

8511

No. _____

Supreme Court of Illinois

Williams

vs.

Conley, Admr.

71641  7

Pleas had before the Honorable Justice Hor-
lan Judge of the fourth Judicial Circuit in
the state of Illinois in the County of Clay
sitting in the case of an appeal from the
County Court of said Clay County to the
Circuit Court of said County in which
case John Conly admin. of the estate of John
Conly deceased was plaintiff & Jesse Will-
iams was defendant and appellant in
the Circuit Court. filed in the Circuit
Court August the 20th 1856

Copies of papers received & filed from
County Court of Clay County

State of Illinois.

Clay County 3 John Conly administrator
of the estate of John Conly sen deceased after
being duly sworn according to law, deposes
and says that he believes that Jesse Williams
& John Mayrall, have in their possession
monies belonging to said deceased John
Conly sen. and refuses to account for &
surrender the same to this affiant as such
administrator therefore he prays that ci-
tation issue commanding the said Jesse
Williams & John Mayrall to answer &c.
and further this affiant swears not

John Conly
Subscribed & sworn to before me this 5th day
of May 1856 Francis Apperson Clerk

2
State of Illinois } ss

Clay County }

Execution
The people of the state of Illinois, to the Sheriff of said County Greeting; you are hereby commanded to Summon Jesse Williams to be and appear before the County Court of Clay County on the first day of the next term thereof to be holden for Probate at the Court house in the town of Louisville, and for said County on the third Monday in the month of June next to answer unto John Leody administrator of John Leody deceased for withholding money from him belonging to the estate of said deceased; and of this writ make legal Service & due return as the law directs.

66070
L. S. G.

Witness Francis Apperson Clerk
of our said Court at Louisville
this 12th day of May 1856.

Francis Apperson
Clerk

Upon the back of which is the following
endorsement; viz;

Served by, to the within named Jesse
Williams June 6th 1856.

H. R. Neff shiff

Appeal Bond
Know all men by these presents that we
Jesse Williams & John Maxwell are held
and firmly bound unto John Leody admin-
istrator of the estate of John Leody dec'd in
the penal sum of two hundred dollars
lawful money of the United States for the
payment of which well and truly to be
made, we & each of us bind ourselves, our heirs

and administrators, jointly. Severally & firmly
by these presents, Witness our hands and seals
this 26th day of June A.D. 1856. The Conditions of
the above obligation is such that whereas the said
John Conley admo. did on the 16th day of June 1856
before the County Court for Probate for Clay County
obtain an order requiring the above bounden
Jesse Williams to deliver up to the said John
Conley, admo. &c. which he held in his possession
one hundred Dollars, which he held in his
possession, ^{belonging to said estate} from which order said Jesse Will-
iams has taken an appeal to the Circuit Court
of the County of Clay aforesaid, and state of
Illinois. Now if the said Jesse Williams
shall prosecute his 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 & effect

Jesse ^{his} Williams (seal)
John Marshall (seal)

Upon the back of which is the following
filing viz: "Filed August 20-1856.
J. P. Hargate, Clerk.

At a regular term of the County Court within
and for the County of Clay & state of Illinois
held at the Court-house in the town of Louis-
ville, on the 16th day of June 1856 present the
Honorable H. K. Harris County Judge the
following order and proceedings were had
& entered of record to wit;

Manuscript

John Leonly adm^r &c.

vs
Jesse Williams

On Citation to answer

At this day comes the said Jesse Williams, and after being sworn & after giving testimony. It is considered by the Court that the said Jesse Williams has in his possession monies belonging to the estate of John Leonly decd. It is therefore ordered by the Court that the said Jesse Williams deliver over to the plaintiff John Leonly administrator of the estate of said deceased the sum of one hundred Dollars the amount proven to be in his hands belonging to said estate.

State of Illinois

Clay County } S. Francis Apperson
Clerk of the County Court of said County
do hereby certify that the foregoing is a true &
correct transcript from the records of the County
Court in said case on file in my office

L. S.

In Testimony whereof I have hereunto subscribed my name & affixed the seal of said Court at Louisville this 20th day of August 1856

Francis Apperson Clerk

Upon the back of which is the following
"Filed August 20th 1856."

J. P. Young atelk

The State of Illinois &c:

Summons

Clay County } The people of the
State of Illinois to the sheriff of said county
greeting; We command you that you sum-
mon John Leamy admr. of the estate of John
Leamy deceased, if he shall be found in your
county personally to be and appear before the
Circuit Court of said County, on the first
day of the next term thereof to be holden at
the Court-house in Louisville on the fourth
Monday in the month of September next
to answer Jesse Williams of an appeal
taken from the County Court of Clay County
in which Court you obtained judgment
against him &c. And have you there and
there this writ, and make return thereon
in what manner you execute the same.

L.S.

Witness J. P. Hargate Clerk of
our said Circuit Court at Louisville
this 20th day of August in the
year of our Lord one thousand
eight hundred and fifty six.

J. P. Hargate
Clerk, Circuit Court

John Leamy admr } Clay Circuit Court
} appeal

Jesse Williams } September term 1856

Now on this day it
is ordered by the Court that this Cause
be continued &c.

6
John Conley admn } Appeal.

vs } delay Circuit Court
Jepe Williams } May term 1857

Now on this day it
is ordered by the Court that this cause
be continued &c.

John Conley admn } appeal

vs } delay Circuit Court
Jepe Williams } October term 1857.

Now on this day comes
the plaintiff as well as the defendant by their
attornies and by agreement this cause is submi-
tted to the Court for trial without the inter-
vention of a jury. and after evidence heard
the Court being advised &c. It is ordered that
the order made by the Court below be affirmed
and It is further ordered that the plaintiff
have judgment against the defendant for
his costs in this Court. in their behalf ex-
pended and that they have execution &c.

And now comes the defendant by his
attornies and moves the Court for a new
trial, which is overruled. It is further
ordered by the Court that the proceedings
had in this cause in this Court be certi-
fied to by the Clerk, and sent to the Court
below from whence this cause came
for further proceedings &c. and now
again comes the defendant by his attorn-
ies and pray an appeal to the supreme
Court of the State of Illinois

which is allowed, and the defendant is required to file his bill of exceptions to the decisions of the court in this cause within ten days, and he is further required to file this bond of three hundred dollars made payable &c to the plaintiff with Henry Phelps security within thirty days from this date.

Copy of bill of exceptions

Be it remembered that at the October term of the Circuit Court, within and for the County of Clay and State of Illinois for the year eighteen hundred and fifty seven a cause came on to be heard in said Court in which John Couley as administrator of the estate of John Couley deceased was plaintiff and Jesse Williams was defendant on an appeal from an order of the County Court of Clay County that by agreement of the parties to said suit the same was submitted for trial to the Court Hon. Justice Harlan judge without a jury and the said plaintiff to sustain his action introduced witnesses as follows Abraham R. Harris judge of the County Court of Clay County who was asked by plaintiffs Counsel to state as well as he could ~~recalled~~ remember what Jesse Williams the defendant stated on oath before him when he was brought before him by citation to answer as to money in his possession belonging

to the estate of John Conley decd, to the asking of which question the defendant by his Council objected and the Court overruled the objection and permitted the witness to answer the question and the defendant by his Council at the time excepted, witness then proceeded to say that it had been a long time since the defendant had been brought before him by citation as county judge. thought it ~~at~~ was at the June term of the county court for the year 1856 that he could not now remember what or all that defendant said during his examination remember that defendant said that old man Conley had a short time before he died at his house given his pocket book to his wife which contained some one hundred and seventeen dollars and fifty cents and told her to take care of it that he considered and believed that the old man had given the money to his wife who was his daughter that afterwards defendant said that he gave forty dollars of the money to over Morrell his brother in law who had for sometime taken care of the old man and he thought he ought to have a part of the money witness did not remember what defendant said he had done with the balance of the money, could not remember all that was said by defendant and as to the forty dollars it was the impression of witness that def^t said he had given Maxwell forty dollars but is not certain as to the statements

Francis Apperson was called next by plaintiff he was clerk of the County Court of Clay County in June eighteen hundred and fifty six and plaintiff by his council asked said witness to state what the defendant said on oath at the June term of the county court for 1856 in reference to having money in his possession belonging to the estate of John Conley deceased the defendant by his council objected to the witness answering said question but the court overruled the objection and permitted the witness to answer the question and the defendant by his council at the time excepted the witness then proceeded to say that he remembered that defendant said in his examination under the citation about the same as that stated by Judge Harris with a slight exception witness thought that defendant said he had given Maxwell only twenty dollars of the money and that he considered and believed that old man Conley intended and did give the pocket book and money to his wife, that the circumstance happened a few days before the death of the old man Conley Lewis Toliver was then called and sworn he was asked by plaintiffs council to state if he was in the Probate court at the time the defendant was brought by citation before the court in reference to money in his possession belonging to the estate of John Conley deceased and if so to state as well as he could remember what the defendant said in his examination here again the defendant by his council

objected to the witness stating what defendant had sworn but the court overruled the objection and suffered the witness to answer the question: who testified that he could not remember all that the defendant said during his examination but that he recollected that defendant said that his wife told him she was sweeping the hearth one morning while old man Conly at his house and that she came near sweeping a small purse of money within the fire over a purse containing a small amount of money and picked it up and showed it to the old man her father, who at the time handed her his pocket book and told her that his purse came near being swept into the fire and that his pocket book might go in the same way and for her to take both the purse and the pocket book and take care of them that there was as he understood defendant to say one hundred and seventeen dollars and fifty cents in the pocket book and the purse that his wife had received the money about two years before he was called before the pro court. whereupon plaintiff closed his case. The defendant then through his counsel proposed to be sworn in the case and to state the facts in reference to the money said to belong to the estate of Conly in his hands or that had been given to his wife and the plaintiff by his counsel objected to witness answering the question and the court sustained the objections and the defendant at the time excepted to the ruling of the court. This is all the evidence

in the cause wherefore the Court proceeded
to render judgment affirming the order of the
County Court and the defendant by his
counsel entered a motion in arrest of
judgment and for a new trial and assign
as cause in arrest of judgment that the defen-
dant should have been examined under
oath touching the possession of money in
his hands belonging to the estate of Cooley as
directed by the statute in such case
made and provided, and assign as causes
for new trial that the finding of the Court
was contrary 1st to law 2^d Contrary to the evi-
dence and thirdly contrary to the law and
the evidence. The Court overruled the mo-
tion in arrest of judgment and for a new
trial and entered judgment on the find-
ing and the defendant at the time then
and there accepted and prayed an appeal
which was granted & thirty days given to
file appeal bond and ten days to prepare
and present this bill of exceptions at
the Richland County Circuit Court for
the approval Court this is all the proce-
ding in the cause — which said bill
of exceptions is signed and sealed
and made a part of the record

attest

J. Harlan Clerk

State of Illinois } ss;

Clay County } J. P. Hingate Clerk of the
circuit court of said County do hereby certify that
the foregoing is a true and correct transcript of
the proceedings had, papers filed and bill of
exceptions prepared by defendants, Council in
the above entitled Cause.

Given under my hand and the seal
of said court at Louisville this the
30th day of October A.D. 1857.

J. P. Hingate Clerk

And said Appellant comes and
assigns the following errors on the foregoing
Record

- 1st The Court admitted improper evidence
for the Appellee in the Court below
- 2^d The Court refused proper evidence
for the Appellant on the trial below
- 3^d The Court overruled the motion for new
trial & entered judgment for the Appellee
Hewitt & Ryan - for
Appellant

It is The Judgment of the Court
was against the law and the evidence
in the case

Ryan & Worrest for
Appellant

And the said Defendant in error
comes & says there is no error in
said Record

Hatchett

for Appellee

17

John Williams

John Corley Adams

John Corley Adams

Special Agent to the Court

Filed Dec 2. 1857

A. S. Johnston Clerk

Paid \$5.00 by Bryan

It is the judgment of the Court
that against the two and the evidence
in the case

Appellant & Respondent

That the said defendant in error
is not liable there is no error in
the judgment
for Appellant

Louisville Ky.

Oct. 24th 57

Noah Johnson, Clerk of the Supreme
Court

Sir enclosed find
Papers in the case of Williams
Plaintiff ~~in Error~~ ^{appellant} vs. Conley
~~appellee~~
Please inform me if they are
received in time for the next Term
Also let me know about what
time in the Term the case of
Henderson Plaintiff in Error
vs. Barbre will be likely to
come on for a hearing
and oblige

Yours Truly
E. G. Howell

A B S T R A C T.

JESSE WILLIAMS, *Appellant*, } *Appeal from*
vs. }
 JOHN CONLEY, *Adm'r of estate* } *Clay County.*
of John Conley, dec'd., Appellee.

1 Citation to appear before Probate or County Court—to answer as to money or effects belonging to the estate of John Conley dec'd, in hands of Williams.

2 Appearance of Williams in County Court.

3 Order of County Court—that Williams pay to Admr's of John Conley Dec'd, one hundred dollars in money.

4 Appeal from order of county to Clay Circuit court.

5 Trial by Circuit Court without intervention of jury, by consent of parties.

Testimony of Plaintiff below.

6 Hiram K. Farris, Judge of county court of Clay county—was called and sworn. Defendant by his counsel, objected to said witness testifying—the court overruled objection and permitted witness to testify, and defendant by his counsel at the time excepted. Witness stated that Williams, Defendant, had been brought before him as County Judge by citation, at June term of County Court, for 1856, that he swore Williams, and required him to answer questions. Williams in answer to questions propounded, the old man Conley lay sick at his house awhile before he died—that his wife Sally was the daughter of Conley and while sick, and a few days before he died, he gave Sally his pocket book—remarked to her at the time to take and take care of it—that he thought and believed the old man gave the money to his wife—that the old man had been sick a short time before at one Maxwell's another son-in-law, and that he thought Maxwell should have part of the money for his trouble with the old man—that he gave him forty dollars of the money—that there was in the pocket-book about \$117,50—could not remember what Williams said, he had done with the balance of the money.

7 Francis Apperson, clerk of court, was then called and sworn; Defendant by his counsel objected to witness testifying—court overruled objection and the counsel for Defendant at the time excepted, and witness stated that he remembered the testimony of Williams given before the court under the citation about as the Judge of the court had stated it, with a slight difference—he understood Williams to say that he had given only \$20 of the money to Maxwell.

8 Lewis Toliver, a witness was sworn—Defendant by counsel objected to witness testifying—court overruled objection and defended by his counsel at the time excepted—Witness stated that he was in county court when Williams was examined under citation, and remembered that he said his wife Sally was sweeping the hearth one morning, and came near sweeping into the fire a purse containing a small amount of money. She picked it up, and asked her father who was lying near in bed, if that was his purse—he said yes, and that it might have been swept into the fire, and at the same time handed her his pocket-book and told her to put it away, or to take care of it—that he thought the old man had given it to his wife—that there was \$117,50 in all of the money—that he had given Maxwell \$20 of the money—that old man Maxwell died some two years before Williams was called into court by citation.

9 Defendant Williams, then by his counsel, proposed to be sworn and testify, and counsel for Plaintiff objected, and the court sustained the objection—Defendant by his counsel at the time excepted. Judgment of circuit court in affirmance of the order of the County court.

10 Motion for new trial—overruled by the court, and judgment entered upon the finding—defendant by his counsel at the time excepted.

E. L. HOWETT, }
 SILAS L. BRYAN. } *Atty's for Appellant.*

17

ABSTRACT.

JESSE WILLIAMS, Appellant

vs.

**JOHN CONLEY, Adm'r of
estate of John Conley, dec'd.,**

Appellee.

Appeal from Clay County.

SUPREME COURT, DECEMBER, 1857.

Counters. Dec. 2, 1857.

**E. L. HOWETT, Attorney's
& for
SILAS L. BRYAN. Appellant.**

Register print, Salem, Illinois.]

Filed Dec. 2, 1857.

A. C. Johnston Clerk

Of the November term
of the Supreme Court of
Ills for the year 1857

John Conly Admr^r & plaintiff below { Appell from
vs { blog county
Jesse Williams defendant below
Chr Clerk

You will please
docket the above entitled cause for
a hearing at the November term
for the year AD 1857

E. L. Hawes & S. L. Bryan
Attys for Appellant

As the Defendant below is the
Appellant & plaintiff in this cause
S. L. Bryan
Attg

38
Jesse Williams App-
ellant
vs
John Lewis Adams
Appellee

Appeared from
Clay County

Filed 23. October 1857
J. Cook, Reporter C. M.

November Term Supreme
Court at Jefferson County, Kentucky

Jesse Williams ~~North Appellant~~

vs

John Currey and of estate Appellee
of John Currey and dependent in error

Writ of Error
from Clay County

Know all men by these pres-
ents that we Jesse Williams Silas

L Bryan and Edmund L Hawst are held
and firmly bound unto John Currey as Admin-
of the estate of John Currey deceased in the sum
of two hundred dollars, and for the payment of
which sum we jointly and severally bind ourselves
our heirs and assigns firmly by these presents
Witness our hands and seals this 20 day of December
1854

The condition of the foregoing obligation is such
that whereas the above named Jesse Williams
has this day filed with the clerk of said court his
vered in said cause and certifies from the circuit
court of Clay county of error and has prayed the
said Supreme Court to grant a Supersedeas to stay
all further proceedings in said cause in the said
circuit court till this cause can be heard and
determined at the November term of said court
for the year 1858 and that a Supersedeas has been
granted in said cause at the instance of appellee

of the said Jesse Williams ~~Appellant~~ ^{Plaintiff} or plaintiff in
 error. Now of the said Williams shall well and
 truly prosecute his said writ of Error or Suit as
 of record in the said Supreme Court with effect
 and without delay and pay or cause to be paid whatever judg-
 ment and costs that may be rendered & said court &
 officials for a term of the same in the premises then this
 obligation shall be null & void otherwise to remain
 in full force and effect - Witness the day & year
 of forever said

Legat ^{by} William Seal
 John W. Seal
 Edmund H. Seal

Williams

in

error of

error

John W. W. 1857

St. John's

A B S T R A C T.

JESSE WILLIAMS, *Appellant*, } *Appeal from*
vs.
 JOHN CONLEY, *Adm'r of estate* } *Clay County.*
of John Conley, dec'd., Appellee.

- 1 Citation to appear before Probate or County Court—to answer as to money or effects belonging to the estate of John Conley dec'd, in hands of Williams.
- 2 Appearance of Williams in County Court.
- 3 Order of County Court—that Williams pay to Admr's of John Conley Dec'd, one hundred dollars in money.
- 4 Appeal from order of county to Clay Circuit court.
- 5 Trial by Circuit Court without intervention of jury, by consent of parties.
- 6 Testimony of Plaintiff below.
 Hiram K. Farris, Judge of county court of Clay county—was called and sworn. Defendant by his counsel, objected to said witness testifying—the court overruled objection and permitted witness to testify, and defendant by his counsel at the time excepted. Witness stated that Williams, Defendant, had been brought before him as County Judge by citation, at June term of County Court, for 1856, that he swore Williams, and required him to answer questions. Williams in answer to questions propounded, the old man Conley lay sick at his house awhile before he died—that his wife Sally was the daughter of Conley and while sick, and a few days before he died, he gave Sally his pocket book—remarked to her at the time to take and take care of it—that he thought and believed the old man gave the money to his wife—that the old man had been sick a short time before at one Maxwell's another son-in-law, and that he thought Maxwell should have part of the money for his trouble with the old man—that he gave him forty dollars of the money—that there was in the pocket-book about \$117,50—could not remember what Williams said, he had done with the balance of the money.
- 7 Francis Apperson, clerk of court, was then called and sworn; Defendant by his counsel objected to witness testifying—court overruled objection and the counsel for Defendant at the time excepted, and witness stated that he remembered the testimony of Williams given before the court under the citation about as the Judge of the court had stated it, with a slight difference—he understood Williams to say that he had given only \$20 of the money to Maxwell.
- 8 Lewis Toliver, a witness was sworn—Defendant by counsel objected to witness testifying—court overruled objection and defended by his counsel at the time excepted—Witness stated that he was in county court when Williams was examined under citation, and remembered that he said his wife Sally was sweeping the hearth one morning, and came near sweeping into the fire a purse containing a small amount of money. She picked it up, and asked her father who was lying near in bed, if that was his purse—he said yes, and that it might have been swept into the fire, and at the same time handed her his pocket-book and told her to put it away, or to take care of it—that he thought the old man had given it to his wife—that there was \$117,50 in all of the money—that he had given Maxwell \$20 of the money—that old man Maxwell died some two years before Williams was called into court by citation.
- 9 Defendant Williams, then by his counsel, proposed to be sworn and testify, and counsel for Plaintiff objected, and the court sustained the objection—Defendant by his counsel at the time excepted. Judgment of circuit court in affirmance of the order of the County court.
- 10 Motion for new trial—overruled by the court, and judgment entered upon the finding—defendant by his counsel at the time excepted.

E. L. HOWETT, }
 SILAS L. BRYAN. } *Atty's for Appellant.*

17

ABSTRACT.

JESSE WILLIAMS, Appellant

vs.

**JOHN CONLEY, Adm'r of
estate of John Conley, dec'd.,
Appellee.**

Appeal from Clay County.

SUPREME COURT, DECEMBER, 1857.

8511

Officer

**E. L. HOWETT, }
Attorney's }
for }
Appellant.
SILAS L. BRYAN.**

Register print, Salem, Illinois.

File Dec. 2. 1857

W. L. Johnston

ABSTRACT

STATE OF ILLINOIS
SUPREME COURT,

{ ss. *12th Judicial District* WRIT OF ERROR.
THE PEOPLE OF THE STATE OF ILLINOIS;

To the Clerk of the Circuit Court for the county of *Clay* 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 *Clay* county, before the Judge thereof, between

John Conley Administrator of John Conley
Decedent

plaintiff, and *Jesse Williams*

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

Williams

s we are informed by *his*

complaint, 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 plea, aforesaid,
with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at

Mount Vernon, in the county of Jefferson, on the *14th Sunday after the 2d Monday of*

December 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:

John D. Catton

Witness, the Hon. ~~WALTER D. SCATES~~ Chief Justice
of our said court, and the seal thereof, at Mount Vernon this

Sixteenth day of *December*

in the year of Our Lord One Thousand Eight Hundred
and Fifty-*Seven*

North Sebastian

Clerk Supreme Court.

17

John Williams

in { Mrs of Emma

John Cowley. Adm of

John Cowley Decd -

Emma - Made a Supersedeas -

and filed Dec. 16. 1857.

A. Johnson Ck

This Mrs of Emma is Maria a Supersedeas, and
is to be obsoleted accordingly.

Frank Johnson Ck

1858 - No 17

Williams

24

Couley - Adm

8571

Ernst Clay

Reverend and
Remanded