

14265

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

# Supreme Court of Illinois

ICKLEY  
~~Staley~~

---

vs.

Little

42  
STATE OF ILLINOIS,

42

SUPREME COURT,

Third Grand Division.

No. 121.

~~14265~~

*Stacey*

*Letter*

1862

1862

*refused*

State of Illinois

Fayette County

John C. Sydetatt

being duly sworn according to law depose and say  
that he is worth Five Hundred dollars, or more and above  
all his indebtedness, and his Homestead exempt by law.

Subscribed and sworn to  
before me this 21<sup>st</sup> day  
of February A. D. 1862

John C. Sydetatt

George H. Maclean Clerk Circuit Court  
per A. P. Trimmer deputy clerk

Thickly  
by  
Little

Abidant as  
to security

Filed Feby. 24, 1862  
S. Deland  
Clk.

Know all Men by these presents that The Robert C. Stickley  
and John C. Aydelatt & N. N. Heintz  
are held and firmly bound unto William Little, Merrill  
Ladd & George S. Williams  
in the special sum of Three Hundred dollars lawful money of  
the United States, 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 21<sup>st</sup> day of  
February AD 1862.

The condition of the above obligation  
is such that Whereas the above bounden Robert C. Stickley  
has this day sued out of the Clerk's office of the 3<sup>rd</sup>  
Grand division of the Supreme Court of the State of  
Illinois a writ of error directed to the Clerk of the Circuit  
Court of Fayette County, Illinois, commanding him to  
bring before the said Supreme Court the record in a certain  
cause therein the said William Little, Merrill Ladd  
& George S. Williams Plaintiffs and the said Robert C.  
Stickley is garnished defendant to review and reverse  
a judgment rendered by the said Circuit Court of Fayette  
County, Illinois, on the 4<sup>th</sup> day of September A.D. 1861, in  
favor of the said William Little, Merrill Ladd &  
George S. Williams and against the said Robert C. Stickley  
and Whereas also the said Robert C. Stickley has applied  
to one of the Judges of the said Supreme Court to make  
said writ of error a supersedeas. Now if the said  
Robert C. Stickley shall well and truly prosecute his  
said appeal with effect and without delay and pay

the said Judgment and all costs interest and damages  
in case said Judgment shall be affirmed, then this  
obligation to be null and void otherwise to remain in full  
force and effect

Robert C. Stickley <sup>per</sup> at  
John C. Aydelott <sup>per</sup> at  
W. H. Seibert <sup>per</sup> at

121  
Robert C. Stickley

at

John C. Aydelott & Co.

Bond for Suspension

Filed July 24. 1862  
L. Ireland  
Clk.

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 judgments of a plea which was in the Circuit Court of Tazewell County, before the Judge thereof, between William Little, Merrill C. Ladd & George S. Williams

plaintiffs, and

Robert C. Stickley, Garnishee.

defendant, it is said that manifest error hath intervened, to the injury of the said Stickley

as we are informed by his complainant the record and proceedings of which said judgments 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 Command You, That by good and lawful men of your County, you give notice to the said William Little, Merrill C. Ladd & George S. Williams

that they 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 next, to hear the record and proceedings aforesaid, and the errors assigned, if they 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 Little, Ladd & Williams

notice, together with this writ.

Witness, The Hon. John W. Eaton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 24<sup>th</sup> day of February in the year of our Lord One Thousand Eight Hundred and Sixty-two.

J. Deland  
Clerk of the Supreme Court.

Lock, Hobbs

Robert C. Stickley

No. 121 vs.  
William Little et al.

SCIRE FACIAS.

to Cook Co.

FILED... Apr. 29 ... A. D. 1862

L. Selan Clerk.

Served by reading to the within  
named William Little and  
Merrill C. La Sd the other  
Deft. George P. Williams not  
found <sup>in the County</sup> March the 26th 1862

Serves \$1.00  
Mileage 20  
Return 10

A. C. Hussey Sheriff \$1.30  
W. Cookley Deputy

129 S. Water

Little 186 W. Washington

Williams live in  
New York

Little Little and  
Williams La Sd

26th March



STATE OF ILLINOIS, }  
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Tazewell - Greeting:

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

William Little, Merrill Ladd & George S. Williams

plaintiffs, and

Robert C. Stickley

defendant....., it is said manifest error hath intervened, to the injury of the aforesaid

Stickley

as we are informed by his complainant..... and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgments thereof be given, you distinctly and openly, without delay, send to our Justices of the 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 Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, The Hon. John D. Eaton, Chief Justice of our said Court; and the Seal thereof, at Ottawa, this 24<sup>th</sup> day of February in the Year of Our Lord One Thousand Eight Hundred and Sixty two.

S. Seland

Clerk of the Supreme Court.

42

121

Robert C. Stickley

No.

vs.

William Little et al

**WRIT OF ERROR.**

*This Writ of Error is made a  
Supersedeas, and as such is to be  
obeyed by all concerned.*

L. Selanda

*Gleick.*

FILED

Feb. 24.

A. D. 1862

L. Selanda

*Gleick.*



Meas

To a Term of the Circuit Court, begun  
and held at the Court House in  
Pekin, within and for the County  
of Tazewell and State of Illinois,  
on the first Monday of the month  
of February A. D. 1861, Present, Hon  
James Harrill Judge of the 21st  
Judicial Circuit of the State of  
Illinois, composed of the Counties  
of Mason, Tazewell &c. Hugh  
Fullerton States Attorney, Chapman  
Williamson Sheriff and George H.  
Horton Clerk

Be it remembered that on the 5th day of December  
A. D. 1861, an affidavit was filed in the office of the  
Clerk of the Circuit Court of Tazewell County, which  
said affidavit is in the words and figures following  
to wit, -

State of Illinois }  
Tazewell County } Personally appeared before me  
George Harlow Clerk of the Circuit Court of  
Tazewell County, William E. Parker, who being  
sworn according to law, deposes & says that Mr  
Little & Co obtained a Judgment against  
J. W. Smith and Robert Brady on which  
Judgment an execution was issued and  
returned by the Sheriff of the County, no  
property found and that the defendants  
have no property within the knowledge of this  
affiant in their possession liable to execution

" and this affiant hath just reason to believe  
" that Robert C. Stickley is indebted to Robert  
" Brady or has some effects or estate of the said  
" Brady in his hands

" Subscribed and sworn }  
" to before me this the 5 }  
" day of December A.D. 1860, }  
" George A. Harlow Clerk }

W. E. Parker

And afterwards, to wit:  
on the same day, a writ was issued out of the  
Clerks office of the Circuit Court for said County  
which said writ is in the words and figures  
following, to wit: =

" State of Illinois } The People of the State of Illinois,  
" Tazewell County } To the Sheriff of Tazewell County  
" } Greeting: =

" Whereas, on the 5th  
" day of December A.D. 1860, William E. Parker, in  
" a certain Judgment rendered at the February  
" Term A.D. 1860, of the Tazewell County Circuit  
" Court, against J. M. Smith and Robert Brady  
" in favor of William Little & Co, filed in the office  
" of the Clerk of said Circuit Court, an affidavit  
" setting forth that execution had been issued  
" on said Judgment, directed to the Sheriff  
" of Tazewell County to execute, and by him  
" returned no property found, and that  
" within the knowledge of the affiant, the  
" said defendants have no property in their  
" possession liable to execution, but that said  
" affiant, has just reason to believe that Robert  
" C. Stickley is indebted to Robert Brady one

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of the defendants, or that he has some effects  
or estate in his hands, belonging to said  
defendant Robert Brady, and prays that  
a Garnishee Process be issued, and directed  
and served upon him the said Robert C. Stickley

Now therefore, you the said Sheriff of  
Tazewell County are hereby commanded to  
summon Robert C. Stickley as Garnishee of  
the said defendant Robert Brady personally  
to be and appear before our Circuit Court  
for said Tazewell County, on the first day of  
the next Term thereof, to be holden at the  
Court House in Pekin on the first Monday  
of the month of February next, then and  
there, to answer upon his corporal oath, what  
may be objected against him in the premises,  
when and where, have you there this writ, and  
make known to the said Court how you have  
executed the same

Witness George H. Harlow Clerk  
and the seal of said Circuit Court  
hereto affixed at Pekin this 5th  
day of November A. D. 1860.  
George H. Harlow Clerk  
per A. P. Griswold deputy

Which said writ, was, on the 18th day of December  
A. D. 1860, returned, with the following endorsement  
to wit:—

Served by reading the within writ to the  
within named R. C. Stickley this 6th day of  
December 1860  
C. Williamson Sheriff T. C.

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And now afterwards, to wit: at a Term of the Circuit Court, begun and held at the Court House in Pekin, within and for the County of Tazewell and State of Illinois on the first Monday of the month of February A. D. 1861, and on the 4th day of said month it being the first day of said Term, the following proceedings were had, to wit: =

1<sup>st</sup> day

Monday February 4<sup>th</sup> 1861

William Little & Co

<sup>vs</sup>  
Robert C. Stickley  
garnishee of Robert Brady

Garnishment

Now comes the Plaintiffs by their Attorneys Parker & Cook and the said Garnishee having been regularly served with process was three times solemnly called failed to appear and answer, but made default. It is therefore considered, ordered, and adjudged by the Court, that the Plaintiffs have and recover of said Garnishee, a Conditional Judgment for the sum of One Hundred & Fifteen + <sup>66</sup>/<sub>100</sub> Dollars (\$115<sup>66</sup>/<sub>100</sub>) the amount of the original debt, with interest thereon from the 16<sup>th</sup> day of February A. D. 1860, being the date of the original Judgment, and likewise the costs and charges by them herein expended.

It is further ordered that a writ of *Scire Facias*, returnable to the next Term of this Court, issue against the said Garnishee requiring him to appear and show cause

if any he has, why the said Judgment should not be made final

And now afterwards, to wit: at a Term of the Circuit Court, begun and held at the Court House in Pekin within and for the County of Tazewell and State of Illinois on the first Monday of the month of June A.D. 1861, and on the 4th day of said month it being the first day of said Term the following proceedings were had, to wit: =

William Little & Co  
vs  
A. C. Stickley garnished  
of Robert Bralley

} Garnishment

Now comes the Plaintiffs by their Attorneys Parker & Son, and on their motion this cause is ordered to be continued with alias Scire Facias to next Term

Now afterwards, to wit: on the 10th day of July A.D. 1861, a Scire Facias was issued out of the office of the Clerk of the Circuit Court of said County, which said Scire Facias is in the words and figures following, to wit: =

State of Illinois }  
Tazewell County }  
The People of the State of Illinois, to the  
Sheriff of said County, Greeting:  
Whereas, at  
the February term of the Circuit Court of the

County of Tazewell in the year one thousand  
 eight hundred and sixty, a judgment  
 was rendered in and by said Court, against  
 J. H. Smith & Robert Brady defendants, in  
 favor of Mrs Little & Co Plaintiffs, for the  
 sum of One Hundred and Fifteen dollars  
 and sixty six cents & costs; And Robert C.  
 Stickley having been duly summoned as  
 garnishee of the said defendant and he having  
 failed to appear and discover on oath or  
 affirmation what lands, tenements, goods,  
 chattels, moneys, credits and effects of the said  
 defendant were in his custody, charge or  
 possession, or under his control, or what  
 moneys, or property were by him owing to  
 said defendant, as is required by law, a  
 conditional judgment for the above named  
 amount was by said Court, rendered against  
 said Garnishee, and this writ ordered to be  
 issued - Now therefore we command you, that  
 you summon the said Robert C. Stickley  
 garnishee as aforesaid, personally to be and  
 appear before the said Circuit Court, on the  
 first day of the next term thereof, to be holden at  
 Pekin in said County, on the first Monday of  
 September next, then and there to show cause,  
 if any he have or can show, why final  
 judgment should not be entered against  
 him upon the due execution and return of  
 this writ - And have you then and there this  
 writ, with an endorsement thereon in what  
 manner you shall have executed the same -  
 Witness George A. Karlon clerk of

said Circuit Court, and the  
seal thereof, at Pekin this 10th day  
of July A. D. 1861.  
Geo. H. Harlow Clerk  
per A. P. Griswold deputy

And afterwards, to wit: on the 14th day of  
August 1861, said writ was returned with  
the following endorsement, to wit:—  
" State of Illinois }  
" Tazewell County }<sup>o.s.</sup> Served by reading to the  
" within named D. C. Stickley this 12th  
" July 1861.  
" C. Williamson Sheriff 26.

And now afterwards, to wit: at a Term of  
the Circuit Court, begun and held at the  
Court House in Pekin, within and for the  
County of Tazewell and State of Illinois  
on the first Monday of the month of September  
A. D. 1861, and on the 3rd day of said month,  
it being the 2nd day of said Term the following  
proceedings were had, to wit:—

2nd day Tuesday September 3rd 1861  
Mr Little & Co }  
Robert C. Stickley } Garnishment  
garnisher of Robert Brady } Deceit & on  
} Conditional Judgment  
Now on this day comes the  
Plaintiff by their attorneys Parker & Son, and

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the defendant having been regularly served with Scire Facias herein, was three times solemnly called came not but made default. It is therefore considered, ordered and adjudged by the Court, that the Plaintiffs have their execution against the said Garnishee for the sum of One Hundred and fifteen <sup>66</sup>/<sub>100</sub> Dollars (\$115 <sup>66</sup>/<sub>100</sub>) being the amount of the conditional Judgment rendered against the said Garnishee at the February Term A.D. 1861, of this Court, as also the costs and charges herein expended.

6th day

Saturday September 7, 1861

Wm Little & Co

Robert C. Stickley  
garnishee of Robert Brady

Garnishment

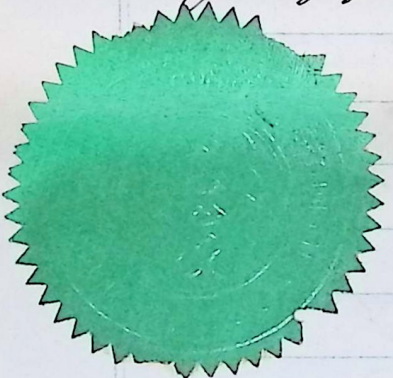
Now come the parties by their Attorneys, and the Defendant enters his motion to set aside the Judgment heretofore entered in this cause, which motion the Court granted upon the condition, that the defendant pay the costs of these proceedings in 60 days.

State of Illinois }  
Sagwell County } sp.

J. George H. Harlow Clerk  
of the Circuit Court within and for said  
County, do hereby certify that the foregoing

9.

contains a full, true, and complete record of <sup>the</sup> proceedings had in said cause as fully as the same appears of record in my office



Witness my hand and the seal of said Circuit Court hereunto affixed at Pekin in said County this 18th day of February A.D. 1862  
Geo. H. Barlow Clerk  
per A. P. Inwood Deputy

State of Illinois } April Term A.D. 1862.  
Supreme Court } 3rd Grand Division

Robert L. Stickley }  
vs } Error to Faywell  
William Little & Co. }

And now comes the said Robert L. Stickley, by Roberts & Ireland his attorneys, and says that in the Record and proceedings aforesaid, and also in rendering the Judgment aforesaid, there is manifest error in this Court;

1st That the Paper filed in said cause, purporting to be an affidavit of William E. Parker, is not entitled in any cause

2nd That said affidavit does not show when, said Judgment of Wm Little & Co. was rendered; - Whether in a Court of Record or not; nor at what time; nor in what Court;

For for what amount said judgment was rendered; - For whether the same was <sup>unpaid</sup> - For to what County Execution was issued

3<sup>rd</sup> Said affidavit does not state or set forth by what authority said Parker makes said affidavit.

4<sup>th</sup> Said Affidavit purports to have been filed December 5<sup>th</sup> 1860, and the writ of Summons bears date November 5<sup>th</sup> 1860.

5<sup>th</sup> Said writ was issued before any affidavit was filed and is void

6<sup>th</sup> etc Interrogatories were filed for the Garnisher to answer.

7<sup>th</sup> The Court erred in not setting aside the judgment absolutely

There is also error in this, that judgment was rendered for the defendant in error, when it ought to have been rendered for Plaintiff in error.

For which errors, said Plaintiff in error prays that said judgment may be Reversed.

Roberts & Ireland for  
Plaintiff in Error

Let supersedeas issue  
and \$300 John C. Ayres & surety  
H. H. H. H.

and the Defendants by their attorney  
come and say that there is no error in the foregoing  
Record and pray that the foregoing judgment be affirmed

Roberts & Ireland

Attorneys

R. C. Stibby

vs.

Wm Little et al

Transcript and  
Assignment of Errors

Filed Feb. 24, 1862.  
L. Seland  
Clerk.

Fee \$<sup>300</sup> pd by Plaintiff  
in error