

8811

No. _____

Supreme Court of Illinois

John J. Leshner

vs.

George Wirth, Admr.

71641  7

Please before the Honorable Justice Marlan Judge of the
Circuit Court in and for the County of Wabash and State of
Illinois at the April Term thereof A.D. 1850.

Be it remembered that heretofore to-wit: on the 17th day
of December 1849 John D. Seacher filed in said Court
a Transcript of a Judgment in the following words and
figures to-wit:

J. D. Seacher	Demanded Bill of Medicines and
vs	Medical aid \$15.81
George Wirth Administrator	1849 November 22 ^d Summons
of Adelia Rex dec'd	issued returnable the 30 th inst at
10 o'clock A.M. Summons returned served by reading to	
the within named George Wirth Nov 26 th 1849.	
	George R. Wirth Const.

November the 30th the parties appeared by their Attorneys and
the plea was argued whether the Children of a widow
shall be allowed the same amount of property as would
be allowed them in case there had been no widow at
the death of the father. After hearing the arguments it
is considered and adjudged that the Children of the
widow are allowed the same amount of property at
the death of the widow as they would at the death of the
father; and it being also shown in Court that the wid-
ow in this case had not sufficient property at her
death as the Children were entitled to. This cause is there-
fore dismissed with costs of suit to the plaintiff, and
that the defendant have execution against plaintiff
therefor.

State of Illinois It hereby certify that the above is a
Wabash County Sp. true and perfect copy of the pro-
ceeding and judgment, with the papers annexed as
it stands on my docket. Given under my hand and
seal this 17th day of December A.D. 1849.
Otho Stees J. P. Seal

Also the following Appeal Bond:
Know all men by these presents that we John Jacob Secher
and _____ are held and firmly bound
unto George North Administrator of Adelia Fox in penal
sum of Thirty dollars lawful money of the United States
for the payment of which well and truly to be made
we bind ourselves our heirs and administrators jointly
severally and firmly by these presents. Witness our hands
and seals this 6th day of December A.D. 1849. The con-
dition of the above obligation is such that whereas the
said George North (as administrator aforesaid) did
on the 30th day of November A.D. 1849 before Henry
Stees a Justice of the Peace for the County of Wabash
obtain a judgment against the above bounden John
Jacob Secher for the sum of Eight one cents costs from
which judgment the said John Jacob Secher has taken
an appeal to the Circuit Court of the County of Wabash
aforesaid and State of Illinois. Now if the said John
Secher shall prosecute his appeal with effect and
shall pay whatever judgment may be rendered by the
Court upon dismissal or trial of said appeal; then
the above obligation to be void; otherwise to remain
in full force & effect.

J. J. Secher *Real*

L. Aborn *Real*

Approved by me at my office this 6th day of Decem-
ber A.D. 1849.

Henry Stees J. P.

Upon which the following Writ was issued:
State of Illinois — The People of the State of Illinois, do
Wabash County *vs.* the Sheriff of Wabash County locating:
We command you to summon George North Adm of
Adelia Fox dead, if he can be found in your county
to be and appear before the Judge of our Circuit

be held on the first day of the next term thereof to be holden at Mt Carmel within and for the County of Wabash on the Thursday after the first Monday in April next to answer unto John S. Seesh of an Appeal taken from the judgment of Henry Stees a Justice of the Peace in and for said County in a certain action wherein the said John S. Seesh was plaintiff and the said George Wirth as such Administrator was defendant. And of this writ make legal service and due return at the time and place aforesaid.

Witness My hand and Seal of said Circuit Court at Mount Carmel this 17th day of January in the year of our Lord one thousand eight hundred and fifty.

My hand and Seal

And upon which Writ the Sheriff made the following return:—

Obediently reading the within named George Wirth Adm^r January the 30th 1850 as commanded.

J. W. Saguez Sheriff of W. Co.

On the fourth day of April A.D. 1850, the said Circuit Court made and entered of record the following order:

John S. Seesh

vs

Appeal

George Wirth Adm^r At this day came the parties by their Attorneys, and the Court after hearing the testimony and argument of counsel, not being sufficiently advised took time &c. —

And on the 8th day of April 1850, the said Court made and recorded the following Order final judgment:

This cause having been heretofore submitted to the Court upon the following statement of facts, that is to say: That on the 25th day of September A.D. 1849, Henry Fox of the County of Wabash & State of Illinois departed this life intestate, leaving Adelia Fox his widow and

as number of children his heirs at law - that his estate was settled by due course of administration, and his widow was allowed & took her separate provision under the Statute - That the widow by her industry supported herself and family. And afterwards on the 25th September A.D. 1848 she departed this life intestate leaving personally to the value of One hundred and fifty or two hundred dollars: that although there were creditors of whom the plaintiff was one, as attending Physician during the last illness, the Probate Court in and for the County of Wabash where administration was had by the defendant, ordered the whole of the proceeds of the property to be distributed among the children residing with the decedent at the time of his death under the 4th section of Act number thirty seven in the Appendix page 597 of the Revised Code, and that this suit is brought to recover the claim for medical services as aforesaid, upon which the Court not being sufficiently advised but taking time. Now on this day again came the parties by their attorneys, and the Court being now advised touching the premises. It is considered and adjudged that the judgment of the Justice of the ~~Justice of the~~ Peace be affirmed, and that the defendant recover of the plaintiff his cost and charges herein expended as well as before the Justice of the Peace and thereof have execution.

State of Illinois
Wabash County
I, Hiram Bell Clerk of the
Circuit Court within and for said County do hereby
certify that the foregoing pages contain a true
perfect and complete transcript of the record and

proceedings in the cause of John J. Sester vs George North Administrator of Adelia Fox decd. fully and completely as the same remains of record in my office. —

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court at Mount Carmel this 18th day of November Anno Domini 1850

Stuart Bell Clerk

Supreme Court of the State of Illinois
Nov. Term A.D. 1851

And now at this day comes the Plaintiff who is Plaintiff in error, and says that in the foregoing case & the records thereof there is manifest error, in this —

1st The court erred in affirming the judgment of the Probate Justice of the Peace and rendering judgment for costs against the said Plaintiff —

2nd The court erred in not reversing the judgment of the Probate Justice of the Peace and rendering judgment in favor of the Plaintiff for the amount of his demand against said intestate's estate & costs of suit —

and The Offt saith there is no error
Authorizes ^{Attorney} ~~for Offt~~ for Plaintiff in Error —
Appendix to Rev. Stat. 1845: Chap.
Act. Number XXXVII.

Supreme Court

John A. Lecher

George W. With, Adm'r

Filed the 15th day
of November 1857

F. D. Preslar
Clerk

1881