

No. 14375

Supreme Court of Illinois

Anderson

vs.

Curtis.

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division

1875

No.

7

Anderson
vs
Currier

1863

Chicago March 30 1863

J. Leland Esq

Please send the
writ of *habeas corpus* & *Sci fa* to us
and we will stamp them
Enclosed is the six dollars
judges fee, and the other
fees will pay on filing the
Return &c

Yours &c
Wm^r Allister Jewett of Jackson

Supreme Court
Hans H. Andresen
vs. Plaintiff
Charles H. Curtis
Defendant

I do enter myself security for costs in this case and acknowledge myself bound to pay or cause to be paid all costs which may accrue in this suit either to the opposite party or to any of the officers of this Court in pursuance of the laws of this state
Dated this 30 day of March A.D. 1863

Franklin H. Curtis

127
Hans H. Anderson
Charles H. Curtis
Band for Curtis

Filed Mch. 31, 1863,
L. Seland
Ch.

Supreme Court
Hans H. Andresen
Plff in error

vs
Charles H. Curtis
Defn in error

Please issue a writ of error to
the Cook County Circuit Court
to bring up the Record in the case
of a Judgment lately rendered in
said Court wherein Charles H. Curtis
was Plaintiff and Hans H. Andresen
was Defendant and issue Scire facias
to Sheriff of Adams County returnable
to the next Term of the Supreme Court
at Hannan.

McAllister Jewett & Jackson
Attys for Plff in error

To S. Seland Clerk
March 30th 1863

Hans H. Anderson

to

Charles H. Curtis

Receipt

Filed Dec. 31, 1863.
L. Seland
Clk.

STATE OF ILLINOIS, }
SUPREME COURT, }

ss. The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of 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

Charles A. Curtis

Complainant, and

Hans A. Anderson

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

Hans A. Anderson

as we are informed by his

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 complaint 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 31st day of March in the Year of Our Lord One Thousand Eight Hundred and Sixty three.

L. Seland
Clerk of the Supreme Court.

127

Hans H. Anderson

No.

vs.

Charles H. Curtis

WRIT OF ERROR.

FILED A D. 186

Clerk.



STATE OF ILLINOIS,
SUPREME COURT.

} ss. The People of the State of Illinois,

To the Sheriff of Adams County, GREETING:

Because, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Circuit Court of Cook County, before the Judge thereof, between

Charles A. Curtis

plaintiff....., and

Hans A. Anderson

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

Hans A. Anderson

as we are informed by his complaints the record and proceedings of which said judgments 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

Charles A. Curtis

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 record 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

Charles A. Curtis

notice, together with this writ.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 11th day of March in the year of our Lord One Thousand Eight Hundred and Sixty-Three.

L. Seland
Clerk of the Supreme Court.



I have served the within Scire Facias by reading the same to the within named Charles H. Curtis on this the 10th day of April A.D. 1863

John Steinmetz
Sheriff Adams County
Ills.
Per D. Hauer Deputy

127.

James H. Anderson

No. vs.
Charles H. Curtis

SCIRE FACIAS.

Filed..... A. D. 186

Clerk.

Fees Received \$ 1.00

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION, }
APRIL TERM, A. D. 1863. }

Error to Cook Circuit Court

HANS H. ANDRESON, PLAINTIFF IN ERROR,

vs.

CHARLES H. CURTIS, DEFENDANT IN ERROR.

ABSTRACT OF RECORD.

Rec. p. This was a judgment entered by confession, in the Circuit Court of
1-6 Cook county, on the 13th day of January, 1863, against the plaintiff in
2 error, in favor of the defendant in error. The narr and cognovit are in
3 4 5 the usual form; the note and warrant of attorney, which are attached
thereto, and upon which the judgment is based, both bear date January
4th, 1853.

5 Attached to the warrant of attorney is a certificate of acknowledgment
before W. W. Stewart, notary public, which is also dated January 4th,
1853.

These are all the papers and all the evidence in the case. There is no
affidavit of any kind showing that the defendant was *in esse*, or that the
debt was unpaid at the time of the entry of said judgment; and no or-
der or rule of Court appears to have been made allowing said judgment
to be entered on the warrant of attorney.

ASSIGNMENT OF ERRORS.

1st. That the Court erred in giving judgment for the plaintiff without requiring an affidavit to be filed, setting forth the fact that the defendant was then living and the debt unpaid.

2nd. That no rule or order was made by the Court before the entry of said judgment, allowing the same.

3d. That by the law of this State, there was no right or authority on the part of the plaintiff to enter a judgment on the warrant of attorney contained in this record.

McALLISTER, JEWETT & JACKSON,
Attorneys for Plaintiff in Error.

PLAINTIFF'S POINTS.

127

Anderson

vs

Carter

Abst. of Record

Filed April 23. 1863

Secord
clerk

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION, }
APRIL TERM, A. D. 1863. }

~~ERROR TO COOK CIRCUIT COURT~~

HANS H. ANDRESON, PLAINTIFF IN ERROR,

vs.

CHARLES H. CURTIS, DEFENDANT IN ERROR.

ABSTRACT OF RECORD.

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affidavit of any kind showing that the defendant was *in esse*, or that the
debt was unpaid at the time of the entry of said judgment; and no or-
der or rule of Court appears to have been made allowing said judgment
to be entered on the warrant of attorney.

ASSIGNMENT OF ERRORS.

1st. That the Court erred in giving judgment for the plaintiff without requiring an affidavit to be filed, setting forth the fact that the defendant was then living and the debt unpaid.

2nd. That no rule or order was made by the Court before the entry of said judgment, allowing the same.

3d. That by the law of this State, there was no right or authority on the part of the plaintiff to enter a judgment on the warrant of attorney contained in this record.

McALLISTER, JEWETT & JACKSON,
Attorneys for Plaintiff in Error.

PLAINTIFF'S POINTS.

127

Anderson

vs

Winters

Abstract of Record

Filed Apr 23, 1863
J. S. Land
clerk

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION, }
APRIL TERM, A. D. 1863. }

Error to Cook Circuit Court

HANS H. ANDRESON, PLAINTIFF IN ERROR,

vs.

CHARLES H. CURTIS, DEFENDANT IN ERROR.

ABSTRACT OF RECORD.

Rec. p. This was a judgment entered by confession, in the Circuit Court of
1-6 Cook county, on the 13th day of January, 1863, against the plaintiff in
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thereto, and upon which the judgment is based, both bear date January
4th, 1853.

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1853.

These are all the papers and all the evidence in the case. There is no
affidavit of any kind showing that the defendant was *in esse*, or that the
debt was unpaid at the time of the entry of said judgment; and no or-
der or rule of Court appears to have been made allowing said judgment
to be entered on the warrant of attorney.

ASSIGNMENT OF ERRORS.

1st. That the Court erred in giving judgment for the plaintiff without requiring an affidavit to be filed, setting forth the fact that the defendant was then living and the debt unpaid.

2nd. That no rule or order was made by the Court before the entry of said judgment, allowing the same.

3d. That by the law of this State, there was no right or authority on the part of the plaintiff to enter a judgment on the warrant of attorney contained in this record.

McALLISTER, JEWETT & JACKSON,
Attorneys for Plaintiff in Error.

PLAINTIFF'S POINTS.

127

Anderson

vs

Coates

Abst. of Record

Filed April 23, 1863

L. L. Coates
Clerk

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 first Monday, (being the
twelfth day) of January in the year
of our Lord One Thousand Eight Hundred and eighty three and of the
Independence of the said United States the eighty seventh

Present, Honorable George Manierre Judge of the 7th Judicial Circuit
of the State of Illinois. }

Joseph Knox States Attorney.

David S. Hammond Sheriff of Cook County.

Attest, William S. Church Clerk.

(1) Be it remembered, that heretofore
to-wit: On the Thirtieth day of January in the
year aforesaid. Charles W. Leight, plaintiff by
Edwin and Clark his attorneys, filed in said Court
his Certain Declaration, together with the Note declared
on, and the warrant of attorney thereto attached
and thereupon came the said defendant Hans
W. Andersen by Edwin S. Taylor his attorney in
fact: and filed in said Court on said 13th day of
January, his Cognovit: Confessing the action of
the said plaintiff against him, which said
Declaration, Note, warrant of attorney & Cognovit,
are respectively in the words and figures following
to-wit:

Declaration

Narr and Cognovit

State of Illinois,

CIRCUIT COURT OF COOK COUNTY,

Cook County, ss

in January

TERM, A. D. 1863.

Plaintiff in this suit, by Welm & Belcher his Attorney, complain of

Wm. H. Anderson
Defendant in a plea of trespass on the case on promises: For that whereas the said Defendant, heretofore, to wit, on the fourth day of January in the year of our Lord one thousand eight hundred and fifty-three at Chicago to wit, at said County of Cook, made his certain promissory Note in writing, bearing date the day and year aforesaid, and then and there delivered the same to Robert Denver in and by which said Note, said Defendant by the name, style and description of W. H. Anderson

(2) Robert Denver promised to pay to the order of the said Robert Denver Four hundred forty dollars, one year after date with interest at five per cent payable annually

for value received. And the said Robert Denver to whom or to whose order said note was payable, afterwards, to wit, on the day and year aforesaid, at to wit, in the County of Cook aforesaid, endorsed said note in writing, by which said endorsement the said Robert Denver then and there ordered and appointed the said sum of money in said note mentioned to be paid to said Plaintiff, and then and there delivered said note, so endorsed, to the said Plaintiff. By means whereof, and by force of the statute in such case made and provided, the said Defendant became liable to pay said Plaintiff said sum of money mentioned in said note, and being so liable, in consideration thereof, then and there undertook and promised to pay the same to the said Plaintiff according to the tenor and effect, true intent and meaning of the said note, and of the endorsement aforesaid, to wit, at the place aforesaid.

Yet the said Defendant, although often requested, &c., hath not yet paid the said sum of money, or any part thereof to the Plaintiff, but so to do hath hitherto wholly refused, and still do refuse, to the damage of the Plaintiff of One Thousand dollars and therefore he brings suit, &c.

Welm & Belcher

PLAINTIFFS ATTORNEY.

CIRCUIT COURT OF COOK COUNTY.

January

TERM, A. D. 1863.

Wm. H. Anderson

Ads.

Charles W. Curtis

COGNOVIT.

And the said Wm. H. Anderson Defendant in the above entitled suit, by Edwin S. Taylor his Attorney come and defend the wrong and injury, when, &c., and waived services of Process, and say that he cannot deny the action of the said Plaintiff, nor but that the said Plaintiff has sustained damages on occasion of the non-performance of the several promises and undertakings in the said declaration mentioned, including the sum of Five Dollars, for his reasonable attorney's fees for entering up this judgment, over and above his other costs and charges by him about his suit in this behalf expended to Seven hundred and four dollars and nine cents; and the said Defendant further agree that no writ of error or appeal shall be prosecuted on the judgment entered by virtue hereof, nor any bill in equity filed to interfere in any manner with the operation of said judgment, and that he hereby release all errors that may intervene in entering up the same, or issuing the execution thereon, and consent to immediate execution upon such judgment.

E. S. Taylor

DEFENDANTS ATTORNEY.

Declaration

Narr and Cognovit

State of Illinois,

CIRCUIT COURT OF COOK COUNTY,

Cook County, ss

in January

TERM, A. D. 1863.

Plaintiff in this suit, by Wm & Clark his Attorney, complain of

Wm H. Anderson
Defendant in a plea of trespass on the case on promises: For that whereas the said Defendant, heretofore, to wit, on the fourth day of January in the year of our Lord one thousand eight hundred and fifty-three at Chicago to wit, at said County of Cook, made his certain promissory Note in writing, bearing date the day and year aforesaid, and then and there delivered the same to Robert Denver in and by which said Note, said Defendant by the name, style and description of W. H. Anderson

(2) Robert Denver promised to pay to the order of the said Robert Denver Four hundred forty dollars, one year after date with interest at five per cent payable annually

for value received. And the said Robert Denver to whom or to whose order said note was payable, afterwards, to wit, on the day and year aforesaid, at to wit, in the County of Cook aforesaid, endorsed said note in writing, by which said endorsement the said Robert Denver then and there ordered and appointed the said sum of money in said note mentioned to be paid to said Plaintiff, and then and there delivered said note, so endorsed, to the said Plaintiff. By means whereof, and by force of the statute in such case made and provided, the said Defendant became liable to pay said Plaintiff said sum of money mentioned in said note, and being so liable, in consideration thereof, then and there undertook and promised to pay the same to the said Plaintiff according to the tenor and effect, true intent and meaning of the said note, and of the endorsement aforesaid, to wit, at the place aforesaid.

Yet the said Defendant, although often requested, &c., hath not yet paid the said sum of money, or any part thereof to the Plaintiff, but so to do hath hitherto wholly refused, and still do refuse, to the damage of the Plaintiff of One thousand dollars and therefore he brings suit, &c.

Wm & Clark PLAINTIFFS ATTORNEY.

CIRCUIT COURT OF COOK COUNTY.

January TERM, A. D. 1863.

Wm H. Anderson

Ads.

Charles W. Curtis

COGNOVIT.

And the said Wm H. Anderson Defendant in the above entitled suit, by Edwin S. Taylor his Attorney come and defend the wrong and injury, when, &c., and waived services of Process, and say that he cannot deny the action of the said Plaintiff, nor but that the said Plaintiff has sustained damages on occasion of the non-performance of the several promises and undertakings in the said declaration mentioned, including the sum of Five Dollars, for his reasonable attorney's fees for entering up this judgment, over and above his other costs and charges by him about his suit in this behalf expended to Seven hundred and four dollars and nine cents; and the said Defendant further agree that no writ of error or appeal shall be prosecuted on the judgment entered by virtue hereof, nor any bill in equity filed to interfere in any manner with the operation of said judgment, and that he hereby release all errors that may intervene in entering up the same, or issuing the execution thereon, and consent to immediate execution upon such judgment.

E. S. Taylor DEFENDANTS ATTORNEY.

Note.

\$ 1140.00.

Chicago January 4th 1853.

One year after date for value received, I promise to pay Robert Denny or order Four hundred and forty dollars, with interest at five per cent payable annually

{ Interest
50¢
Revenue }

W. W. Andrew

On the back of said note appears the following endorsement to wit:

"Pay N. P. Dglehart or order Robert Denny by N. P. Davis his atty in fact"

"Pay to order of Charles W. Kentis
N. P. Dglehart or order"

Dec 31. /53.

Warrant of Attorney

"Know all men by these presents That whereas the subscriber is justly indebted to Robert Denny in the sum of Four hundred and forty dollars, for which sum the said subscriber hath executed a promissory note of even date herewith bearing interest at the rate of five per cent per annum payable one year from date to the order of said Robert Denny. Now therefore in consideration of the premises, I do hereby make constitute and appoint Edward Martin or any attorney of any Court of Record, to be my true and lawful attorney irrevocably for me and in my name

and plead, to enter an appearance before any
 Justice of the Peace, or any Court of Record
 in the United States of America, or any of the
 Territories thereof, at any time from and after
 the date hereof, to waive the service of process
 and Confess a judgment in favor of said Robert
 Deme his Assigns or assignees upon the said note
 for the above sum, or for as much as appears to
 be due, according to the tenor and effect of the
 said note, and interest thereon, to the day of
 the Entry of said judgment, together with costs
 and attorneys fees; and also to file a Cog-
 novit for the amount that may be so due, and
 to release all errors that may intervene in the
 Entering up said judgment, or issuing the
 Execution thereon, hereby ratifying & Confirming
 all that my said attorney may do by virtue
 hereof. And I do hereby further stipulate
 and agree, in consideration of the sum of money
 mentioned in said promissory note, the receipt
 whereof is hereby acknowledged, that all right,
 title, claim, interest, benefit or advantage
 accruing or belonging to me from or by virtue of
 an act of the General Assembly of the State of
 Illinois "Entitled an act to exempt Commerce
 from Sale on Execution" passed on the 7th day of
 February A.D. 1851, is hereby waived & released,
 and any property which I now hold or may
 hereafter acquire, which would be exempt from

levy and sale on Execution by virtue of said
act, is hereby made subject to such levy and
sale by virtue of this agreement, the same as
though said act had not been passed
Witness my hand and seal this fourth day of
January A.D. 1853.

Sealed & delivered
in presence of
State of Illinois }
Cook County }
City of Chicago }

H. H. Andersen Seal

I W. W. Stewart a Notary Public
of said County, do certify that H. H.
Andersen whose signature appears to the foregoing
instrument, and who is personally known to me
to be the same person who subscribed & executed
the same, did acknowledge the same to be his free
act and deed.

Given under my hand
and seal notarial this fourth day of January
A.D. 1853.

W. W. Stewart

Seal

Notary Public

Hans H. Andersen

And afterwards, to-wit: at the January Term of
said Court, to-wit: on the 13th day of January
in the Year of Our Lord One thousand Eight-
hundred and fifty-three, the following pro-
ceedings, among others, were had and entered
of record. To-wit:—

4

223 40

Charles W. Curtis

Wm. W. Anderson

{ Confession

(6)

This day comes the paid plaintiff by Helm and Clark his attorneys, and files herein his certain declaration of a plea of trespass on the Case upon premises, and thereupon comes also the paid defendant by E. S. Taylor, his attorney in fact who files herein his warrant of attorney the execution of which being duly proved, and also his Cogmunt Confessing the action of said plaintiff against him and that he has sustained damages herein to the sum of Seven hundred and fourteen dollars and twenty nine Cents.

\$714.²⁹

Therefore it is considered that said plaintiff do have and receive of the said defendant his damages of seven hundred & fourteen dollars and twenty nine Cents in form aforesaid Confessed together with his Costs and charges by him about his suit in this behalf expended and have execution therefor

(7)

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 The Papers & proceedings

in a certain cause betw pending in said Court, between the Comlan side thereof, wherein Charles H. Curtis was plaintiff and Wm. H. Anderson was Defendant

In Witness Whereof, I have hereunto set my hand, and affixed the Seal of said Court, at Chicago, this thirty-first day of March A. D. 1883

Wm L Church Clerk.



Supreme Court of Illinois }
Third grand Division }
April Term A.D. 1863 }

Hans H. Anderson Plaintiff in Error

Charles H. Curtis ^{vs} Defendant and in Error

And the said Plaintiff in error by his Attorney, McAllister, Bennett & Jackson comes and says that in the record and proceedings in this cause and also in the giving judgment aforesaid there is manifest error in this

- 1st That the Court erred in giving judgment for the Plaintiff with out requiring an affidavit to be filed setting forth the fact that the defendant was then living and the debt or ~~unpaid~~ - some part thereof was unpaid
- 2nd That no rule or order was made by the Court before the entry of said judgment allowing the same -
- 3rd That by the law of this State there was no right or authority in the part of the Plaintiff to enter a judgment on the warrant of Attorney contained in this record. wherefore for the errors aforesaid and other errors appearing in the record and proceedings aforesaid the said Plaintiff in error prays that said judgment be reversed &c.

McAllister Bennett Jackson
Attys for Plaintiff in Error

The Ind Record 303
Jm L. Church Clerk

Supreme Court
Hans H. Anderson
^{vs}
Charles H. Curtis
Record

Filed April 23. 1863
J. Deland
Clerk