

No. 12010

Supreme Court of Illinois

Reynolds.

vs.

Perry.

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Joseph Reynolds
vs
Joseph Perry

1850

12010

Reynolds
Perry

Livingston County Circuit Court June Term 1848.

As a Circuit Court held at the Court house
in Pontiac, in the County of Livingston on
Friday the sixteenth day of June A.D. 1848.

Present John Dean Catron one of the Justices
of the Supreme Court of the State of Illinois and
Presiding Judge of the ninth Judicial Circuit
and Andrew McMillan Clerk, per S. C. Ladd, Deputy,
and R. P. Breckenridge Sheriff.

Be it remembered that heretofore, to wit,
on the 5th day of June A.D. 1848, an affidavit
was filed in the Clerk of said Court which
is in the words & figures following, to wit,

State of Illinois } In the Livingston Circuit Court
Livingston County } do the Term of June A.D. 1848

Joseph Perry } In Replevin
Joseph Reynolds }

Joseph Perry the plaintiff,
in the above entitled cause being duly sworn
toth upon his oath say & swear that he is
the owner of a certain pair red steer two years
old this spring of the value of ten dollars at the
County & State aforesaid and further saith
that he is also entitled to the possession of the
same pair red steer & that the same red
steer hath a half crop in the left ear and
a slit in the right ear at the County aforesaid
and also saith that he is about to replevy

And that the said steer was unlawfully
taken by the said Joseph Reynolds
and is by him unlawfully detained.

the said steer and that the same hath not
been taken for any tax assessment or fine
levied by virtue of any law of this State nor
levied under any execution or attachment against
the goods and chattles of the said Joseph Perry
liable to execution or attachment and further
saith not.

Subscribed & sworn (Signed) Joseph Perry
to before me this 5th
day of June A.D. 1848.
Andrew McChillan
Clerk. Cir. Court
per S.C. Ladd. Deputy

And he it further remembered that a plaint
was filed on said 5th day of June 1848, in said
Clerks Office, which is in the words & figures
following. (to wit)

And on said 5th day of June 1848, a writ of
Replevy was issued out of the Office Circuit Court
of said County, which is in the words & figures
following, to wit:

State of Illinois }
Livingston County }

The proper of the State of
Illinois, to the Sheriff of said County, Greeting:
If Joseph Perry of said County shall first
give you bond with good and sufficient security
to prosecute his suit to effect without delay
and to make return of the following described
goods and chattels the property of him the said
Joseph Perry to wit: a certain paired steer
two years old this spring with a half crop in
the left ear and a slit in the right ear,
of the value of ten dollars which Joseph Reynolds
also of said County unlawfully took unjustly
and unlawfully detained against oaths and
pledges as he saith if return thereof shall be
awarded and further to save and keep harmless

in repleving said property then you are ^{to cause} said goods and chattles to be replevied and ^{delivered} ~~returned~~ to the said Joseph Perry without delay and to summon the said Joseph Reynolds personally to be and appear before the Circuit Court of said County on the sixteenth day of June in the year eighteen hundred and forty eight to be holden at Pontiac in said County on that day to answer to the plaint of the said Joseph Perry for taking and unjustly detaining the goods and chattles aforesaid and make due return of the bond to be taken from the said Joseph Perry plaintiff as aforesaid to the clerk of our said Circuit Court together with this writ with an endorsement thereon as to the manner in which you execute the same



Witness Andrew McMillan, Clerk of
our said Circuit Court and his private
seal there being as yet no official
seal provided Dated at Pontiac
this 5th day of June A.D. 1848

Andrew McMillan, Clerk
per S. C. Ladd, Deputy

And on said 5th day of the back of
said writ is an endorsement in the following
words & figures, to wit:

Levied the within writ this fifth
day of June A.D. 1848 by taking in a pasture lot in
the possession of the within named defendant Joseph
Reynolds in the County of Livingston State of

Illinois, the within described red steer and delivered said steer to the plaintiff Joseph Perry and also by reading the within writ to the within named Joseph Reynolds dated June 5, 1848

Shoff fee		A. D. Beckenridge, Sheriff
Mileage	62½	of Livingston County, Illinois
Living	50	By Murrel Beckenridge
Taking Bond	50	Deputy
Returning	12	
	<u>\$1.75</u>	

And on said 5th day of June 1848 a bond was filed in said Clerk's Office which is in the words & figures following, to wit,

Know all men by these presents that we Joseph Perry and Murrel Beckenridge, of the County of Livingston & State of Illinois, are held and firmly bound unto Robert P. Beckenridge Sheriff in and for the County and State aforesaid and to his successors in Office in the penal sum of one hundred dollars lawful money of the State of Illinois for the payment of which well and truly to be made we bind ourselves our heirs executors and administrators jointly severally and firmly by these presents

Witness our hands and seals this fifth day of June A.D. eighteen hundred and forty eight

Whereas the above bound Joseph Perry is about to sue out of the Circuit Court of Livingston County in the State of Illinois a writ of Replevin directed to the Sheriff of said County commanding said Sheriff to replevy and take at the suit of said Joseph Perry

in an action of replevin in said circuit court
against one Joseph Reynolds a certain pale red
steer two years old this spring the property of said
Joseph Perry and detained by said Joseph Reynolds
said steer being of the value of ten dollars and
having in his left ear a half crop and a slit,
in his right ear at the county and State aforesaid
and deliver the said steer to the said Joseph Perry.

Now the condition of the above ob-
ligation is such that if the above named Joseph
Perry plaintiff shall prosecute his said suit to
effect and without delay and make return of the
property if return thereof shall be awarded and
sue and keep harmless the said Sheriff in releasing
such property to ~~the~~ the said pale red steer then and
in that case this obligation to become null and void
otherwise to be and remain in full force and effect—

Witness our hands and seals this 5th day of
June A.D. 1848. (Signed)

Taken & approved by me } this 5 th June A.D. 1848 } Andrew McMillan, Clerk } Jm S.C. Ladd, Deputy }	Joseph Perry	Large
	Murrel Breckenridge	Large

And on the 16th day of June 1848
a declaration was filed in the office of said Clerk
which is in the words & figures following, to wit,

And at said term of said Circuit Court held
on said 16th day of June 1848, the ^{proceedings} followings
were had, to wit:

Joseph Perry } In Replevin
vs }
Joseph Reynolds }

And now at this day comes the plaintiff
by his attorney and the defendant by his attorney moves
the Court to dismiss this suit for want of a sufficient
affidavit and plaintiff enters his cross motion to
amend the affidavit and plaint which cross
motion is granted by the Court and this cause
is continued at plaintiff's costs with leave to
amend his declaration -

Livingston County Circuit Court Decr. Ad. 1848

At a Circuit Court held at Pontiac in
the County of Livingston in the State of Illinois,
on Monday the 4th day of December in the
year of our Lord one thousand eight hundred
and forty eight. Present Hon. Theophilus L.
Sicker Judge of the ninth Judicial Circuit,
S. C. Ladd Clerk and Murrel Beckwith Sheriff

Being remembered that at the said term of
said Court to wit on the 5th day of December 1848
peras were filed in said Court which are in
the words & figures following, to wit:

Joseph Reynolds } Livingston County Circuit
vs } Court Decr. Ad. 1848
Joseph Perry } In Replevin

And now comes the said defendant by Glover & Cook his Attys. & as to the 1st Count of plaintiffs declaration says actio non because he says he never took & detained the steer in said Count mentioned in manner & form as said plaintiff hath above thereof declared against him and of this he puts himself upon the Country.

Plff doth the like, Gidley for Plff

And as to the 2^d Count of plaintiffs declaration defendant saith actio non &c because he says he never detained the steer in said Count mentioned in manner & form as the said plaintiff hath above thereof declared against him so of this he puts himself upon the Country.

Plff doth the like. Gidley for Plff

And for a further plea in this behalf, Def^t says actio non &c because he saith that the steer in said plaintiffs declaration mentioned was not at the time when &c never has been the property of said plaintiff nor was the said plaintiff entitled to the possession of the same at the time when the same was replevied & this he is ready to verify whereupon he prays Judgment &c

Genl. Replication &

Glover & Cook

waives to the contrary

Def^ts Attys

Gidley for Plff

And as said term of said Court the following proceedings were had, viz.

Joseph Perry }
vs } In Replevin
Joseph Reynolds }

And now on this day, comes
the parties, and issue being joined herein,
Thompson came a jury, to wit:
Ephraim Sprague, Wilson G. Donoho, G. C.
Smith, Jeremiah McDowell, Amos Hart,
Philip K. Hilton, James Cooper, James
Weathers, Orran Rhoades, Lyman E. Rhoades,
Philip Rollings and A. S. McCallan, who
being sworn to well and truly try the issue
after hearing the evidence were unable to
agree on a verdict, & were discharged by
the court, & this cause is continued to
the next term of court.

As a circuit court began and held
at the court house in Pontiac for the
County of Livingston State of Illinois, on
Monday the 16th day of July A. D. 1849.

Present, David Davis, presiding Judge
of the eighth Judicial Circuit of the State
aforesaid by exchange with Theophilus
V. Sickey Esq., Judge of the 7th Judicial
Circuit. S. C. Ladd, Clerk & Murrel
Breckenridge Sheriff.

And as the said term of said
court the following proceedings were
had in said cause, to wit:

Joseph Perry }
vs } Replevin
Joseph Reynolds }

This day came the parties,
and the said defendant files his affidavit
for a continuance of this cause, which
being heard by the Court is granted at the
costs of the defendant.

Whereupon the defendant by his attorneys prayed
for an appeal to the Supreme Court, leave given
which appeal was granted by the Court, leave given
for defendant to file his bond in thirty days, with
Jeremiah McDowell and Stephen Reynolds as
securities in the sum of one hundred dollars -

(In which trial the following list of
exceptions were taken, which are in the words
& figures following to wit:)

Joseph Perry }
vs } Livingston County Circuit Court.
Joseph Reynolds } May Term Ad 1858

Be it remembered that on the trial of
this cause Jerome Garner was called as a juror
in said cause said defendant challenged ^{the} said juror
for cause and upon his examination it appeared to
the Court that said Jerome Garner has resided in
~~this State~~ said County of Livingston since ~~the~~ last
August only and that he has resided in this State
since last July only, That at that time said Garner
moved from the State of Indiana where he was
born & was a citizen of that State & now resides
in this County, The Court overruled said challenge
for cause & directed said juror to be sworn
and he was sworn as a juror to try this cause
and the defendant excepted.

And on the trial
the plaintiff proved that Sylvester Perry
was a witness produced sworn and examined on a

Livingston County Circuit Court, May Term A.D. 1850.

At a circuit court commenced held at
Pontiac in said County on Monday the 13th day of
~~July~~ ^{May} A.D. 1850. Present, Hon^{ble} Theophilus L. Sickles
Presiding Judge of the 7th Judicial Circuit in
the State of Illinois. and S. C. Ladd, Clerk
J. Murrel Breckenridge Sheriff

Be it remembered that at the said term of
the Livingston Circuit Court the following
proceedings were had, to wit:

(Be it same as at Dec^r. 1848.)

Joseph Perry }
vs } H. Repley,
Joseph Reynolds }

And now at this day came the
parties by their Attorneys, and the defendant by his
Attorneys having filed his pleas on which issues are
joined. Whereupon came a Jury to wit:

B. B. Babcock, Walter Cornell, Benjamin Piercy,
J. S. Garner, Albert Wellman, J. S. McCornell, John
Blake, Deig Edwards, Jacob Longnecker, Samuel
Morrison, Amos Lundy, and John Linder

who being sworn well truly to try this cause.
After hearing the evidence returned into
Court their verdict in writing, in which they
find a verdict for the plaintiff in all the issues
joined. Whereupon the defendant by his Attorneys
makes a motion for a new trial, which motion
is overruled by the Court. It is therefore consid-
ered by the Court that the plaintiff recover
of the defendant his costs in this behalf
expended, and that he have execution therefor.

former trial of this cause in this court and that
he is since dead and then offered to prove
what said Sylvester Perry testified to upon said
former trial. The defendant objected to proving
the former statements of said witness. said objection
was overruled & the defendant excepted to the
decision of court admitting the same testimony.

It was then proved that on said former trial
said Sylvester Perry testified as follows, I saw
this calf if it is the one I think is one year ago
last winter in February, the calf looked very poorly,

I thought it would be mighty apt to die I saw it
off some until after grass come in the spring then
he went away and I did not see it again until
20th of March last when I saw it in Mr Reynolds
field. I believe the calf I saw in Reynolds
field is the same calf I had seen at Mr Perrys.

The jury found a verdict for the plaintiff.
The defendant moved the court for a new trial
which motion was overruled by the court and the
defendant excepted to the decision of the court
in overruling said motion & prays this his bill of
exceptions may be signed sealed and made a
part of the record which is done
(Signed) J. L. Lickey Esq

And on the 11th of June A.D. 1850, the
a bond was filed which is in the words and
figures following, to wit:

Know all men by these presents that we

Joseph Reynolds as principal and Jeremiah
McDowell and Stephen Reynolds as sureties are
held and firmly bound unto Joseph Perry in the
penal sum of one hundred dollars for the
payment of which well and truly to be made we
bind ourselves our heirs executors and administra-
tors jointly severally & firmly by these presents
(Witness our hands and seals this 4th day of
June A.D. 1850)

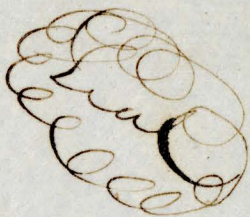
The condition of this obligation is
such that whereas the said Joseph Perry did
recover a judgement against the above bounden
Joseph Perry Reynolds in an action of Replevin
in the Circuit Court of Livingston County Circuit
Illinois at the May term thereof A.D. 1850 for
the sum of fifty three dollars & 83¢/100 dollars costs
and whereas the said Joseph Reynolds has prayed
for an appeal from said judgement to the
Supreme Court of said State which appeal was
allowed by said Circuit Court now if the
said Joseph Reynolds shall prosecute his
said appeal with effect in case the said
judgement of the said Circuit Court shall be
affirmed shall pay or cause to be paid the
said judgement together with all the interests
& costs which have or may accrue thereon and
also all such damages as may be adjudged against
him on the trial or dismissal of said appeal
then this obligation to be void otherwise in force

(Signed)

Joseph Reynolds *Ed*
J. McDowell *Ed*
Stephen Reynolds *Ed*

State of Illinois }
Livingston County }

I, S. C. Ladd, Clerk of
the Circuit Court in & for said County
hereby certify that the foregoing is a true
and correct copy of the Record & proceedings
had in the Livingston County Circuit
Court in the aforesaid cause mentioned
in said proceedings & of the papers on file
in said Court (excepting a copy of the Plea
& Declaration, which are either lost, or have been
taken from the files in the Clerk's Office ~~in~~
of said Circuit Court.)



Witness, S. C. Ladd, Clerk of our
said Circuit Court this private
seal, no official seal being as
yet provided said Clerk at Pontiac
this 9th day of July A.D. 1850.

Fees - \$ 3.25-

S. C. Ladd, Clerk

90

Joseph Perry
W.
Joseph Reynolds

40
17
280
40
680

Filed July 24. 1850.
d. McLean & Co.