

No. 12041

Supreme Court of Illinois

Bayley

vs.

Winkoop

71641  7

Lee County Circuit Court

State of Illinois
Lee County

Shew before the Honorable Thomas C. Browne one of the Justices of the Supreme Court of the State of Illinois and presiding Judge of the Sixth Judicial Circuit in said State, at a term of the Circuit Court begun and held at Dixon in and for the said County of Lee, on the second Monday of April in the year of our Lord one thousand eight hundred and forty eight
Respectfully the Hon. Thomas C. Browne
Judge

Be it remembered that heretofore to wit on the 22^d day of September A.D. 1847 a summons, transcript and an appeal bond were filed in the office of the Clerk of the said Circuit Court, and they are in the words and figures following to wit:

" State of Illinois vs The People of the State of Illinois
" Lee County vs To any Constable of said County Greeting.
" You are hereby commanded to summon Guy
" Co. Bayley to appear before me at my office in Dixon
" on the 16th day of August in the year of our Lord one thousand
" eight hundred and forty seven at 4 o'clock P.M. to answer
" the complaint of Segrand Wynkoop for a failure to pay him
" a certain demand not exceeding one hundred Dollars.
" And thereof make due return as the law directs. Given under
" my hand and seal this ninth day of August A.D. 1847
" Lorenzo Wood C. J. P. Seal
(Endorsed) "Demand \$100 D. Cost. 31." - "Served the within by reading
" in hearing of the within named this 10th August 1847 for 50c

"LeGrand Wynn Koop } Summons issued returnable
 " } Aug 16. 1847. which was return-
 " Guy C. Bayley } ned as served by J.B. McKenney court
 " } Aug 16. 1847. Parties appeared
 " plaintiff declares in assumpsit on account for
 " work done & claims one hundred dollars. one specified
 " on the part of the plaintiff. parties proceed to the trial
 " of the cause. James Davis and Moses S. Curtis sworn
 " as witnesses for the plaintiff. James Kennedy
 " sworn a witness on the part of defendant
 " after hearing the testimony and arguments of
 " Counsel it is considered that plaintiff have a judg-
 " ment against defendant for the sum of Seventy
 " seven dollars & cost of suit taxed at Three ²⁴/₁₀₀
 " dollars

" State of Illinois } I the subscriber Probate
 " Lee County 3rd } justice of the peace for and
 " } for said County do certify
 " that the above Transcript and the accompanying
 " papers contain a full and perfect statement of all
 " the proceedings and of the judgment before me
 " in the above entitled cause

Dated the 31st day of August A.D. 1847
 Lorenzo Wood

" Know all men by these presents. That We Guy
 " Carleton Bayley are held and firmly bound unto
 " LeGrand Wynn Koop in the penal sum of Two
 " hundred 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 jointly by these presents. Witness
"our hands and seals this 31st day of August
"A.D. 1847

"The condition of the above Obligation is such,
"That whereas the said Legrand Wynkoop did on the
"sixteenth day of August A.D. 1847 before Lorenzo Wood
"a justice of the peace in and for said County of Lee
"recover a judgment against the above bounden Guy
"C. Bayley for the sum of seventy seven dollars;
"from which judgment the said Guy C. Bayley
"has taken an appeal to the Circuit Court of the
"County of Lee aforesaid and State of Illinois.
"Now if the said Guy C. Bayley shall prosecute
"his appeal with effect and shall pay whatever
"judgment may be rendered by the Court on the
"dismissal or trial of said appeal, then the above
"obligation to be void, otherwise to remain in full
"force and effect.

"appeared before me at my } Leighton Bayley Esq
"office this 31st day of August } J. B. Brooks Esq
"1847. Lorenzo Wood J.P.

On afterwards to wit on Wednesday the 12th day
of April A.D. 1848 at the aforesaid term of the said
Circuit Court the following proceedings were had
therein in the aforesaid cause to wit

"Legrand Wynkoop }
"Guy C. Bayley } Appeal

"This day came the said Plaintiff
"by Heaton & Noble his Attorneys and the said defendant
"by Eustace his Attorney and issue being joined between
"the said parties, thereupon came a jury of good and

lawful men to wit, Abiel Doane, Monon Shelhamer,
Simon Green, Russel Town, Joseph B. Lewis, James H. Kerr,
John M. Crawford, Jeremiah Whipple, George Beale,
William Garrison, John Wilson and Gilbert Messer,
who being duly elected tried and sworn to try the
issue joined between the said parties, after having
heard the evidence, retired to consider of their verdict
and afterwards they returned into Court the following
verdict, to wit, "We the jury find for the plaintiff
seventy six dollars and fifty two cents."
And thereupon the said defendant entered his
motion for a new trial in this cause.

And afterwards to wit on Thursday the 13th day of
April A.D. 1848 at the aforesaid term of said Court
the following further proceedings were had in the
aforesaid cause to wit.

LeGrand Wapukoop }
Guy C. Bayley } Appeal

This day came the said
plaintiff by Cleaton & Noble his Attornies, and
the said defendant by Eustace his Attorney, and
after due deliberation on the said defendant's motion
for a new trial in this cause, it is considered by the
Court that the said motion be overruled.
Whereupon it is considered by the Court that the
said plaintiff have and recover of the said defendant
the said sum of seventy six dollars and fifty two cents
his damages, together with his costs by him about
this suit as well in this Court as before the justice of
the peace on the trial below expended and that the

have execution thereof.

And thereupon the said defendant prayed
an appeal to the Supreme Court, which appeal
is allowed by this Court, provided the said defen-
dant shall give bond in the sum of one hundred
and fifty dollars, conditioned as the law directs, with
Oliver Everett, as security. Said bond to be filed
with the Clerk of this Court within twenty days
from this day.

And afterwards to wit on the same day and year
last aforesaid at the aforesaid term of said Court
the said defendant filed in said Court his bill
of exceptions in said Cause, which is in the words
and figures following. To wit

State of Illinois } In the Lee County Circuit Court
Lee County } April Term A.D. 1848

SeGrand Wynnkoop

Guy Charleston Bayley

Be it remembered that on
the trial of this cause, the said plaintiff Praying
proved an account against said defendant to the
amount of ninety four Dollars; the defendant intro-
duced by way of set off, an order drawn by said
plaintiff on the said defendant for the sum of seventeen
dollars and forty eight cents, which said order was
agreed by said plaintiff should be allowed against
him on said account. The said defendant then proved by
one Daniel P. McKinney that he the said McKinney
had paid to the said Wynnkoop the sum of Fifty Dollars
on the verbal order of said Bayley; and that the said

"payment was made after the plaintiff, ^{said} account has
"accrued - the said defendant was then sworn as a
"witness in said case and testified that when the said
"payment of Fifty dollars was made he did not
"direct the said plaintiff as to the application thereof,
"but that he the said defendant, intended the same
"to be applied towards the payment of the account
"herein sued on. It was further proven that the
"said plaintiff, in partnership with one James Kennedy,
"had prior to the date of ^{said} account been doing a
"large amount of work for said defendant, on which
"payments were made by the said Bayley, both before
"and after the time, when said Fifty dollars was paid to
"said Wynkoop. It was further proven by the testimony
"of said Bayley, that he had ^{paid} before the commencement of
"this suit to the said Wynkoop and Kennedy the full amount
"of his indebtedness to them, independent of the said Fifty
"dollars, but that no settlement had been made.
"It was further proved upon said trial that said ^{said} ~~Idell~~
"was in the habit of paying said Kennedy & Wynkoop and
"that on settlement with Little & Brooks, through whom
"most of his payments to said firm were made, the said
"Bayley recognized and allowed orders given by the said
"Wynkoop and the said Kennedy individually for money
"due the firm of Kennedy & Wynkoop. It was also
"proved that after the payment of the said Fifty dollars
"said Bayley made payments to the said firm of Kennedy
" & Wynkoop, and of five hundred dollars so paid about
"\$300. was paid to ~~said~~ Kennedy which was all the
"testimony offered in said trial.

"And be it further remembered that the jury in said
"cause at said term returned into Court with a verdict
"in favor of said plaintiff for the sum of seventy six dollars and

"fifty two cents; And thereupon the said defendant
"moves the Court for a new trial, on the ground that
"said verdict is against ^{the} law and the evidence - which
"said motion being considered by the Court is overruled.
"To which ruling of the Court the defendant by his
"Counsel excepts; and prays the Court that this his
"bill of exceptions may be signed and sealed which
"is done.

"Agreed to by the Counsel

Thomas C. Browne (Seal)

And afterward to wit on the twenty fifth day of
April A.D. 1848, ^{the said defendant} filed in the office of the Clerk of
the said Circuit Court his appeal bond in the
aforesaid cause, which said bond is in the words
and figures following to wit

"Know all men by these presents; That we, Guy
"Carlton Bayley as principal and Oliver Everett as
"security are jointly held and bound unto Legrand
"Wynkoop in the penal sum of one hundred and fifty
"Dollars, for the payment of which well and truly to be
"made, we do hereby bind ourselves, our heirs, executors
"and administrators jointly and severally, firmly by these
"presents. Witness our hands and seals this Twenty
"first day of April A.D. 1848

"The Condition of the above obligation is such that when
"as the said Wynkoop did at the said Term A.D. 1848
"of the Circuit Court of the County of Lee in the State of
"Illinois obtain a judgment against the said Bayley for
"the sum of seventy six dollars and fifty two cents damages
"and also the costs of suit, from which said judgment the
"said Bayley has prayed an appeal to the Supreme
"Court of said State of Illinois; Now then if the said

Payley shall prosecute his said appeal with effect
and without delay, and shall pay the amount of said
judgment together with all costs, interest and damages,
and whatever judgment may be rendered in said Supreme
Court, in case the judgment of said Circuit Court shall
be affirmed, or his said appeal dismissed; When this
obligation to be null and void, otherwise to remain in
full force

Signed and sealed in presence of
G. Carleton Bayley Seal
C. T. Chase Oliver Everett Seal

State of Illinois
Lee County Of Charles T. Chase Clerk
of the Circuit Court in and
for said County, certify that the foregoing is a full
true and perfect transcript from the records of said
Court of the proceedings had therein in the above
mentioned cause of Legrand Wynkoop against
Guy L. Bayley

In Testimony whereof I have hereunto
set my hand and affixed the seal
of said Court at Dixon in said
County of Lee this second day of
February A.D. 1849
Charles T. Chase Clerk

And now comes the said appellant by
Eustace Gloomlock his attys and assigns
the following assignments of the same
as stated in the more aforesaid for Error
to wit

1st The Court Erred in overruling the motion for
a new trial

2^d The Court Erred in rendering the Judgment
aforesaid upon the verdict aforesaid

Eustace Gloomlock
attys for appellant

Segrand Wymkoop
 Guy C. Bayley
 Transcript.

Filed June 11th 1849.
 Ireland Ck.

Ch. Co. come for

Mar. Trans. 2376 mds \$4.12 1/2

Central 50

State of Illinois, ss.

Supreme Court, Third Grand Division, at Ottawa:

The People of the State of Illinois, to the Sheriff of Lee County---Greeting :
WE COMMAND YOU, That of the goods and chattels, lands and tenements, and real estate of

Segrand Nyukoop

you cause to be made the sum of *fifteen* dollars and
thirty three & a half ^{cents} in the said Supreme Court, which

Guy C. Bayley

late recovered against *him* before the Justices of our said Supreme Court, as appears to
us of record, and make return hereof in ninety days.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice
of our said Court, and the Seal thereof, at Ottawa,
this *26th* day of *July*
in the year of our Lord one thousand eight hundred
and *forty nine*.

L. Ireland Clerk of the Supreme Court.

Recd of James Goble Sheriff Dec 24th \$4.62 in being and c. paid by
 11th to Clerk C.C. in witness
 G. C. Bayley By John B. Burtess
 atty -

Supreme Court²⁴
 Guy C. Bayley
 Legrand Wynkoop
 Execution

Bill of Costs \$15.33¹/₂

Came to hand the
 30th day of May 1849

Filed May 13. 1850.
 Deland Clk.

Debt	15-33.
percentage	76
Living	50
Certificate	25-
Filing	6
Returning	12 ¹ / ₂
	17.02 ¹ / ₂

Execution
 Dec 15 1849 Legrand in full of the
 within and my sheep down -
 James Goble Sheriff
 Dec 3 day of Dec 1849
 ten dollars to deposit on said
 execution

By virtue of the within Execution and
 writ I have this the 8th day of Aug 1849
 seized upon the following property to wit
 one cow one horse one pig one dog horse and
 one lot of hams

Supreme Court, 3^d Grand Division - June Term 1849.

Guy C. Bayley

vs

Appeal from Lec. -

LeGrand Myrkoop

Judt. revd. & cause remanded.

Appellants costs = Fil. transcript 20, Dh. cause 12 $\frac{1}{2}$, appn. 25, fil. & abstr. 31 $\frac{1}{4}$ =	.88 $\frac{3}{4}$
Fil. ^{& ent. joined in} ent. 31 $\frac{1}{4}$, ent. argument 25, ent. subn. 25, Ord. taking time 25,	1.06 $\frac{1}{4}$
Ord. reversing 25, Ord. remanding 25, Ent. judt. & opinion 17 fol. 306 $\frac{1}{4}$,	3.56
Copy of judt. & opinion e. 75, fil. opinion 6 $\frac{1}{4}$, ent. judt. for ents 25,	3.06 $\frac{1}{4}$
Ord. for exm. 25, bill of costs 37 $\frac{1}{2}$, Copy 25, execution 50,	1.37 $\frac{1}{2}$
Fil. & Dh. 18 $\frac{1}{4}$, Shffs. etn. 12 $\frac{1}{2}$, postage 20, Sate pr. 25,	.76 $\frac{1}{4}$
Chks for transcript &c.	10.71
	4.62 $\frac{1}{2}$
	<u>\15.33\frac{1}{2}$</u>

A. true copy from my fee book as taxed & recorded therein,
L. Leland Clk. Supt. Court.

By virtue of the within writtⁿ prebill and Exedentⁿ
I have this 8th day of Aug 1849 Levyed
upon the following property one Bay horse
one horse waggon and one set of harness
Received payment in full of the costs in this fee bill char-
-ged and my fees hereon - Dec 1st 1849
Per

Sherriff -

Supreme Court.
Guy C. Bayley
vs
Segrand Wynkoop
Bill of Costs \$15.33½

See Book page 27

not recorded

Appeal from the
vs. Defendant Mykkoop.

John C. Bayley

This was an action commenced before a Justice of the Peace, by Mykkoop against Bayley. Judgment rendered by the Justice for the Plff. for \$77. & costs. Appeal taken by Dfdt. Judgment in Circuit Court for Plff. for \$76.52. Brought into this Court by appeal by Dfdt. The following Bill of Exceptions was filed "Best remembered that on the trial of this cause, the said Plff. having proved an account against sd. Dfdt. to the amount of \$94. the Dfdt. who succeeded by way of set-off, an order drawn by said Plff. on the said Dfdt. for \$17.48. which order it was agreed by Plff. should be allowed against him in said account. the said defendant then proved by one D. B. McKenney that he the said McKenney had paid to the said Plff. the sum of \$50. on the verbal order of said Dfdt. and that said payment was made after the plaintiffs said account had accrued. the said Dfdt. was then sworn as a witness, in said case and testified that when the said payment of \$50 was made, he did not direct the said Plff. as to the application thereof, but that he the said Dfdt. intended the same to be applied towards the payment of the account herein sued on.

It was further proven that the said Plaintiff in partnership with one James Kennedy had prior to the date of said Plffs account, been doing a large amount of work for said Dfdt. on which payments were made by said Dfdt. both before and after the time when the \$50 was paid to said Mykkoop. It was further proven by the testimony of said Bayley, that he had paid before the commencement of this suit, to the said Mykkoop & Kennedy the full amount of his indebtedness to them independent of the said \$50. but that no settlement had been made. It was further proved upon said trial that the said Dfdt. was in the habit of paying said

Mykroos & Kennedy and that a settlement
with Little & Brooks, through whom most of his payments
to said firm were made, the said Bayley recogni-
zed & allowed orders given by the said Mykroos
and the said Kennedy individually, for money due
the firm of Kennedy & Mykroos. It was also
proved that after the payment of the said
\$50, said Bayley made payments to the said
firm of Kennedy & Mykroos; and of five
hundred dollars so paid, about \$300 was
paid to Kennedy. Which was all the
testimony offered on said trial.

And he further recommended that the jury
in said case at said term returned into Court with
a verdict in favor of said Pltff for \$76.52. And
thereupon the Dfdt. moves the Court for a new trial,
on the ground that said verdict is against the
law and the evidence - which said Motion
is overruled - To which ruling Dfdt. excepts etc.

Filed June 16. 1849.

Guy L Bayley

vs
LeGrand Mykoff

} This was an action commenced
before a Justice of the Peace
by Mykoff against Bayley - Judgment
rendered by the Justice for the Plaintiff for
\$77 - and costs - Appeal taken by Defen-
dant - Judgment in Circuit Court for
Plaintiff for \$76.52 - Brought into
this Court by Appeal by Defendant -

The following Bill of Exceptions was filed
"Be it remembered that on the trial of
this cause the said plaintiff having proved an
account against said defendant to the
amount of \$94 - the defendant intro-
duced by way of set off, an order drawn by
said plaintiff on the said defendant for the
sum of \$17.48 which said order was agreed
by said Pltff. should be allowed against him
on said account - the said defendant then
proved by one Daniel B. McKenney, that he the
said McKenney had paid to the said Mykoff
the sum of \$50. on the verbal order of said
Bayley; and that the said payment was made
after the plaintiffs said account had accrued -
the said defendant was then sworn as a
witness in said case and testified that
when the said payment of \$50 was made,
he did not direct the said plaintiff as to the
application thereof, but that he knew
the said defendant, intended the same to
be applied towards the payment of the
account herein sued on - It was before
the proven that the said plaintiff in

in partnership with one James Kennedy had prior to the date of said Plffs account been doing a large amount of work for said defendant, on which payments were made by the said Bayley both before and after the time when the \$50 was paid to said Wykeoff. It was further proven by the testimony of said Bayley that he had paid before the commencement of this suit to the said Wykeoff and Kennedy the full amount of his indebtedness, & there, independent of the said \$50, but that no settlement had been made.

It was further proved upon said trial that said Def. was in the habit of paying said Kennedy & Wykeoff and that on settlement with Little & Brooks through whom most of his payments ^{to said firm} were made, the said Bayley recognized and allowed orders given by the said Wykeoff and the said Kennedy individually for money due the firm of Kennedy & Wykeoff. It was also proved that after the payment of the said fifty dollars, said Bayley made payments to the said firm of Kennedy & Wykeoff; and of five hundred dollars so paid, about \$300 has paid to Kennedy. Which was all the testimony offered in said trial.

And he it further remembered that the jury in said case at said term returned into Court with a verdict in favor of said Plff for \$76.52 - and thereupon the said defendant moves the Court for a new trial on the ground

that said verdict is against the law and the
evidence - which said motion is overruled -
to which ruling dfat. excepts etc.

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Bayley vs Wyckoff

Filed June 16. 1849.
Shel and C^o

Oct 24

Guy C. Bagley

Legrand Nyukoop.

1849

12041