

14314

No. \_\_\_\_\_

# Supreme Court of Illinois


People

---

vs.

Philmot

---

71641  7

STATE OF ILLINOIS,  
SUPREME COURT,  
Third Grand Division.

No. 9

PEOPLE'S CAUSES.  
14314

*People*

*vs*

*Shelton*

*291*

1862

*The People*

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Plas, 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 Second Monday, (being the nineteenth day) of April in the year of our Lord One Thousand Eight Hundred and Sixty two and of the Independence of the said United States the Eighty fifth

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

Charles Kamm States Attorney.

Arthur Le Roy Sheriff of Cook County.

Attest, William Schuch Clerk.

Be it remembered that heretofore pages 1-21 to wit; on the 14th day of April in the year aforesaid there was filed in said Court a certain Petition for Habeas Corpus in words and figures following, to wit:

State of Illinois,  
Cook County, SS

Circuit Court of Cook County

April Term A.D. 1862.

To The Honorable George Manierre Judge of the Circuit Court of Cook County.

Your Petitioner Joseph A. Thibout Respectfully Showeth, That he is now wrongfully and illegally restrained and deprived of his liberty, being confined in the common jail of Cook County in the custody of A. C. Keising Sheriff of said County, who

imprison your Petitioner as aforesaid, upon a pretended charge of Burglary, and as he says by virtue of a warrant of commitment, a Copy of which is hereunto annexed.

In consideration of the above facts your Petitioner prays your Honor to issue a writ of Habeas Corpus directed to the said N. C. Happing Sheriff of said County commanding the said Sheriff to bring your Petitioner before your Honor, That he may be discharged and released from said illegal and wrongful confinement, and in duty bound your Petitioner will ever pray &c.

Joseph A. Philmot

State of Illinois  
Cook County

Joseph A. Philmot being first duly sworn, upon oath deposes and says that he made the above Petition subscribed by him, and that the matters therein stated are true in substance and in fact.

Joseph A. Philmot

Subscribed and sworn to  
before me this 12<sup>th</sup> day  
of April A. D. 1862.

Augusta Breunig  
J. Peck.

Copy of warrant of Commitment annexed to  
Petition.

State

State of Illinois }  
Cook County } ss  
City of Chicago }

The People of the state of Illinois to  
the sheriff or jailor of said County,

3 of Greeting:

Whereas Joseph A. Philmot has this  
day been examined before the undersigned, a  
Justice of the Peace in and for the County aforesaid  
on a charge of Burglary preferred against him  
on complaint, under oath of Marcellus B  
Smith ~~it~~ appearing probable, from the  
evidence of said Smith & others sworn and  
examined before me, that said Jos. A  
Philmot is guilty of said charge, to wit;  
Burglary.

And the said Joseph A. Philmot  
having failed to give Bail for his appearance  
at the next term of the Recorder's Court of  
the City of Chicago, of said County, as required,  
you are therefore hereby required to receive  
into your custody, the said Jos. A. Philmot  
and him safely until discharged by due  
process of Law; and for so doing this  
shall be your sufficient warrant.

Given under my hand and seal, at my  
office, this 24<sup>th</sup> day of March A.D. 1862

Lewis H. Davis *Seal*

Justice of the Peace

4<sup>th</sup>

on the Back of said warrant of commitment,  
appears the following endorsements, to wit;

No 355

The People of the state of Illinois.

vs

Joseph W Philmot.

Defendant.

Amount;

Justice's costs \$1,500

Bail Required in the sum of \$1000.

Lewis H. Davis, J. P.

Witnesses.

Marcellus B. Smith, 618 Washburn Avenue

John Egan St Louis, Mo.

Executed by delivering the

body of the within named defendant to the Jailor  
of Cook County this 24<sup>th</sup> day of March, a. d. 1862

C. T. Bradley, S. Supt. of

Police

On the Back of said Petition appears the  
following ~~of the~~ <sup>to wit;</sup> endorsement, <sup>to wit;</sup> Let the writ issue

George Manierre Judge.

And thereupon to wit; on the 14<sup>th</sup> day of April  
in the year aforesaid, there was issued out of and  
under the seal of said Court the Peoples writ of  
Habeas Corpus directed to the said J. C.  
Hepner, in words & figures following, to wit;

State of Illinois  
Cook County

5<sup>th</sup>

The People of the State of Illinois, to  
A. C. Heping of said County, Greeting:

We command you that  
you do forthwith, without excuse or delay bring  
or cause to be brought before the Circuit Court  
of Cook County now sitting at the Court  
House in Chicago the body of Joseph A.  
Philnot by whatever name or addition he  
may be known or called and who is  
unlawfully detained in your custody as is  
said, together with the day and cause of  
his capture and detention, then and there  
to abide such order & ~~direction~~ as our said  
Circuit Court shall make in that  
behalf, hereof fail not, and make due  
return forthwith under the penalty  
of what the Law directs.

Witness William L. Church  
Clerk of our said Circuit Court & the  
Seal thereof at Chicago aforesaid this  
14<sup>th</sup> day of April A. D. 1862.

Seal

Wm L. Church, Clerk  
And afterwards to wit; on the 18<sup>th</sup> day  
of April in the year aforesaid, <sup>was</sup> returned  
into Court the said writ of Habeas Corpus  
endorsed as follows to wit; To his Honor the

6<sup>th</sup>

Judge of the Circuit-Court of Cook County  
 The undersigned Sheriff of Cook County  
 respectfully represents that he holds the within  
 named Jos. A. Philmot under and by virtue  
 of a certain Writimus issued by Lewis H. Davis  
 a Justice of the Peace a Copy of which said  
 writ is hereto annexed

Respectfully

Anthony C. Heping Sheriff

By A. Bruning deputy

Copy of writimus annexed to the above return,

State of Illinois  
 Cook County }  
 City of Chicago }

The People of the state of Illinois the the  
 Sheriff or Jailor of said County, Greeting;  
 Whereas Joseph A. Philmot has this day been  
 examined before the undersigned, a Justice of the  
 Peace in and for the County aforesaid on a  
 Charge of Burglary preferred against him on  
 Complaint, under oath, of Marcellus B. Smith  
 and it appearing probable, from the evidence of  
 said Smith & others sworn and examined  
 before me, that said Jos. A. Philmot is  
 guilty of said charge, to wit: Burglary.

And the said Joseph A. Philmot  
 having failed to give Bail for his appearance  
 at the next term of the Recorders Court of  
 the City of Chicago of said County, as

7<sup>th</sup>

required, you are therefore hereby required to receive into your custody, the said Joseph A Philnot and to safely keep untill discharged by due process of Law; and for so doing this shall be your sufficient warrant.

Given under my hand and seal, at my office, this 24<sup>th</sup> day of March A. D. 1862

Lewis H. Davis Justice of the Peace

on the back of said Mittimus appears the following endorsements, to wit:

No 35,

The People of the state of Illinois

vs

Joseph A Philnot

Mittimus.

Amount-

Justice's Costs

\$1.50

Bail required in the sum of \$1000.

Lewis H. Davis, J. P.

Witness

Marcellus B. Smith 618 Kabash ave

John Egan St Louis Mo.

Executed by delivering the body of the within named defendant to the Jailor of Cook County, this 24<sup>th</sup> day of March A. D. 1862

C. S. Bradley

Genl. Sup. Police

And afterwards to wit, on the 18<sup>th</sup> day of April in the year last aforesaid said Relator

8<sup>th</sup>

filed in said Court his certain Replication to the answer of the said A. C. Hoising heretofore made to said writ of Habeas Corpus, in words and figures following to wit;

In Circuit Court, before Judge Manierre

And as to said return made to said writ issued at the request of your Petitioner, for answer thereto saith, That since the commitment of your Petitioner upon the supposed charge of Burglary to wit in the month of March last, a Regular Term of the Recorders Court to which your Petitioner was bound to appear, has been held according to Law, a Grand Jury convened, <sup>was</sup> sworn and discharged after finding Indictments against a large number of persons, And further your Petitioner saith, that witnesses were sworn and examined on behalf of the People upon said charge against your Petitioner, and upon examination of said witnesses after hearing their evidence, said Grand Jury threw out the said charge against your Petitioner, and did not find or return any Bill or presentment against your Petitioner  
Whatever Wherefore your Petitioner insists that he is entitled to be discharged from imprisonment according to Law

April 16<sup>th</sup> 1862

Joseph A. Philmot

9<sup>th</sup>

9

and afterwards to wit; at the April Term of said Court, to wit on the 19<sup>th</sup> day of April in the year aforesaid the following among other proceedings were had and entered of Record, to wit; The People of the State of Illinois at the relation of Joseph a Philmot, vs Anthony C. Hessing, Habeas Corpus.

This cause coming on this day to be heard upon the Petition of the Relator filed therein for a discharge from imprisonment in the common jail of Cook County. The Return of the said Respondent upon the writ of Habeas Corpus heretofore issued therein, the Replication of the Relator thereto and Oral testimony adduced at the hearing <sup>in support of the Return</sup> ~~the Replication~~ and the Court upon hearing Messrs Felker & Hindes of Counsel for the said Relator, and Carlos Haven Esq. State Attorney in opposition to said application for a discharge from imprisonment, and not being sufficiently advised in the premises, takes said cause under advisement and remands the said Relator into the custody of the said Respondent, and afterwards to wit: at the same Term of said Court aforesaid

10<sup>th</sup>

to wit on the 21<sup>st</sup> day of April in the year aforesaid, the following among other proceedings were had and entered of Record, to wit: The People of the state of Illinois at the Relation of Joseph A Philnot, vs Anthony C. Hessing, Habeas Corpus. This day again came the said parties in person and by their Counsel - and the Court having had said Cause under advisement - and being now fully advised of and concerning the premises doth order and adjudge that the Writimus upon which the said Respondent detains the body of the said Relator is sufficient authority for the detention of the Relator by the said Respondent, and that the said Relator be remanded into the custody of the said Respondent untill discharged by due process of Law.

11th

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

All papers on file - all proceedings Entered of Record in a certain cause pending pending in said Court

on the Common Law side thereof, wherein The People Ex Rel

Joseph A. Philmore - vs - Petitioner and

Christina Kettering Respondent Defendant and that the interlibration on page 9th in support of the Return and the Replication is in accordance with the records.

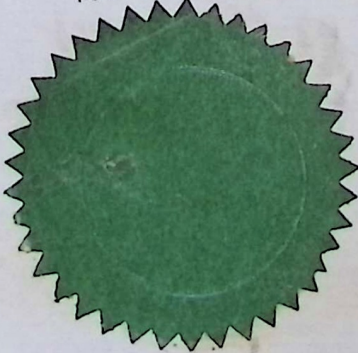
In Witness Whereof, I have hereunto set my hand,

and affixed the Seal of said Court, at Chicago, this

Twenty third day of April

A. D. 1862.

Wm L Church Clerk.



In the Supreme Court of the State of  
Massachusetts - 3<sup>rd</sup> Grand Division.

April Term A.D. 1862.

The People of  
relatives Joseph  
St. Paul and Boston & Lowell  
Railroad  
vs  
Anthony C. Keating  
Defendant.  
in Error.

And now come the said Plaintiffs in  
Error by their Attorneys Arthur W. Winchell  
Samuel M. Felker and say that  
in the Record of Proceedings and Readings  
of said case there is great and manifest error  
in this Court; In Remanding the Petition

and in refusing to discharge said  
said imprisonment. Therefore  
They pray reversal of the said Judgment.

Nullum est in errore Arthur W. Winchell  
D. P. Jones Samuel M. Felker.  
States Atty. - Atty for Petrs

300.

The People of  
vs  
St. Paul and  
Boston & Lowell  
Railroad

vs  
Anthony C. Keating

vs  
Error assigned

Filed April 24, 1862  
d. Deland  
Clerk.