

8823

No.

Supreme Court of Illinois

J. Robinson, et al,

vs.

John Moore

71641 7

No 61- of 1859.

Jo. Robinson et al

vs

John Moore

Appl. from Saline -

Affirma Apl. 1861-

J. Argue and
Submitted Nov. 1859- but
not decided till April
1861-

Nov 7 / 86/

8823

To Robinson
Moses, J. McShehee
& Michael H. Mayfield

appellants

John Moore

appellant from
Saline

Appellee

November term Supreme Court
1st Grand Division at Mt Vernon
AD 1859

Came this day the appellant
by Nelson his attorney & says that
there is error in the record &
proceedings aforesaid in this,
that the Circuit Court of Saline
County rendered Judgment against
the appellants whereas by the
law of the land it ought to
have been rendered for appellee
& this he is ready to verify &

and in asserting errors specially
on the record aforesaid the appellant
says that the Court erred in
rendering said Judgment, because
he says that the Circuit where
said Judgment was rendered
was held at Harrisburg and
and was not held at the County
Seat of Saline County

Secondly, because the Circuit Court ^{Court} had
no jurisdiction of the person of
the defendants

3^d Because the proceedings are
Coram Non Iudice

4th Because the Trial was,
had & Judgment rendered at
a place not Contemplated by
Law

5th Raleigh was at the time
of the Murder of the Suspect
apoc and the County Seat of
Saline County and the process
ought to have issued therefrom
whereas the process was issued at
Harrisburg which was not the
County Seat

6 The process & Judgment rendered
thereon was absolutely null & void
as being not being issued or rendered
^{power} at the place assigned by Law for
issuance or Trial thereby
and for these and other
errors assigned upon the record
the appellants pray that the Judgment
be reversed.

W. S. Nelson for appellants

Journal in Snow
Rosen & Hagman
for drafts

State of Illinois }
Saline County }

Now had before the
Honorble William J Allen Judge of the 26th
Judicial Circuit in the State of Illinois
on the 25th day of August A.D. 1857
in the County of Saline to wit;

John Moore
vs

Jr Robinson
Moses P McGehee &
Richard N Warfield

Of the August
Term 1857 of the
Saline Circuit Court
Action in Debt
Debt \$950⁰⁰/₁₀₀
Damages \$500⁰⁰/₁₀₀

The Clerk will please issue Summons
for the Defendants in the above entitled
Cause directed & returnable according
to law &c

W M Christy
att for plff

Filed August 1st 1857

H Bunnets Clerk

By Thos A Jones

John Moore
vs

Jr Robinson
Moses P McGehee &
Richard N Warfield

Of the August Term
1857 of the Saline
Circuit Court
I do hereby enter myself

Security for Cost in this Cause and I acknowledge
my self bound to pay or Cause to be
paid all Costs which may accrue in this
action, either to the opposite party or to any
of the officers of this Court in pursuance of
the laws of this State

Dated This 1st day of August 1858

W M Christy

Approved by me this 1st day of August 1858

Hiram Burnett Clerk

By Thos A Jones Depy

Filed August 1st 1858

H Burnett Clerk

By Thos A Jones Depy

The State of Illinois }
Solani County } ct

The People of the State of Illinois

To the Sheriff of said County Greeting
We Command you that you Summon
Jr Robinson Moses P McGehee and Richard
N Warfield, if they 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 Harrisburg on the
Fourth Monday in the month of August
Instant to answer John Moore and plea
of Debt (Debt Nine Hundred and Fifty

Dollars to his Damage of Five Hundred Dollars
as is alleged. And have you then and there
this writ, and make return thereon in what
manner you execute the same

Witness Hiram Burnett Clerk of our
Circuit Court, and the judicial
seal there of at Harrisburg

This Twelfth day of August in the
year of our Lord One Thousand eight
Hundred and Fifty nine

Teste Hiram Burnett Clerk Circuit

Court, By Thos A Jones Dep't

Served the within on Richard A Warfield and
Moses P McGehee by acknowledgment of
service 1st day of August 1859

Served on J. Robinson by reading 2nd day
of August 1859

W A Strickling Sffl S. C. J. L.
By W G Hoar Dep't

State of Illinois of the August Term 1859
Saline County of the Saline Circuit Court

John Moore plaintiff in
this suit by W M Christy his atty Compl
ains of J. Robinson, Moses P McGehee and
Richard A Warfield the Defendants in this
suit who have been summoned & of a plea that
they render to the said plaintiff the sum of

Nine Hundred and a Fifty Dollars which they
owe to and unjustly detain from the said Plaintiff
For that whereas the said defendants heretofore to wit
On the 2^d day of April A.D. 1858, at the County and
State aforesaid by the name and description of
J^r Robinson Moses P. McGehee A. V. Wasfield
made their certain writing obligatory bearing
date the day and year aforesaid, signed with
their hands and sealed with their seals
and now to the Court shown, by which said
writing obligatory they the said defendants
and agreed to pay to the said Plaintiff or
or before the fifteenth day of September
then next ensuing, the sum of Nine Hundred
and fifty dollars for value received of him
and then and there delivered the said writing
obligatory to the said Plaintiff, by means
whereof and by force of the Statute in such case
made and provided, they the said Defendants
then and there became liable to pay to the
said Plaintiff the said sum of money in the
said writing obligatory specified according
to the tenor and effect of the said writing
obligatory, and although the said sum of
money in the said writing obligatory
specified hath long since been due and
payable according to the tenor and effect

of the said writing obligatory, yet the said
defendants - although after requested so
to do, to pay the same or any part thereof have
hitherto wholly failed and refused, and
still fail and refuse to the damage of the
said plaintiff of the sum of Five Hundred
dollars - and therefore he sues &c

W M Christy
att for Plff

Copy of note

750⁰⁰
100

On or before the fifteenth day of
September next we promise to pay to
John Moore the sum of Five Hundred
and fifty dollars for value received of him

Given under our hands and seals
on this the 2^d day of April A.D. 1858

Jr Robinson (Seal)

Moses P. McGhee (Seal)

J. V. Warfield (Seal)

Endorsement on said note

Octob 28th 1858 recd Five Hundred and twenty
five dollars / 250⁰⁰ John Moore

Filed August 6th 1859

H. Burnett Clk

By J. H. A. Jones Sept

John Moore } August 1857
 vs }
 J. Robinson & Co }

And the said defendants
 comes & defends the wrong & injury when &c and
 says that they did not want to be sworn in manner
 & form as the D^y says both of which the complainant
 set them & of this they put themselves upon the County
 &c

J. H. Lyman atty for d^{ts}

John Moore }
 vs } And the plaintiff doth the like
 J. Robinson } Christy for self

And afterwards to wit on the 25th day of
 August 1857 at a Circuit then holden at the
 Court house in Harrisburg in Saline County
 Illinois the following proceedings & orans
 were had to wit;

Thursday
 August 25th
 1857

John Moore }
 vs }
 J. Robinson } Debt
 Moses P. McGehee & }
 Richard N. Masfield }

On this day came
 the parties by their attorneys and for trial
 of the Issue herein joined submit

the case to the Court, and the Court after
hearing and duly considering the proofs, finds
for the Plaintiff the sum of Eight Hundred
and Thirty two dollars Debt, and Forty one
dollar and sixty cents Damages, making
in all the sum of Eight Hundred and seventy
three dollars and sixty cents besides costs of
suit by him in this behalf expended.

And now comes the Defendants and enters a
motion for a new trial and arrest of judgment,
which motion is by the Court overruled, to
which rule the defendants excepts and prays
an appeal to the Supreme Court of the State
of Illinois, which appeal is by the Court
allowed, by the Defendants entering in to a
Bond of One Thousand dollars to be approv-
ed by the Clerk of this Court within thirty
days from the date here of construction as
the law directs

State of Illinois }
Saline County } ss

I William Burnett Clerk of
the Circuit Court in and for the County of Saline
and State of Illinois do hereby Certify that
the foregoing is a full and complete
Transcript of the record of the foregoing

Entitled same as complete and full as the
same appears of record and on file in my office
In Witness whereof I have hereunto
set my hand and the judicial seal
of said Circuit Court at office
in Harrisburg the 28th day of
October A.D. 1859

Hiram Burness Clerk
By Thos A Jones Deft

61

John Moore
vs
J. Robinson
Charles P. McGeehan
Richard W. Masfield

Record

Filed Nov. 17-1859.

N. J. Robinson Clerk

Paid — \$ 5.00

Supreme Court Room

Ottawa April 25.

Wm

I have just rec^d a letter
from Judge Haynie complain-
ing of some delay on our part
in disposing of the Case of Joseph
Robinson et al. appellants
against John Moore appellee
from Sabine County, and
says the record is at Mt. Vernon.

The Chief Justice requests you
would send it by mail or
by express if any bulky - I
never heard of the Case before
to my recollection - It was
submitted Apr. term 1859,
so prop H. says - Please
attend to this soon -

Yrs. in haste

Livingston

Paak Zehnat Ell
 M. beum }
 Ells }

Please inform me
what has become of the case of
Jo Robinson et al appellants
vs Appellants

And as soon as the case
is decided, send it back to our
country as soon as possible.

This is a dangerous delay -
- for us, Hoping to hear from
you soon & remain
Yours

Yours &c
Wm Christy

27 July 61 -

9. March 61 -

30 April. Papers sent to Judge Bruce
at Ottawa. Letter to Chinty -

Nov. 1.

John Moore

vs.
Jo Robinson
Moses P M Ghee
& Richard Warfield

} In the Supreme
Court Nov. Term
1859. -

And the said
plff comes and defends the wrong
suffering which he and demands
to 1st 4th 5th & 6th assignments
of Error made by said defendants
in this cause, for that the
same are not sufficient
wherefore he

Prays
for plff

Atob1

Moore

m.

Robinson

Stal

Sum. to

at the 7th

1.4.5 to 6 approx =

sum of 2000

STATE OF ILLINOIS—IN THE SUPREME COURT—FIRST GRAND
DIVISION—NOVEMBER TERM, 1859.

Jo Robinson et. al. Appellants, }
vs. } Appeal from Saline.
John Moore, Appllee.

This was an appeal rendered from a judgment in the Circuit Court of Saline County in this State.

The appellant assigns for error, that the judgment was rendered at Harrisburg, and not at Raleigh, the seat of justice of said county.

R. S. NELSON, for Appellant.

Brief of authorities referred to by appellant—page 20, Ills R, 164—5.

61 489

36
8
304

Jo. Robinson
and

by
Hoon

Chief of the Judges referred to by the Hon. Mr. Justice—see 20, 18, 104—8.

Mr. Justice, and not at the High Court, the seat of justice of said county.

The Hon. Mr. Justice, for the Hon. Mr. Justice, that the Hon. Mr. Justice was referred to.

The Hon. Mr. Justice, for the Hon. Mr. Justice, that the Hon. Mr. Justice was referred to.

The Hon. Mr. Justice, for the Hon. Mr. Justice, that the Hon. Mr. Justice was referred to.

The Hon. Mr. Justice, for the Hon. Mr. Justice, that the Hon. Mr. Justice was referred to.

Division—Hon. Mr. Justice, that the Hon. Mr. Justice was referred to.

State of Illinois—in the Hon. Mr. Justice, that the Hon. Mr. Justice was referred to.

Filed Nov. 21, 1859.

A. Johnston Clerk

This case and the
opinion you need
not return to me
I have copied all
I want of it —

Yours E. C. C.

Robinson

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Moore

Opinion by Cotton ch. J.

So far as we can judge from the manner in which this case has been presented, we suppose it is the purpose of the appellant to try in this matter the question as to where is the legal County Seat of ~~Saltine~~ Saltine county; for the only complaint is "That the judgment was rendered at Harrisburg & not at Raleigh the seat of justice of said county." But ^{neither} ~~neither~~ the facts here assumed is shown by the records. There is not one word in the record from which ~~it~~ we can learn where the court was held, only that it was in the county of Saltine; nor is there one word showing what place is the County Seat of that county nor can that ~~question~~ question be settled by an inspection of the Statutes or the decisions of this Court. The summons was tested at Harrisburg, but even if that was void for this or any other reason, that would not put the case for the appellant.

for they appeared, filed a plea and
defended the action.

But beyond all this, we cannot try
the question here sought to be raised
in this collateral way. Whenever we
settle that question it must be on
a direct proceeding for that purpose.

This may be a question of great doubt
depending upon controverted facts,
and it would be monstrous indeed to
hold, that if the Circuit Judge was mistaken
in his conclusions as to which place was
the legal county seat, all his judgments were
void & all his proceedings were nullities.

Such is not the law and the judgment
is affirmed.

Robinson

"

Moore

Opinion
Lester