

1
Pleas at the Courthouse in the town
of Edwardsville before the Honorable
John Reynolds one of the Associate Jus-
tices of the Supreme Court for the
State of Illinois at a special Term of the
Circuit Court for Madison County and
State aforesaid begun and held on
the 25th day of November in the year
of our Lord 1822 and of the Independence
of the United States the 47th

1a
Be it remembered that on the twenty fifth
day of the month and year last aforesaid
said the following Grand Jury to-wit
Curtis Blakeman (Foreman) David Robinson
1b Beniah Robinson, Henry Kelly Nathan
Carpenter, David Roach, George Kinder
John Newman, John Lusk Jacob Gun-
terman, Henry Peck, Volentine
Vanhooser, Daniel Reece, Adam Kile
1c Samuel Wood, Jubilee Posey, Joseph
Boroughs, George Barnsback, Joseph Ro-
binson, John Alberty, William Gillham
William W. Clark and George C. Allen
good and lawfull men of the County

aforesaid elected and sworn as a Grand
 Jury of Inquest to enquire for the
 body of the county aforesaid came into
 Court and returned the following bill
 of Indictment to wit, The people
 of the State of Illinois plaintiffs
 against James Foley ^{Defendant} on an Indict-
 ment for Larceny & True Bill
 which said Indictment are in the
 words and figures following to wit,
 State of Illinois Madison County for
 special Term of the Circuit Court holden
 at Edwardsville in the County aforesaid
 the 25th day of November 1822 In the
 name and by the authority of the people
 of the State of Illinois. The Grand Jurors of
 the people of the State of Illinois em-
 pannelled & sworn to enquire for the
 body of the County of Madison aforesaid
 upon them at the present that James
 Foley of the State and County aforesaid
 and Township of Ridge Prairie Black
 Smith did on the twentieth of October
 last and year aforesaid in the County
 and State aforesaid with force & arms
 feloniously steal take & carry away

one bar of Iron of the value of two dol-
 lars seventy five cents one file of the
 value of twenty five cents one Shovel
 of the value of seventy five cents of
 the goods & chattles of Augustus Anson
 & Michael Collins and then and there
 being in their possession against
 the peace & dignity of the people of the
 State aforesaid and contrary to the form
 of the statute in such cases made and
 provided And the grand Jurors of the
 County aforesaid do further upon their
 oaths aforesaid present that afterwards
 viz on the sixteenth day of November
 & year aforesaid in the State & County
 aforesaid that James Foley of the State
 & County & Township aforesaid Black-
 & Smith did feloniously steal take &
 carry away of the goods & chattles of
 Augustus Anson & Michael Collins
 then and there in their possession
 one Iron Shovel of the value of se-
 venty five cents against the peace
 & dignity of the people of the State
 of Illinois aforesaid and contrary
 to the statute in such cases made
 & provided & Collins pro. ably pro Tem

4
And afterwards to wit, at the same
day and year last aforesaid, came into
Court as well the Defendant in proper
person, as Anson Collins the prosecuting
attorney, and the said Defendant
waiving the necessity of filing the
Indictment in this case, and for
plea says that he is not guilty in
manner and form as in the Indict-
ment against him is alledged and
of this he puts himself upon the Country
and the prosecuting attorney doth
the like and thereupon came a Jury
to wit, Samuel Daulton, Thomas L. Mc-
guire, William H. Roberts, William
Stevenson, Myram Patterson, Hugh
S. Cochran, James Mett, James
Miller, Jesse Yates John O. Hancock
John R. Black & Michael Murphy
who being sworn well and truly
to try the Issue joined upon
their oath do say We of the Jury
find the Defendant guilty of stealing
the shovel as in the indictment against
him is alledged. and not guilty as

5
to the other articles. And afterwards
tourt on the 26th day of the month
and year last aforesaid The Defendant
by his counsel moved the Court to arrest
the Judgment on the following grounds
to wit, 1st The Court has no jurisdiction
to try or pronounce against the Defend-
ant at this Term, it being a special
Term - 2nd The Defendant was not in
jail nor under arrest when the present
special Term of this Court was ordered
by the Judge - 3rd The Indictment does
not shew that the Defendant is charged
with an offence which this Court has au-
thority to try - 4th The indictment does
not shew that the goods in said indict-
ment specified were taken from the
possession of the rev. Collins nor that they
were stolen from the possession of any body
5th The verdict of the jury does not shew
that the shovel was of any value 6th
The jury in their verdict have not found
the value of the shovel. The Court after
hearing the arguments of counsel over-
ruled the said motion - It is the opi-
nion of the Court that the said Defendant pay
to Augustus Anson and Michael Collins

one Dollar and fifty cents double the
value of the said shovel, and that he
make his fine to the people of the
State of Illinois to be rendered as the
law directs in the sum of one Hundred
and fifty Dollars and that the said James
Foley receive on his bare back fifteen
lashes well laid on, on the second
Monday in the month of April next
between the hours of twelve and two
o'clock. It is therefore ordered by the
Court that the Sheriff of Madison County
cause the said corporal punishment
to be executed on the public square
in the town of Edwardsville on the
second Monday in the month of April
next between the hours of twelve
and two o'clock and that the Defend-
ant also pay the costs of this prose-
cution and that the Defendant stand
committed until the lashes are
inflicted and fine and costs are
paid.

State of Illinois
Madison County } Set

7
I Joseph Conway clerk of the Circuit
Court in and for the aforesaid County
of Madison do certify that the foregoing
transcript of record from page 1 to 6 con-
tains a complete history of all the proceed-
ings had in this case, as the same re-
mains on file in my office - In Testi-
mony whereof I have hereunto set my
hand and affixed the seal
of the said Court at Edward-
ville this 29th day of Nov-
in the year of our Lord
1822 Joseph Conway

James Foley
1822 in Enquirer
The People

J. M. P. 2

1822

J. M. P. 2

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11

The People
at

James Foley }

And hereupon the said people by
their Attorney General, freely come before
the Justices of the Supreme Court
And say that there is not any Error
in the record & proceedings aforesaid
or in giving the judgment aforesaid: & they
pray that the said Court may proceed
to examine as well the record & proceedings
aforesaid, as the matters aforesaid above assigned
for Error, & that the judgment aforesaid
in forms aforesaid given, may in all things
be affirmed &c

Lockwood Atty Genl

The People }
at }
Jas Foley }
Lakewood Wm Gen

Filed Dec 11. 1822
J M Dumas

(11)

Supreme Court
James Foley

15

The people of the
State of Illinois

~~James Foley~~
~~James Foley~~

In error from a decision of the
Madison Circuit Court

and now at this term, to-wit, at the
December term of the Supreme Court of the State of
Illinois, came the said plaintiff by Smith & Blackwell
his attorneys, and says that in the record and proceedings
aforesaid and also in giving the judgment aforesaid there is
manifest error in this, to-wit, 1st In the record and
proceedings aforesaid the court below rendered judgment for
the defendant (the said people) when by the laws of the land
the said Court ought to have rendered judgment for the plaintiff.

2nd There is also error in this, to-wit, that the said Madison
Circuit Court had no authority ^{or jurisdiction} to try the said plaintiff
at the special session or term mentioned in said record
and proceedings, 3rd Because the said plaintiff was not
in jail on a charge for any capital offence, or for any offence
not bailable by the laws of the land. 2nd The said plaintiff
was not in the jail of Madison County when said special
session or term of said Circuit was ordered. 3rd It does not
appear from the record and proceedings aforesaid that the
said Justice Reynolds had any authority or jurisdiction to
hold said special session or term of said Circuit Court.

3rd There is also error in this, to-wit, that it does not appear
in the record and proceedings aforesaid and in the indictment there
set out, that the said plaintiff took the shovel from
the possession of any body. 4th There is also error in this
to-wit, that the said indictment does not aver that the shovel
charged to have been stolen was of any value, nor did the
jury find it to be of any value. 5th There is also error in this
to-wit, the record and proceedings aforesaid did not authorize the said
Court to render judgment in favour of the said Collins, in as
much as said jury did not find that the said shovel was of
any value.

and for the errors aforesaid and for other manifest
errors appearing in the record & proceedings and judgment
aforesaid the said plaintiff prays that the said judgment may
be reversed and be the said plaintiff restored to all his rights.

[SEAL.]

[SEAL.]

and privileges ~~that~~ which said judgment has a way
divest & deprive him of.

Smith & Blackwell
attos for ~~the~~

Supreme Court
James H. H. H.
in 3

of the people ~~the~~
~~of the people~~
~~of the people~~

of the people

1822

of the people

(11)

James Foley

The people

This was a case of the people against Foley brought here from a special term of the Missouri Circuit Court. Said Foley was indicted and found guilty of stealing a shovel and the only question here raised was to the jurisdiction of the Court he held. — In the 40th Sec. of the Act defining the duties of the Justices of the Supreme Court are the following provisions: That whenever "any person shall be in the custody of the Sheriff of any county charged with any capital offence or any other offence which by law shall not be bailable &c." The question depends on the right construction of the above recited Act. All statutes must be so construed if possible, as to arrive at the object intended to be reached by the Legislature. To confine this statute to cases not bailable would in effect repeal it. Because all cases may be bailed except where the proof is evident or the presumption great. A more liberal construction must surely meet the intention of the Legislature. I should construe this Act to authorize a Judge to hold a special term of the Court in all cases where information is given, that a person is in jail and cannot find bail. This construction provides for a speedy trial and a saving to the public

The two great objects of such legislative
interference. - It can not be the intention
of the Legislature for a poor unfortunate
person to remain, perhaps, six months in
jail before a trial is had, and for
a person ~~who is~~ charged with a capital
offence to have a trial immediately.

Therefore I conclude the Circuit Court
have jurisdiction and the judgement
should be confirmed.

John Reynolds

The people
vs.
James Foley

Opinion of

separate opinion of
Justice Reynolds

Filed Jan. 12. 1823

Wm. Duncan

Entered

State of Illinois, Sec.

THE PEOPLE OF THE STATE OF ILLINOIS

TO *Joseph Conway* Esq. CLERK OF THE CIRCUIT COURT FOR THE COUNTY
OF *Madison* 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 *Madison*
county, before the Judge thereof, between *The people of said*

State plaintiff's
and *James Foley*

12 defendant, it is said manifest
error hath intervened to the injury of the aforesaid *Defendant* as we are informed by *his*
complaint, and we being willing that error (if any there be) should be corrected 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 our Supreme Court
the record and proceedings of the plaint aforesaid, with all things touching the same, under your
seal, so that we may have the same before our Justices aforesaid at *Vandalia* the county
of *Wayne* on the *second Monday* next, that the record
and proceedings, being inspected, we may cause to be done them, to correct the error, what of
right ought to be done according to law.

13 Witness, *James M. Duncan*, Clerk of our said court and
the Seal thereof at *Vandalia*
this *9th* day of *December* in the year of our
Lord one thousand eight hundred and *22* and of our
~~Independence the~~

J M Duncan cl^k

James Foley
is
The People's Friend

July 1822

J. M. Duncan

(11)