

14787

No. _____

Supreme Court of Illinois

Cooley

vs.

Willard

71641  7

Supreme Court of Illinois,

Third Grand Division---April Term A. D. 1865.

HIRAM COOLEY, *Plaintiff in Error,*

vs.

JACOB P. WILLARD, *Defendant in Error.*

DEFENDANT'S BRIEF.

Beach & Barnard's Print, 14 Clark Street.

Filed Apr 8. 1865
L. L. Leland clerk

IN THE

Supreme Court of Illinois,

Third Grand Division---April Term A. D. 1865.

HIRAM COOLEY, *Plaintiff in Error*,

vs.

JACOB P. WILLARD, *Defendant in Error*.

DEFENDANT'S BRIEF.

The judgment below was entered in the Will County Circuit Court at vacation, November 16th, 1860, by confession on a declaration *cognovit*, note and power of attorney to confess judgment attached thereto. These are all the papers now to be found on file in said court. The warrant of attorney acknowledges the indebtedness, and authorizes a confession of judgment, and the filing of a *cognovit*, with an agreement therein, that no writ of error should be prosecuted upon, nor any bill filed to interfere with, said judgment, and to release all errors in entering the same, &c.

On the 10th of December, 1860, the plaintiff in error exhibited his bill of complaint in the Will Circuit Court; among other things, setting forth the execution of the note by him, but charging that he had paid it to defendant's agent, and praying that the defendant be enjoined from collecting said judgment; and thereupon, an injunction issued in accordance with the prayer of said bill, and was served on the defendant.

On the hearing of the cause the bill was dismissed, and an appeal taken to this court, and heard at the last term, at which time,

among other reasons urged for the reversal, were the errors now assigned. This court affirmed the decree dismissing the bill. The judgment is now brought before this court by writ of error.

I.

It will be observed, in the first place, that whatever meritorious defence the plaintiff may have had, for setting aside or reversing the judgment in this case, has been presented in the proceeding on the other side of the court, and that the only objections now assigned, or which can be urged against it, are of a technical nature, or such as arise from pretended irregularities in its entry. In equity, this court have already determined, that the judgment should not be set aside.

II.

Again, no objection was made to the manner of entering the judgment, until the last term of this court—more than three years after its confession, and then incidentally, only. Without any reason, and making no application to the court below to set aside the judgment on account of irregularities, the defendant has allowed the matter to rest, preferring to take his chance of success on the question of payment. Such applications should be made at the earliest practical moment. After such a lapse of time as there has been here, every presumption is in favor of the judgment.

32 Ill., *Hare v. Jones*.

28 Ill., 519, *Austin v. Lot*.

III.

The first error assigned is, that no affidavit was filed with the note and warrant of attorney, showing its execution by the plaintiff. If it was conceded that this was necessary in the entry of judgments in Will County, and that none was filed in this case, it is still claimed by the defendant, that its execution having been admitted in the other proceeding between these parties, upon this

same judgment, and set up in his bill of complaint, is *res adjudicata*, and he should not be permitted to deny it, in any proceeding, nor treat the absence of such an affidavit as an existing irregularity in entering the judgment.

IV.

Such an affidavit is not required in entering judgments by confession in Will County.

By the 5th section of the act of January 26th, 1859, an act of February 14th, 1857, regulating the practice in the 7th judicial circuit, was applied to Will County Circuit Court. The 8th section of the latter act, (Scates Comp., 274,) provides that "said courts shall be considered as always open for the entry of such default, or judgment by *confession*, and judgments so entered shall have like force and effect as if entered in term time. *Provided*, that before the entry of such judgment by *default*, the plaintiff shall file, with the clerk, an affidavit, by himself or agent, that the debt is a *bona fide* one, and that there are no just discounts or set offs thereto."

By the act of February 7th and 16th, 1857, the former regulating the practice in the 20th and the latter, in the 13th circuit, judgment by confession in vacation, are to be entered in these circuits, before the clerk, by filing the proper papers with him, which, this court have determined, embrace an affidavit of the execution of the note.

It will be seen that the practice of Cook County, under said act of February 14th, (and since the act of January 26th, 1859, before referred to) Will County, also, differ essentially from the practice prescribed by the act last referred to, both as to taking defaults and entering judgments by confession.

In these counties the courts are always open and in session for these purposes. It is, therefore, the same, as to such judgments, as if entered at a regular term of the court, and the same presumption of regularity and proof of execution arise thereon.

The only affidavit required by section 8, above referred to, relates

to judgments by default; an affidavit showing that the claim is just and unpaid, and not relating to the execution of the instrument sued on.

The legislature, while legislating upon both subjects, having required a particular kind of affidavit for a judgment by default, and none for judgments by confession, it is fair to presume, intentionally omitted to require an affidavit for the latter class of judgments.

V.

It is believed that the remaining errors are also not well assigned, and that this court has so modified the views expressed in the 28 Ill., 344, *Hind v. Hopkins*, as to render any discussion of them unnecessary.

But, admitting that the errors are well assigned, the action of the plaintiff, in resorting to the chancery side of the court for relief, and causing an injunction to be issued, restraining the collection of the judgment, is an election of that tribunal as the final arbiter, and operates as a release of all errors in entering said judgment. A party will not be permitted to try one remedy, and being unsuccessful in that, adopt another.

Purple's Stat., vol. 2, p. 769, sec. 11.

3 Scam., 210, *McConnell v. Ayers*.

VI.

The warrant of attorney authorizes, and the cognovit has exercised, on behalf of the plaintiff, the release of all errors in entering the judgment. As before remarked, in equity, it has been determined by this court, that the judgment should not be disturbed. At law the same result must follow, as the informalities in entering the judgment are waived by the resort to equity.

The application to set aside a judgment, by confession or warrant of attorney, should be made before the court where the judgment is entered.

If the bill in equity be considered such an application, it having been dismissed by the court below, and the decree affirmed by this court, the plaintiff has tried that remedy once, and can not again seek it here; if not so regarded, no application has been made in the court below, and none can now be entertained—first, on account of the delay; and, second, on motion to set aside such judgments, courts are governed by rules of equity, and by these rules, the plaintiff's case has already been tried and defeated.

GEO. F. BAILEY,
Attorney for Defendant.

State of Illinois In Supreme Court
Third Grand Jurisdiction To Appear Term 1865-

Eraser to Mill County

In a moment in an action in
the case upon permits) in-
vacation after the October Term
1860

Spent a week of leave
to the Circuit Court of New County
against Jacob P. Melard at the
Court of Brian Cowley returnable
on the 3^d Tuesday after the 3^d Monday of April next.
Snapp & Breckenridge
Attys for Jefferson

Shram Crolley
Jacob ^P R. Millard
Rec.

Filed July 13. 1864.
S. Seland
Clk.

Know all men by these presents That
we Hiram Cooley and Olin H Wood-
ruff of the County of Will in the State of
Illinois are held and firmly bound
unto Jacob P Millard in the penal
sum of Three hundred dollars lawful
money of the United States for the payment
of which well and truly to be made we
bind our selves our heirs executors and
administrators jointly, severally and
firmly by these presents Witness our hands
and seals this 13th day of July A.D. 1864

The condition of the above obligation is
such That whereas the said Jacob P
Millard plaintiff did on the Thirteenth
day of November A.D. 1860 in vacation in
office of the Clerk of the Circuit Court of
Will County recover a judgment against
the above bounden Hiram Cooley defendant
in an action of Assumpsit for the sum of
Eight hundred and Sixty four Dollars and
costs of suit from which judgment the said
Hiram Cooley has sued out a writ of error
to the Supreme Court of the State of Illinois;
now if the above bounden Hiram Cooley shall
duly prosecute his writ of error and shall pay
said judgment costs interests and damages
in case the said judgment shall be affirmed
then the above obligation to be void otherwise to
remain in full force and effect

Hiram Cooley *Sealed*

O. Woodruff

Sealed

Bond

William Cooley
Olin W. Woodruff
to
Jacob P. Willard

Filed July 13, 1864.
L. Seland
Clerk.

STATE OF ILLINOIS,
SUPREME COURT. } ss. The People of the State of Illinois,

To the Sheriff of Cook County, GREETING:

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

Jacob P. Willard

plaintiff —, and Hiram Cooley

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 Ottawa, before the Justices thereof,
to correct the errors in the same in due form and manner, according to law:
Therefore, We ^{as we have heretofore commanded the Sheriff of Will County} Command You, That by good and lawful men of
your County, you give notice to the said Jacob P. Willard

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
A. D. 1865; 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 Jacob P. Willard

notice, together with this writ.

Witness, The Hon. Pinkney H. Walker, Chief Justice of our
said Court, and the Seal thereof, at Ottawa, this 14th
day of March in the year of our Lord One
Thousand Eight Hundred and Sixty-five.

L. Leland

Clerk of the Supreme Court.
J. R. Rice Deputy

48 P.

Hiram Gooly

No. 66

vs.

Jacob P. Willard

SCIRE FACIAS.

FILED... July 18... A. D. 1865

L. Leland Clerk.

The within named
Defendant not found
in my county the 31st day
of March 1865.

Order John A. Nelson Sheriff
Per J. A. Nelson Deputy
Return 10

Willard has been out of
the City for some time.
H. P.

Heran Booley
vs.

Jacob P. Willard

In the Supreme Court
of the State of Illinois
Third Grand Division
April Term AD 1865

Error to Will County

And now the said Jacob P. Willard, defendant
in Error, by Geo. F. Bailey his Attorney, comes
and says that as to any Errors assigned in
the record and proceedings in this Case Allegation
because he says that heretofore, and before the
institution of any proceedings in Error in this
Cause, to wit, on the Twelfth day of December
AD 1860. at said County of Will, and State of
Illinois, the said Heran Booley, Plaintiff in
Error, Exhibited his bill of Complaint against
this defendant. And one Alonzo Leach (then Sheriff
of said County of Will,) in Chancery, in the Circuit
Court of said County of Will, before the Hon. C. R.
Harrington Judge of the Seventh Judicial Circuit
of the State of Illinois, for the purpose of injoining
the said Willard from collecting said judgment
in respect to which the said plaintiff has assigned
the Error as afore said in this Cause, and
Among other things praying in said bill of
Complaint for a writ of injunction from said
Will County Circuit Court to be directed to the
said Willard and the said Leach, Sheriff as afore said

And then having a writ of execution on said judgment, issued by the said Hill County Circuit Court. to the Sheriff of said Hill County) to restrain them. And Each of them from proceeding to collect said judgment, And that Leach be restrained and enjoined from proceeding to use in any manner against the said Coolen, the said Execution of fees in said Cause

And this defendant further says that afterwards to wit, on said Tenth day of December A.D. 1860. the said Starr, then acting in his judicial capacity. and then being judge of said mentioned Judicial Circuit ^{and having, by power of authority, thereof} of the State of Illinois, granted an order in writing and endorsed the same upon said bill of Complaint. for said injunction, directing, that an injunction issue as prayed for in said bill of Complaint. on Complainant's filing a Bond in the sum of Two thousand ^{Dollars} with Abijah Cagwin as surety, conditioned as required by law. which said Bond was afterwards to wit on said Tenth day of December ^{at the court aforesaid} duly executed by said Cook, and his Surety, as required in said order. Conditioned as the law requires, and ~~was~~ filed with the Clerk of said ^{circuit} Court of Hill County, ^{in said court} and thereupon ~~on the~~ afterwards on the day & place ~~at~~ the place last aforesaid, the Clerk of said Hill County Circuit Court issued an injunction under his

Hand and Seal of Office and in all respects
Conformatory to law, restraining and enjoining
the said Willard and Leach from further
proceeding to collect said judgment and
Execution. which injunction was afterwards before
~~any proceeding~~ the institution of any proceedings
in error in this cause served on the said Willard & Leach
which said bill of Complaint was afterwards
on the hearing of said cause in Chancery. Dismissed
by said Will County Circuit Court. And an
appeal taken by said Gooley to this Court
and on the hearing of said appeal at the
April Term 1864, the ~~judgment~~^{decree} of said Will
County Circuit Court, in said suit in Chancery
below, was affirmed by this Court.

All of which this defendant is ready to verify
and appears by the records of this Court & of
the said Will County Circuit Court.

Whereby any and all errors in the proceedings
at law in said cause wherein said judgment
was rendered were and are released.

Wherefore this defendant prays judgment
if the said plaintiff ought further to prosecute
or maintain his writ of error afore said against
him.

By J. F. Bailey
Defendant's Attorney

66

Lucius Cooley
Plff in Error

vs.
Jacob P. Williams
Def in Error

Sup Ct. April 7. 1865.

Plen -

Filed Dec. 28. 1865.
L. Seland
Clerk.

Spec in def.

Hiarn Cwley } In the Supreme
is } Court
Jacob P. Willard }

The defendant Willard
has ~~just~~ plead a record of
this Court. And the plaintiff
repels "no such record";

Now the party is bound by
his plea. He pleads that the
Bill was "dismissed", and by
permaning the record. The
record shows that the case of
Cwley vs Willard & Leach was
"dismissed without-prejudice".

So there is a variance
between his plea & the record

In the case of
Giles vs Shant Reese R 87/169
the Court say that such a
variance is fatal.

Now the
pleader is confined to his
plea. There is no such record
as he has plead.

There is a vast-
difference between a judgment-
of "dismissal" & one of "dismissal

Monroe 165
1 Vol United States Sup. Court - page 298 & 509

"without-prejudice"

On this last-
print - I refer the Court to

Amiel's Chancery Pleadings &
Practice page 120 & 1201

Ann v. Penn Wheaton N.S.R. 427

Rope v. Runt 4 John Ch. 300 #

Chrute v. The People 19 Ill. 63-4

The defendant in error
states in his plea that the
Supreme Court "affirmed" the

* "decision of the Circuit, ~~before~~
Court. Now, that decision was
not "affirmed" but as I have
already said, the case was
"dismissed without prejudice"

So there is no such record
as he has pleaded

We make bold
to say that justice in this case
is with the plaintiff in error.
Because he has paid the note
upon which the judgment was
rendered in this case once; and
once is enough now days.

Take special notice. the question
is not whether by filing the

bill in chance, it cleared the
issues in the judgment, but
that the party can't advance
any such record as he has
plead, and he must be confined
to his plea.

And then I contend
that by "dismissing the bill
without prejudice" is no bar
to this writ of error

This very matter was
suggested at the ^{time the} Supreme
Court dismissed the bill, and
the Court will recollect that
it was "dismissed without
prejudice" or as not to be a
bar to a writ of error

W. H. Chaff
Att'y for Pop. in Error

667

Hiram Corley
is
Jacob P. Millard

Heriam Cooley

10

Sarah P. Willard

In the Supreme Court of the
State of Illinois

and now comes the said plaintiff in error
and says that there is no such record of
a suit in Chancery ~~for~~ in which said
Heriam Cooley was complainant and
said Willard & Leach were defendants brought
to enjoin the said Willard from collecting
the Judgment from which the writ of
error in this case is prosecuted and of
an injunction allowed ^{and served} ~~is~~ issued "to restrain
the collection of said Judgment, and of the
dismissal of such bill by the Circuit Court
of said Will County, ^{as in said plea is supposed} nor remaining on
the said Circuit Court of Will County
and this he prays may be enjoined of by
the record wherefore he prays Judgment

H. Snapp atty for pt
p. 9. 6. 26

And now comes the said Willard and
in error & does the like

By H. J. Bailey for the

66
Herman Cooley
Pleasanton
" "
Lucas P. Mearns

Replumun & Co.

Yield, Aug. 1865
G. L. Leland & Co.

State of Illinois } In Supreme Court
Third Grand Juror } To April Term A.D. 1865
Assignment of Error

Wiram Cooley Plff in Error
vs
Jacob P Willard Defdt in Error

And now the said
Wiram Cooley plaintiff in Error comes and says
that in the Record and proceedings aforesaid
there is manifest error in this to wit

- 1st The judgment in this case was entered up without any affidavit having been filed and without any proof of the signature to the note and warrant of Attorney
- 2^d The judgment was not entered up in term time
- 3^d The judgment was entered up without any authority
- 4th The judgment was entered up in vacation
- 5th The court had no right to enter up judgment in vacation it could only be done in term time
- 6th The judgment is void; There was no declaration, nor plea of confession, nor warrant of Attorney filed
- 7th The warrant of Attorney was not filed nor any proof of execution By reason whereof
- 8th There was no affidavit that Wiram Cooley the maker of the note and power of Attorney was living nor that the note or some portion of it was still due & unpaid

9th There was no order of the judge obtained granting leave to enter the judgment.

By reason whereof
the plaintiff prays that said judgment may
be reversed &c

By Snapp & Bucknidge
Attys for Plaintiff in Error

The People of the State of Illinois by the
Grace of God free & Independent
To all to whom these
presents shall come greeting!

Know ye that we
having caused to be inspected the Records and
proceedings now remaining in the office of the
Clerk of our Circuit Court in and for our County
of Will in the State of Illinois do there find certain
Records and proceedings in the words and figures
following to wit

United States of America
State of Illinois
County of Will

In Vacation after a regular
term of the Circuit Court of said County of Will
begun and holden at the Court House, in said
County of Will on Monday the first day of
October in the Year of our Lord One Thousand Eight
hundred and sixty being the First Monday of said
Month

Present The Honorable Jesse O. Horton Judge
Alexander McIntosh Clerk
Attest Alexander McIntosh Clerk

Be it remembered that afterwards to wit
on the Thirtieth day of November in the Year
of our Lord One Thousand Eight Hundred and
Sixty Jacob P. Willard for George S. Bailey his
Attorney came into the office of the said Clerk of said
Court and filed in said office his certain declaration
of a Plea in Trespass on the case on promises which
said declaration is in the words and figures
following to wit

Am

State of Illinois
Will CountyCircuit Court of Will County
In Vacation after the October Term
A D 1869

Jacob P. Willard Plaintiff
in this suit, by Geo. F. Bailey his Attorney, complains
of Wiram Cooley of said County Defendant in a
plea of Trespass on the case on promises: For that
whereas the said Defendant, heretofore, to wit, on the
Twenty ^{third} day of October in the year of Our Lord
One Thousand Eight hundred and fifty eight at
Chicago, Cook County Illinois, made his certain
promissory Note in Writing, bearing date the day
and year aforesaid, and then and there delivered
the same to the said Jacob P. Willard in and by which
said Note, said Defendant by the same style and
description of Wiram Cooley promised to pay to
the order of the said Willard Eight Hundred dollars,
(with interest at the rate of ten per cent, payable
semi annually) one year after the date thereof for
value received. And then and there delivered said note 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, 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 does refuse, to the
damage of the Plaintiff of Twelve Hundred dollars
and therefore he brings suit, &c

Geo. F. Bailey Plaintiff's Attorney

3rd Page

And also a certain Note and Warrant of Attorney both written or printed upon the same piece of paper which said Note is in the words and figures following to wit:-

\$ 800 ¹⁰⁰/₁₀₀

Chicago, October 23rd 1855

One Year after date for value received I promise to pay to Jacob P Willard or order the sum of Eight Hundred dollars, with interest at the rate of ten per cent per annum payable semi annually at the office of P. Woodward in Chicago.
Hiram Cooley

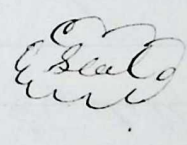
And said Warrant of Attorney is in the words and figures following to wit:-

Know all men by these presents, That whereas the subscriber is justly indebted to Jacob P. Willard upon a certain promissory Note, bearing even date herewith, for the sum of Eight Hundred dollars, made payable to the said Jacob P. Willard or order, and due in one year after, date with interest,

Now therefore in consideration of the premises and of the sum of one dollar to me in hand paid by the said Jacob P. Willard the receipt whereof is hereby acknowledged, do hereby make, constitute and appoint Paschall Woodward or any Attorney in any Court of Record to be my true and lawful attorney, irrevocably, for me and in my name place and stead, to appear before any Justice of the Peace, or in any Court of Record, in term time or vacation, in any of the States or Territories of the United States at any time after the date hereof to waive service of process, and confess a judgment in favor of the said Jacob P. Willard or his or their 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 said note, with interest thereon together with costs; and also, for twenty dollars usual attorneys fees, to be added to the amount due on entering up judgment; also to file a cognovit for the amount that may be so due with an agreement therein; that no writ of error or appeal shall be prosecuted upon the judgment ^{entered} by virtue hereof nor any bill ⁱⁿ of equity filed to interfere in any manner with the operation of such judgment, and to release all errors that may intervene in the entering up of such judgment; or issuing the execution thereon and also to consent to immediate execution upon such judgment. Whereby ratifying and confirming all that my said attorney may do by virtue hereof.

Witness my hand and seal this twenty third day of October A.D. 1858

Wiram Cooley 

Upon the back of which Note and Warrant of Attorney above recited appear certain endorsements in words and figures following to wit:-

Received April 24th 1859 of W Cooley by the hands of P Woodward Forty dollars, six months interest on the within note

\$40. Jacob P. Willard

Rec^d Oct 27th 1859 of W Cooley by the hands of P Woodward Forty dollars, six months interest on the within note

Jacob P. Willard.

Rec^d May 2 1860 of W Cooley by the hands of P Woodward Forty dollars six months interest on the within Bond

And also there was filed in said cause on the day aforesaid in said Court a writ on the

on the thirteenth day of November AD 1860
a certain cognovit which is in the words and
figures following to wit:

Circuit Court of Will County

In vacation after the October term AD 1860

Hiram Cooley }
ad } Cognovit
Jacob P. Willard }

And the said Hiram Cooley
defendant in the above entitled suit by Solomon
McWilson his Attorney comes and defends the
wrong and injury, whereof, and waives service
of Process, and says 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 twenty dollars, for his reasonable attorney's
fees for entering up the judgment, over and above
his other costs and charges by him about this suit
in this behalf expended to Eight Hundred and
sixty four dollars; and the said defendant
further agrees 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 releases all
errors that may intervene in entering up the
same, or issuing the execution thereon, and consent
to immediate execution upon such judgment

S. M. Wilson

Defendants Attorney

And Afterwards to Wit on the thirteenth day of November
in the year of our Lord One thousand Eight hundred

and Sixty the following proceedings in Vacation after the Regular October Term of said Court for the year 1860 were had and entered of Record by said Court in the words and figures following to wit

No 2556

Jacob P. Willard }
 @
 Miriam Cooley } On Cognovit

And now on this day came the said Plaintiff by George F. Bailey Esquire his Attorney, and files his declaration in an action of Trespass on the case on Promises against the said Defendant and files also a certain Warrant of Attorney, signed and sealed by the said defendant Miriam Cooley, authorizing any Attorney of any Court of Record to appear in this Court, waive service of process and confess judgment in favor of the said Plaintiff and against the said Defendant for the amount due upon a certain Promissory Note, annexed to said Warrant of Attorney; also for the sum of Twenty dollars, Attorneys fees, besides the costs of this suit. Thereupon came also S. M. Wilson Esquire an Attorney of this Court in behalf of said Defendant and files his cognovit by which he waives service of process, and confesses and consents that judgment may be entered in favor of the said plaintiff and against the said defendant for the sum of Eight hundred and sixty four dollars, it being the amount due upon said Note including Attorneys fees. And the said Attorney releases all errors in entering up this judgment (either in law or equity) or in issuing execution thereon, and consents to the issuing of immediate execution on the same.

It is thereupon considered and ordered by the

7th Page

Court That the said Plaintiff have and recover of the said defendant his damages for the said sum of Eight Hundred and Sixty four dollars so as aforesaid confessed: together with his costs and charges by them about his suit in this behalf expended, and that he have execution for the same.

State of Illinois
Hill County Ill.

I Benjamin F. Russell Clerk of the Circuit Court in and for the said County in the State aforesaid do hereby certify the above and foregoing to be a full true and correct copy of the Records and proceedings of the said cause therein entitled in which Jacob P. Willard is Plaintiff and Wiram Cooley is defendant as the same appears from the Records of said Court now remaining in my said office

Witness my hand and the seal of the said Court at office in the City of Joliet in said County the 10th day of June A.D. 1864



B. F. Russell
Clerk

Let the writ of error in this case be made a supersedeas upon plaintiff in error executing bond in the penal sum of twelve hundred dollars, conditioned according to law, with Olin H. Wood as his security. Rushville Ill. July 5 1864

P. H. Mallon

66
66

Wm Cooley
as

Jacob P Willard

1865

Transcript from
Will to Co Court

Filed July 13. 1864,
L. Leland
Ch.

14787

Clerks fees \$ 225
Paid by W Cooley
R. B. Kuss & Co