereupon
" the said Court upon consideration of the facts
" alleged in said petition ordered and adjudged
" that a peremptory writ of mandamus should
" issue in said cause according to the prayer of
" said petition to which rendition of said judgment
" the said defendant by his counsel then and
" there excepted and prayed the said Court to sign
" and seal this his bill of exceptions and it is
" done accordingly.

" M. E. Hollister (Seal)
" Judge

(Of the twenty-third day of said term)

Friday Morning January 4th A. D.
1861. 9 o'clock A.M. - Court met
Pursuant to adjournment. Present
Same as yesterday

The People of the State of Illinois
vs. The Chicago & Rock Island
Rail Road Company

vs. Petition for Mandamus

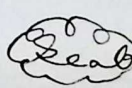
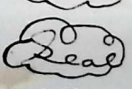
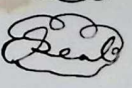
Joseph S. Williams

And now Comes defendant
by Stipp his Attorney and on Motion it is considered
and ordered by the Court that defendant be allowed
an appeal to the Supreme Court of this State
herein upon filing his bond for the same in the sum
of One hundred dollars, Conditioned according to
law with William H. Winter and Joshua Stowell
as his Sureties therein.

And afterwards, to wit, on this same day Comes
the defendant and files his bond for appeal herein
in the words and figures following, to wit:

" Know all men by these presents that we Joseph
" S. Williams as Principal and Joshua Stowell and
" William H. Winter as security are held and firmly
" bound unto the People of the State of Illinois
" in the Penal sum of One hundred dollars, for
" the Payment of which well and truly to be made
" we bind ourselves, our heirs, executors and administrators
" jointly, severally and firmly by these presents.
" Witness our hands and seals this 4th day of
" January A. D. 1861.
" The Condition of the above obligation is such

" that whereas at the December Term of the Circuit
" Court in and for the County of Bureau and
" State of Illinois A.D. 1860, in a certain Cause
" wherein the People of the State of Illinois ~~and~~
" ~~1860~~ on the relation of the Chicago and Rock Island
" Rail Road Company are Plaintiffs and the said
" Joseph S. Williams is defendant in a certain
" Proceeding of Mandamus, the said Court rendered
" a Judgment that a peremptory writ of Mandamus
" should issue out of said Court against the
" said Joseph S. Williams according to the prayer
" of the petition in said Cause, and that the said
" Joseph S. Williams should pay the Costs of
" said Suit, from which judgment the said
" Joseph S. Williams has prayed an appeal to
" the Supreme Court of said (said) State which
" appeal is allowed by the said Circuit Court;
" Now if the said Joseph S. Williams shall
" prosecute his said appeal with effect and
" without delay and shall pay and perform
" whatever Judgment shall be rendered against
" him upon affirmance of the said Judgment,
" together with all Costs and damages in Case
" of said affirmance, then this bond to be void
" otherwise in force.

Joseph S. Williams 
Joshua Stonell 
W. H. Winter 

It is thereupon considered and ordered by the
Court that said bond be approved and defendant's

appeal as aforesaid be allowed, and that the Clerk forthwith Certify and transmit a complete Copy of the record and of all Papers in this Cause to the Clerk of said Supreme Court.

State of Illinois }
Bureau County } Es. J. George M. Radcliffe,
Clerk of the Circuit Court within and for
said County and State do hereby Certify
that the foregoing is a full, true and perfect
Copy from the records of said Court of
all proceedings had therein in the foregoing
entitled Cause, including true Copies of all
Papers on file in said Cause in my office.
Witness my hand and the
Seal of said Court at
Princeton in said County
this 2nd day of March
A. D. 1861.



Geo. M. Radcliffe Clk.
Pr. Chas. J. Peckham
Deputy

The People &c. ex
relative C. H. R. I. R. R. Co.

vs.

Joseph S. Williams

Transcript of Complete
record



Appeal
No. 8 -
from

BUREAU CIRCUIT COURT.

Joseph S. Williams
Appellant

vs.

The People & ex relatione
The Chicago & Rock Island R.R. Co.
~~et al.~~

CRIMINAL.

Culver, Page & Hoyne, Chicago.

Transcript of Record

and March 9th 1861

L. Leland

clerk

8 PD

1861.

Pliff's Atty.

1252