

No. 13200

Supreme Court of Illinois

Ill. Cent. R. R. Co.

vs.

Kenipe

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division.

1861.

No. 15.

Ills Cent
RR Co
vs

Kenipa

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STATE OF ILLINOIS, }
SUPREME COURT, } ss.

The People of the State of Illinois,

To the Sheriff of the County of

La Salle

Greeting:

Because, In the record and proceedings, and also in the rendition of the judgments of a plea which was in the Court _____ Courts of La Salle County, before the Judge thereof, between Elizabeth Kenipe _____

plaintiff, and The Illinois Central Rail Road Company

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

_____ as we are informed by _____ the complaints of said defendant 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, ~~as we have heretofore commanded you~~ That by good and lawful men of your County, you give notice to the said Elizabeth Kenipe _____

that She _____ 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 She _____ 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 Elizabeth Kenipe _____

_____ notice, together with this writ.

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 24th day of March in the Year of Our Lord One Thousand Eight Hundred and Sixty,

L. Leland

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



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La Salle

The Illinois Central Railroad

Company -

No.

vs.

Elizabeth Kempe

SCIRE FACIAS.

FILED

April 19

A. D. 1860

L. A. Leland

Clerk.

Executed this writ
by Reading the same
to Elizabeth Kempe
this 12th day of April

1860 Service \$ 60

30th July 1860

By J. H. Wagner Clerk

by P. L. Porter Deputy



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

To the Sheriff of the County of La Salle Greeting :

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the County Court of La Salle County, before the Judge thereof, between Elizabeth Kenipe

plaintiff, and The Illinois Central Rail Road Company

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

Defendant

as we are informed by the complaint, of said Defendant 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 Command You, That by good and lawful men of your County, you give notice to the said

Elizabeth Kenipe

that she 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 records and proceedings aforesaid, and the errors assigned, if she 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 Elizabeth Kenipe

notice, together with this writ.

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 8th day of March in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

L. Leland
Clerk of the Supreme Court.

L. J. Rice Deputy

15 128 52
The Illinois Central
Rail Road Company

vs
Elizabeth Kenipe

Sci fa
Elizabeth Kenipe
not found in my
county April 19 1859
KT . 10.

Jt. Warner Shff
by P. L. Porter Depty

Filed April 22. 1859
L. Leland
Clerk

D. L. Hough
Plff's atty



STATE OF ILLINOIS,
SUPREME COURT,

ss. The People of the State of Illinois,
To the Clerk of the County Court for the County of La Salle Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the County Court of La Salle County, before the Judge thereof, between Elizabeth Kenipe

plaintiff, and The Illinois Central Road Road Company

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

as we are informed by the complaint of said defendant 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 judgment 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. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 8th day of March — in the Year of Our Lord one thousand eight hundred and fifty-nine.

L. Selcund

Clerk of the Supreme Court.

by J. B. Rice Deputy

The Illinois Central Rail
Road Company.

~~127~~ vs ~~52~~
Elizabeth Kempe
Writ of Error

Filed March 8, 1889
L. Leland
Clerk



1
LaSalle County Court September Term 1855

State of Illinois }
LaSalle County } p

Doas Proceedings and judgments
held and taken in and before the LaSalle County
Court in the State of Illinois at the Court House
in Ottawa in the County of LaSalle of D.
Term thereof to wit of the Third day of September
in the year of our Lord one thousand eight
hundred and fifty five and of the Independence
of the United States of America the Eighteenth

Hon. Henry C. Patton Pres.

Be it remembered that heretofore to wit on the 11th
day of August A.D. 1855 a Transcript and bond
filed in the office of the clerk of the County
of said County which were in the words and
figures following to wit

Elizabeth Henipe v. The Illinois Central
Company for killing a heifer Demand \$100
May 21st 1855 issued summons returnable on the 24th
inst at 3 o'clock P.M. 2. Sash for plff
Summons returned by B. Clark. Court endorsed
served May 24th 1855 by leaving a copy with C. O. H.
agent of the A. C. R. R. Co. at Mendota the President
not living in the County Court fees on sum. & costs
May 31st 1855 after hearing the proofs and allegations
of the parties it is decided that the said Elizabeth

2 Verdict have a judgment against the said Illinois
Central Rail Road Company for the sum of Twenty
Dollars and costs of suit.

Frederick Backstatter Wm Backstatter Catharine
Backstatter Peter Back Henry Rusby J. Wagoner
Wm Sunday J. Bornhorst J. Ernst witnesses who
were sworn and claimed Oath

In the Docket & sum of \$1. 2 subs 38 of ^{acaths} ~~acaths~~ 38
on trial 3 sub Jud 25. cost appeal 25. Bond & Transcript 75.
Anne 21st 1855 came appeared to the County Court. 5.
Bond filed by O. Ott. Total costs \$10.57

State of Illinois }
LaSalle County } I hereby certify that the above
Transcript contains a correct statement
of the proceeding in the premises had before me and
appears by my Docket Given under my hand
and seal this 1st day of August 1855
L. C. Gilman J. P. 1855

Know all men by these presents that our the Illinois
Central Rail Road Company and O. Ott of the
County of LaSalle and State of Illinois are
and firmly bound unto Elizabeth Kenipe of the
County of LaSalle and State aforesaid in the sum
of Fifty Two Dollars Lawful money of the
United States for the payment of which
and truly to be made we bind ourselves
heirs executors and administrators jointly.

3

severally and firmly by these presents witnessed
our hands and seal this twentieth day of
June A.D. 1855.

The condition of the above obligation is such that
whereas the said Elizabeth Kenipe did on the
thirty first day of May A.D. 1855 before Charles
C. Gillman a justice of the peace for the said
County of LaSalle recover a judgment against
the above bounden Illinois Central Rail Road com-
pany for the sum of twenty dollars and costs from
which judgment the said Illinois Central Rail Road
company have taken an appeal to the County Court
of the County of LaSalle aforesaid and State of
Illinois now if the said Illinois Central Rail
Road company shall prosecute their appeal with
effect and shall pay whatever judgment may
be rendered by the Court upon dismissal or trial
of said appeal then the above obligation to be
void otherwise to remain in full force and
effect.

Approved by me at Illinois Central Rail Road
my Office this 20th day of June 1855 by Dean Othager
of June A.D. 1855 C. C. H.
C. C. Gillman J. P.

Afterwards to wit on the same day a summons was
out of the office of said clerk in the words and
figures following to wit

4 The People of the State of Illinois & our Sheriff of
County of LaSalle Greeting.

Whereas in a certain cause lately pending in
court held before Charles C. Gibson Esquire one of
the Justices of the Peace in and for our County of
LaSalle wherein Elizabeth Kenipe was plaintiff and
the Illinois Grant Rail Road Company was defendant
Judgment has been rendered by said Justice against
the said Defendant from which the said Defendant
has appealed to our LaSalle County Court.

We therefore command you that you summon the said
Elizabeth Kenipe that she personally be and appear
in our said LaSalle County Court before our judges
thereof on the first day of the next term of said
court to be held at the Court House in Ottumwa on
the first Monday in September next at Ten o'clock
in the forenoon and abide by and perform the
Judgment of our said Court in the premises.



In witness whereof we have caused the
seal of our said Court to be hereunto affixed
and attested by Samuel W. Raymond
Clerk thereof at Ottumwa 11th day of
August 1855

Enclosed

S. W. Raymond Clerk

Presented this writ by Reading
the same to Elizabeth Kenipe
August 16th 1855

J. H. Harris Sheriff
by L. B. Harris Deputy

Received "do
25 m^{ts} \$1.35
\$1.85

5- Afterwards to wit- on the 3^d day of September A.D. 1880
the same being one of the days of said Term of the LaSalle
County Court the following proceedings were had and
entered of Record to wit-

Elizabeth Kenifer

as

Illinois Central Rail Road Co

Appel

This day comes the plaintiff
by Chumazero her attorney- as well as defendant
though their attorney- whereupon the plaintiff by
his said attorney enters his notice to dismiss
the appeal herein for want of sufficient bond
which motion after hearing the arguments of
counsel is overruled by the court.

Afterwards to wit- on the 5th day of September A.D. 1880
the same being one of the days of the September Term
thereof of the LaSalle County Court the following
proceedings were had and entered of record to wit-

Elizabeth Kenifer

as

Illinois Central Rail Road Co

Appel

This day comes the plaintiff
by Chumazero her attorney- and the defendant
though their attorney- whereupon by agreement
parties a jury is waived and this cause submitted

6 to the Court for Trial - after hearing the evidence and arguments of counsel - and after due deliberation thereon had the Court finds the law for the plaintiff and assesses her damage at the sum of Fifteen dollars -

Thereupon the defendants by their said attorney enter a motion herein for a new Trial - which motion is overruled by the Court - To which ruling of the Court the defendants by their said attorney then and there excepted -

It is therefore considered by the Court that the plaintiff have and recover of the said defendants the said sum of Fifteen dollars for her damage and also her costs and charges by her herein expended and that she have execution therefor

Afterwards to wit on the 14th day of September A.D. 1883 the same being one of the days of the September Term thereof of the LaSalle County Court the following Bill of exceptions was filed which are in the words and figures following to wit

Elizabeth Henip

Illinois Central Railroad
Company

Appeal

LaSalle County Court
September Term 1883

Be it remembered that at the September Term of the said LaSalle County Court

7
cause came on for trial and was tried by the court
the plaintiff and defendants having waived trial
by jury and on the trial of said cause the
plaintiff introduced as a witness John Knip who
after being sworn testified that on the 15th day of June
last he heard that one of our hufers was killed
so. I went down and found my mother. ~~she~~
killed it laid by the track two miles below Madison
on the Illinois Central Rail Road Tracks. Two legs
of the huffer broken off - It was alive when I first
saw huffer - It died in a short time from the
in the morning I went down and found the huffer about 10 miles
injury - I heard the train it was at some distance.
huffer was worth \$15,00 or \$20,00.

Mrs. Bronnenschel after being sworn testified
that he saw the huffer after it was killed. was with
John Knip the huffer was burnt also in the side.
Mrs Knip after being sworn testified that she saw
the engine run on to the huffer - saw some cattle
on the track - It was a freight train that came
on the cattle - was about one eighth of a mile
off - saw huffer after it was killed It was the
plaintiff.

on cross examination witness said that she saw
throw the huffer off the track -

The above is all the evidence given in the case
the counsel for the said Illinois Central Railroad
Company moved the said court upon the
evidence aforesaid to dismiss the said cause.

of jurisdiction in the matter of the peace before
whome the said suit was originally commenced
which motion was overruled by the said court
which decision of the said court in overruling
said motion to dismiss the counsel for the said
Illinois Central Railroad Company then & there
excepted - And thereupon the said court found the
issue in favor of the plaintiff & assessed her damages
at Fifteen dollars, -

Whereupon the counsel for the said Illinois
Central Railroad Company moved the said court
to set aside the aforesaid finding & for a new trial
for the reason of the said finding being against
the law of the case and also against the evidence
But the court overruled the said motion & gave
judgment against the said Illinois Central
Railroad Company,

To which decision of said court in overruling
the said motion to set aside the aforesaid finding
& to grant a new trial and giving a judgment
against the said Illinois Central Railroad
Company the counsel for said company then & there
excepted & prayed that this bill of exception
may be signed sealed & made a part of the
record which is done

W. G. Cotton *Esq*

State of Illinois
Lusam County J. P. Philo Princey
Clerk of the County
Court of said County do hereby certify
That the foregoing is a true full and
complete copy of all the proceedings
in above case that I am required
to copy as the same appear of record
on file in my office
My Testimony Whereof I
have hereunto set my hand
and the Seal of said Court
This 15th day of February 1855
J. P. Philo Princey Clerk

Recd \$2.50

Now comes the said Illinois Central
Rail Road Company Plaintiff in er-
ror & says that in the record and
proceedings aforesaid there is man-
ifest error in this to wit

1st The Court erred in overruling
the motion of said plaintiff in error
to dismiss the case for want of
jurisdiction

2^d The Court erred in overruling

The motion to set aside the verdict
the jury & grant a new trial in same
Cause

3^d The Court erred in rendering
judgment aforesaid in manner
of same aforesaid.

Cause held for
Pltff in error

The Illinois Central
Rail Road Company

vs

Elijah Wells Kenipe

Plaintiff

Filed March 8. 1885

J. L. Leland
Clerk

