

13751

No. _____

Supreme Court of Illinois

Gardner

vs.

Todd

Gardner

vs.

Todd.

No Number

(27)

1375



APPEAL
BOND.

Sup. Court.



Know all Men by these Presents, That we,

*Job Gardner, Nathan J Gardner and Samuel
L Crane*
are held and firmly bound unto *William Todd Overseer*
of *Highways &c*
of the County *Rock* and State of *Illinois* in the penal
sum of *One hundred dollars*
dollars, current money of the United States, for the payment of which, well and truly
to be made, we bind ourselves, our heirs, executors and administrators, jointly, sever-
ally and firmly by these presents. Witness our hands and seals at the Clerk's office
in *Springfield* this *30th* day of *June* A. D. 18*87*.

The Condition of the above Obligation is Such,

That whereas the said *William Todd Overseer of Highways*
did on the *27th* day of *March* in the year of our Lord one
thousand eight hundred and *fifty one* in the Circuit Court, in and for the county
of *Rock* and State of Illinois, recover a judgment against the above
bounden *Job Gardner* of *dismissal of an appeal*
presented by said Gardner from the judgement of
for the sum of of a Justice of the Peace dollars and
cents, debt, and dollars and cents;
damages, and dollars and cents, costs;
from which said judgment of the said Circuit Court, the said *Gardner*
presented a writ of Error to the Supr which said
has, ~~prayed for, and obtained an appeal~~ to the Supreme Court of said State. Now, if
the said ~~writ of Error~~ by the order of the Chief Justice was made a
Proferendum upon said Gardner's going over as herein and
shall duly prosecute *his* said appeal, with effect, and shall moreover pay the amount
of the judgment, costs, interest and damages rendered, and to be rendered against him
in case the said judgment shall be affirmed in the Supreme Court, then the above obli-
gation to be void, otherwise to remain in full force and virtue.

Signed, Sealed and delivered in the Presence of

Approved,

Job Gardner



N. J. Gardner



S. L. Chase



No.

Wm. Quinn Plaintiff
vs. } **On Appeal.**

Wm. Todd Overseer &c
Defendant

APPEAL BOND, SUP. CT.

Filed, July 2nd A. D. 1845.

W. B. Wauvel Clerk.

Karnes & Woods, Book, Job & Blank, Prs. Quincy.

APPEAL
BOND.

Sup. Court.

Know all Men by these Presents, That we,

*Nathan F Gardner & Gardner and
Samuel L Crane*

are held and firmly bound unto *William Todd Overseer*
of *Highways &c*
of the County *Pike* and State of *Illinois* in the penal
sum of *One hundred*
dollars, current money of the United States, for the payment of which, well and truly
to be made, we bind ourselves, our heirs, executors and administrators, jointly, sever-
ally and firmly by these presents. Witness our hands and seals at the Clerk's office
in *Springfield* this *30th* day of *June* A. D. 18*71*.

The Condition of the above Obligation is Such,

That whereas the said *William Todd Overseer of High-*
ways
did on the *27th* day of *March* in the year of our Lord one
thousand eight hundred and *fifty one* in the Circuit Court, in and for the county
of *Pike* and State of Illinois, recover a judgment against the above
bounden *Nathan F Gardner* of dismissal of an appeal
presented by said Gardner from the judgment of a Justice
of the Peace for the sum of _____ dollars and
_____ cents, debt, and _____ dollars and _____ cents
damages, and _____ dollars and _____ cents, costs;
from which said judgment of the said Circuit Court, the said *Gardner*
presented a writ of Error which by the order of the Chief Justice
has ~~prayed for, and obtained an appeal to the Supreme Court of said State.~~ Now, if
~~the said~~ *has been made a supersedeas upon said Gardner's filing bond*
the said ~~no~~ *has been* ~~conditioned,~~ *writ of Error* now if *Said Gardner*
shall duly prosecute *his* said ~~appeal~~ *writ of Error* with effect, and shall moreover ~~pay~~ *pay* the amount
of the judgment, costs, interest and damages rendered, and to be rendered against *him*
in case the said judgment shall be affirmed in the Supreme Court, then the above obli-
gation to be void, otherwise to remain in full force and virtue.

Signed, Sealed and delivered in the Presence of

Approved,

N. F. Gardner



John Gardner



S. L. Crane



Clerk Circuit Court Co. Ill.

No.

Nathan Gardner

Plaintiff

vs.}

On Appeal.

Wm. Ladd, Sheriff &c

Defendant

APPEAL BOND, SUP. CT.

Filed, July 2nd A. D. 1847.

Clerk.

Karnes & Woods, Book, Job & Blank, Prs. Quincy.

State of Illinois, }
SUPREME COURT. } SS.

The People of the State of Illinois,

To the Sheriff of *Pike* County.

BECAUSE in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of *Pike* County, before the Judge thereof, between *William Todd, Plaintiff* and *Job Gardner*

defendant it is said that manifest error hath intervened to the injury of the said *defendant* as we are informed by *his* complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Springfield, 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 *William Todd*

that *he* be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Springfield, in said State, on the *2nd* Monday in *December* next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said *William Todd* notice, together with this writ.

J. H. Treat
WITNESS, the Hon. ~~WILLIAM WILSON~~, Chief Justice of our said Court, and the seal thereof, at Springfield, this *second* day of *July* in the year of our Lord, one thousand eight hundred and ~~forty~~ *fifty one*

W. B. Warrick
Clerk of the Supreme Court.

State of Illinois, }
SUPREME COURT. } ss.

The People of the State of Illinois,

To the Sheriff of *Pike* County.

Because in the record and proceedings, and also in the rendition of
the judgment, of a plea which was in the Circuit Court of *Pike*
County, before the judge thereof, between *William Todd* plaintiff
~~and *Nathan H. Garrison*~~

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

as we are informed by *his* complaint, the record and proceedings of which said judgment,
we have caused to be brought into our Supreme Court of the State of Illinois, at
Springfield, 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 *William Todd*

that he and appear before the Justices of our said Supreme Court, at the next term of
said Court, to be holden at Springfield, in said State, on the *2nd* Monday in
December next, to hear the records and proceedings aforesaid, and the errors as-
signed, if he shall think fit; and further to do and receive what the said Court
shall order in this behalf; and have you then there the names of those by whom you shall give
the said *William Todd* notice together with
this writ.

Witness, the Hon. *Samuel H. Treat* Chief
Justice of our said Court, and the seal thereof, at Spring-
field, this *second* day of *July*
in the year of our Lord, one thousand eight hundred and
~~forty-~~ *fifty-one*

W. B. Mann
Clerk of the Supreme Court.

I have issued the within ^{Summons and} writ of ~~scire~~ ^{supplicatio} facias
 by reading the same to the within named
 William Todd this fourth day of July One thousand
 Eight hundred and fifty One
 Stephen H Gray Sheriff P. C. U. S.
 By Ambrose Allen Deputy Sheriff

Supreme Court.

Nathan S. Gardner Plaintiff in error;

vs.

William Todd Defendant in error;

Scire Facias.

This writ to ob-
 ligate the defendant and to be
 obeyed accordingly

Wm. H. Gray
 Filed: 20th Nov 1851

Wm. H. Gray

Sherriff's Office 10th Nov 1851

15th Nov 1851

Return 10

Wm. H. Gray Sheriff P. C. U. S. 1.50

Plead held before the Hon^{ble} William A Minshall Judge of the fifth Judicial Circuit, in the State of Illinois in the Town of Pittsfield County of Pike and State aforesaid, on the 27th day of March A.D. 1851 being the fourth day of the March Term of the Circuit Court for Said County in the year aforesaid

On the ninth day of October A.D. 1850 Alexander Scott a Justice of the Peace in and for Said County, filed the following paper in the office of the Clerk of the Circuit Court of Said County as follows to wit

To Mr^r Scott a Justice of the Peace in and for the Town of Chambersburgh in the County of Pike & State of Illinois W^m Todd Overseer of highways in said town complains of Job Gardner, Nathan Gardner, H. W Gardner, W^m Gardner & Harris Gardner residents of said town that the day of Sept^r inst this affiant as such overseer duly notified said Gardner to appear at South fork bridge on the road from Chambersburgh to Inggsville on the 12th day of Sept^r at 8 O'clock in the forenoon labour as follows Job Gardner \$1.25, N. Gardner \$4.13, H. W Gardner \$0.35/4c, W^m Gardner 8 parts & Harris Gardner 36³/₄ cents: which had been assessed against them at the rate of \$1.00 per day and the said Gardner wholly neglected and refused to appear by themselves or substitutes, at the time and place appointed and has wholly failed to render any satisfactory excuse for not appearing and performing said labour and affiant says that for said default the Gardner have forfeited the sum above annexed to their respective names Affiant therefore prays that a summons may issue requiring said defendants to appear before you the said Justice and that he may be dealt with as by law in such case made and provided

Subscribed and Sworn this 18th day of Sept 1850 before me
W^m Todd
Alexander Scott J.P.

2

And afterwards to wit on the 18th day of September a Summons was issued by Mr Scott J.P. in words and figures as follows to wit:

State of Illinois } The People of the State of Illinois
Pike County S.D. } To any Constable of Said Town, ~~Greenville~~
of Chambersburg in Said County. Greeting:

You are hereby commanded to Summon Job Gardner to appear before me at my house forthwith to answer to the Complaint of W^m Todd Overseer of Highways in Said town for not performing labour upon the road in Said Town whereby he hath forfeited the sum of One dollar & twenty three cents as Said Complainant Saith and thereof make due return as the law directs

Given under my hand & Seal this 18th day of September

A.D. 1850

Alex^r Scott. J.P. Seal

On the back of which Summons is the following return

Returned Served by reading this 25th day of September 1850

W Todd Const. for 50

And afterwards to wit on the 9th day of October an Appeal Bond was filed in the Clerk's Office in the foregoing cause in words and figures as follows to wit:

Know all men by these presents that we Nathan P. Gardner and Job Gardner are held and firmly bound unto W^m Todd Overseer of Roads in the penal sum of twenty dollars lawful money of the United States for the payment of which well and truly to be made we bind ourselves our heirs administrators jointly, severally and firmly by these presents. Witness our hands and Seals this 28th day of Sept^r 1850

The condition of the above obligation is such that whereas the said W^m Todd Overseer of Highways did on this day before Alex^r Scott a Justice of the Peace in and for the County of Pike recover a judgment against the above bounden Job Gardner for the sum of One dollar and twenty three cents debt and cost from which judgment the said Job Gardner has

taken an Appeal to the Circuit Court of the County of Pike and State of Illinois. Now if the said Job Gardner 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 and effect.

Approved by me at my office this
28th day of September 1850

Alexander Scott J.P.

Job Gardner 
N. F. Gardner 

And on the same day the following Transcript of a Judgment was filed in the Clerk's Office in words and figures as follows to wit:

W^m Todd Overseer of Roads State of Illinois
vs
Job Gardner
County of Pike
Justice Court, before the undersigned

Sept^r. 18th. 1850

Demand.	1.23.	}	Capias issued on this day, to Robert Todd
Issuing Capias	18 ³ / ₄		Constable, on account of a refusal to perform
Decketing	12 ¹ / ₂		certain Road labour. Sept ^r . 25. Capias returned
Subpoena	18 ³ / ₄		Served by reading and trial set for the 28 th
Entering Judgment	25		by request of N. F. Gardner who appeared for

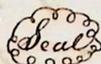
Entering Appeals 50
Sept^r 28th parties attended and evidence heard - It is ordered that the plaintiff have judgment for One dollar and twenty three cents, together with Costs of Suit. Whereupon defendant asked for an Appeal which is granted and defendant filed his bond accordingly Nathan F. Gardner becoming his Security which bond is approved by me

Alex^r Scott 

State of Illinois }
Pike County } SS.

I Alexander Scott one of the Justices of the Peace within and for said County, do hereby certify that the foregoing judgment and Transcript of W^m Todd vs Job Gardner is truly copied

4
from my docket. Given under my hand and Seal this 28th day of Sept:
1850

Alexander Scott J.P. 

And afterwards to wit on the 9th day of October a Summons was issued in words and figures as follows to wit.

State of Illinois } The People of the State of Illinois
Pike County } SS To the Sheriff of Said County: Greeting

We command you to Summon William Todd if to be found in your County, to be and appear before the Judge of our Circuit Court for the County of Pike on the fourth Monday in the month of March next to answer to an appeal obtained by Job Gardner from a judgment rendered against him in favor of William Todd before Alexander Scott Esq., a Justice of the Peace of Said County, on the 28th day of September 1850 for the Sum of One dollar twenty three cents, and costs of Suit; and here you then and there this writ



Witness Atstearns Clerk of Said Court at the Court House this 9th day of October 1850 the Seal of Said Court being here affixed
Atstearns Clerk

Upon the back of which Summons the Sheriff has made the following return.

"I have served the within writ by reading the Same to William Todd
Oct^r 13 1850

D. D. Hicks Sheriff P. Co. Ill.

At a Circuit Court begun and held at the Court House in Pittsfield Pike County Illinois on the fourth Monday in March being the 24th day of Said March 1851, the following order was and proceeding was had in this entitled cause,

Todd }
" } Appeal
Gardner }

Plaintiff moved to dismiss the Appeal herein for the following reason
The law does not provide for an Appeal in this case.

Archer for pliff.

And afterwards to wit on the 14th day of Saide March Term, the following order was made and entered of record as follows to wit.

William Todd }
vs } Appeal
Job Gardner

This day again came the parties by their Attornies and on motion to dismiss Appeal made by plaintiff Attorney Saide motion being heard by the Court is Sustained, Whereupon it is ordered by the Court that Saide Appeal be dismissed and that a procedendo be awarded to the justice of the peace, Whereupon came the defendant by his Attorney, and enters a motion to Set aside the above order.

And afterwards to wit in the 15th day of Saide March Term being the 9th day of April 1851 the following order was made and entered of record as follow to wit.

Ordered that all demurred, motions for new trials and in arrest of Judgment not otherwise disposed of be overruled

State of Illinois }

Pike County } SS

I W. H. Starnes Clerk of the Circuit Court in and for Saide County, do hereby certify that the foregoing pages contain a true and complete copy of the foregoing entitled cause wherein William Todd is plaintiff and Job Gardner is defendant

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court this 4th day of June A.D. 1851

W. H. Starnes Clerk

Attest for
Clerk of Court
H. 2-10

~~William Todd vs John Gardner~~

In Supreme Court

John Gardner

2nd Division

vs

William Todd, Plaintiff

And The said P^{ty} in Error

John Gardner assigns for error in the foregoing record -

That The Court erred in dismissing said appeal
2nd The Court erred in deciding that no appeal would lie from the practice of the Bench in this case

Henry Fox
Clerk in C^o

William Todd

vs

John Gardner
John Gardner

Copy of Record

Filed July 2nd 1857.

W. H. Fox

\$ 2.50 paid

Set before the Court June 14th 1857.
John Gardner & Co. vs. John Gardner
into bond in the penalty of \$100 with Nathan
N. P. Hunt Esq. Sheriff.

1

Pleas hida before the Hon^{ble} William A Minshall Judge of the fifth Judicial Circuit in the State of Illinois in the town of Pittsfield, County of Pike and State aforesaid, on the 27th day of March A.D. 1851 being the fourth day of the March term of the Circuit Court for said County in the year aforesaid

On the ninth day of October A.D. 1850 Alexander Scott a Justice of the Peace in and for said County, filed the following papers in the office of the Clerk of the Circuit Court of said County as follows to wit

To Mr^r Scott a Justice of the Peace in and for the Town of Chambersburgh in the County of Pike and State of Illinois Mr^r Dodd overseer of highways in said Town complains of Job Gardner, Nathan Gardner, H N Gardner, Mr^r Gardner, Harris Gardner residents of said Town that the day of Sept. inst this affiant as such overseer, duly notified said Gardner to appear at South fork bridge on the road from Chambersburgh to Giggsville on the 12th day of Sept^r at 8 O'clock in the forenoon labour as follows. Job Gardner \$1.25. N F Gardner \$4.13. H N Gardner \$0 35¹/₄. Mr^r Gardner 8¹/₂ cents & Harris Gardner 36¹/₂ cents. which had been assessed against them at the rate of \$1.00 per day and the said Gardner wholly neglected and refused to appear by themselves or substitutes at the time and place appointed and has wholly failed to render any satisfactory excuse for not appearing and performing said labour and affiant says that for said default the Gardner have forfeited the sum above annexed to their respective names. Affiant therefore prays that a summons may issue requiring said delinquents to appear before you the said Justice and that he may be dealt with as by law in such case made and provided

Subscribed and sworn this 15th day of
Sept 1850 before me

Mr^r Dodd

Alexander Scott J.P.

2
And afterwards to wit on the same day being the 18th Sept 1850 a Summons
was issued in words and figures as follows to wit

State of Illinois } The People of the State of Illinois
Pike County } To any Constable of Said Town of Chambersburg
in Said County Greeting:

You are hereby commanded to Summon Nathan
Gardner to appear before me at my house forthwith to answer to the com-
-plaint of Mr Todd Overseer of highways in Said town for not performing
labour upon the road in Said town whereby he hath forfeited the Sum
of four dollars thirteen & a third cents as Said Complainant saith and
thereof make due return as the law directs Given under my hand
Seal this 18th day of Sept^r 1850

Alexander Scott J.P. Seal

Upon which Summons is the following return made by the Officer
"Returned Served by reading this 25th day of September 1850
Robert Todd Const

Jan 50

And afterwards to wit on the same day the defendant executed an
Appeal Bond in words and figures as follows to wit

Know all men by these presents that we Nathan F.
Gardner and Job Gardner are held and firmly bound to Mr Todd
overseer of highways in the penal Sum of twenty dollars lawful money of
the United States for the payment of which we bind ourselves our heirs
and administrators jointly Severally and firmly by these presents.

Witness our hands and Seals. this 28th day of September 1850 All.

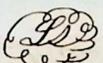
The condition of the above obligation is Such that whereas the
Said Mr Todd overseer of highways did on this day before Alexander Scott
a justice of the peace for the County of Pike Recover a judgment against
the above bounden N F Gardner for the Sum of four dollars & thirteen cents
debt and cost thereon from which judgment the Said Nathan Gardner has
taken an Appeal to the Circuit Court of the County of Pike and State

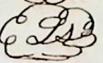
of Illinois. Now if the Said Nathan F Gardner shall prosecute his appeal with effect and shall pay whatever judgment may be rendered by the Court upon dismissal or trial of said Appeal then the above obligation to be void otherwise to remain in full force and effect

Approved by me at my office

this 28th day of Sept^r 1850

Alexander Scott J.P. 

N F Gardner 

Jeb Gardner 

And afterwards to wit on the 9th day of October a Transcript of the Judgment in the foregoing cause, was filed in the Clerk's Office in words figures as follows to wit:

<p>W^m Todd Overseer " " Nathan F Gardner</p>	<p>State of Illinois, County of Pike Justice Court before the undersigned Sept^r 18th 1850</p>	<p>Capias issued on this day to Robert Todd Constable on account of a refusal to perform certain road labor. Sept^r 25th Capias returned prisoner appeared and is now present Cost fees 50 cts. Defendant made oath that he could not safely proceed to trial without witnesses whereon said case is hereby continued to 28th inst Plaintiff ordered Subpoena of Jackson Russian defendant ordered Subpoena for John Morris Andrew Morrison and Justin Dickerson Sept^r parties attended and after evidence heard it appeared the defendant that had not worked road according to orders, therefore it is ordered that plaintiff have judgment against defendant for four dollars & thirteen cents together with costs of Suit. Whereupon defendant asked an Appeal to the Circuit Court which is granted and filed his bond accordingly Jeb Gardner becoming his security which bond is approved by me this 28th Sept^r 1850</p>
---	---	---

Alexander Scott J.P.

John Morris
Jackson Russian
Justin Dickson



Witnesses claiming Attendance.

State of Illinois
Pike County } 38

I hereby certify that the above transcript and judgment is truly copied from my docket, Given under my hand and Seal this 28th day September 1850

Alexander Scott J.P.

And afterwards to wit on the 9th day of October 1850 a Summons was issued out of the Clerk's Office, in words and figures as follows to wit:

State of Illinois } The People of the State of Illinois
Pike County } S.S. To the Sheriff of Said County: Greeting:

We command you to Summon William Todd of to be found in your County, to be and appear before the Judge of our Circuit Court for the County of Pike on the fourth Monday in the month of March next, to answer to an Appeal obtained by A. P. Gardner from a judgment rendered against him in favor of William Todd before Alex^r Scott Esq^r a Justice of the Peace of Said County on the 28th day of September 1850 for the sum of four dollars thirteen cents, and costs of Suit: and have you then there this writ.

Witness A. Starnes Clerk of Said Court at the Court House this 9th day of October 1850
the Seal of Said Court being here affixed
A. Starnes Clerk



Upon which Summons is the following endorsement made by the Sheriff

"I have served the within writ by reading the same to William Todd

Oct^r 31 1850

A. D. Dickson Shff. P. Co Ill

And afterwards to wit At a Circuit Court began and held at the Court House in Pittsfield, Pike County, Illinois on the fourth Monday in March being the 24th day of said March 1851. the following proceedings, were had in the

foregoing cause

Todd

vs  Appeal

Gardner

Plaintiff moves to dismiss Appeal for the following reason.

"The law does not provide for an Appeal in this case"

Order for Jiff.

And afterwards to wit. on the 14th day of Said March Term, the following order was made and entered of record as follows to wit:

William Todd

vs  Appeal

William Gardner

This day again came the parties by their Attornies and on motion to dismiss Appeal made by plaintiff Attorney. Said motion being heard by the Court. is Sustained. Whereupon it is ordered by the Court that Said Appeal be dismissed and that a procedendo be awarded to the justice of the peace. Whereupon came the defendant by his Attorney, and enters a motion to Set aside the above order.

And afterwards to wit. on the 15th day of Said March Term being the 9th day of April 1851 the following order was made and entered of record as follows to wit:

Ordered that all demurred, motions for new trials and in arrest of Judgment, not otherwise disposed of be overruled.

State of Illinois }
Pike County } S.D.

J A Starnes Clerk of the Circuit Court
do hereby certify that the foregoing 5 pages

Let a superseded issue on behalf in error
entering into bond with the penalty of \$100
with Job Gardner & Samuel L Crane as surety.

June 14th 1851

A. H. Treat C. J. S. Court

102

William Stone

- vs -

William D. Gardner

and appeal -

Copy of Record

Filed July 2nd 1857

\$250 bond

Copy for
King for
ap-er

That the Court was in error

was herein -

plaintiff answers for

From the Bureau of Information -

"

William D. Gardner

Superior Court etc
2nd Division

~~Mr. J. H. ...~~

\$2.10

35

ext. Recd

making Recd 1-75

Chas. Fox

In testimony whereof I have hereunto set
my hand and affixed the seal of said
Court this 4th day of June A.D. 1857
William Stone
Clerk

Adjutant

entire a true and perfect copy of the record in the foregoing matter
case where William Stone is plaintiff and William D. Gardner is