

No. 14028

# Supreme Court of Illinois

People

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vs.

Jonathan Dow

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Supreme Court

Jonathan Dow  
vs  
The People

December Term A.D. 1844

On Writ of Habeas Corpus.

And now at this day comes the said  
defendant by Davis, Martin & Gillespie his attor-  
-neys and defend the wrong and injury when he said that  
that the matters and things set out in the return of the  
Sheriff of Madison County to the writ of Habeas Corpus herein  
are not sufficient in Law to bar or preclude the said pris-  
-oner from being discharged unconditionally by this Honorable  
Court, or to warrant his detention in custody by the said  
Sheriff of the County of Madison aforesaid. Wherefore for want  
of sufficient authority of the said Sheriff to detain the  
said prisoner in custody, he prays judgment of this Honorable  
Court that he may be finally discharged from  
his illegal arrest and imprisonment by this Honorable  
Court and be permitted to go hence without day &c

Geo M Davis  
Wm Martin  
J Gillespie Atty for Prisoner

Supreme Court

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Jonathan Dow

vs

The People

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Demands the return of the  
Sheriff of Madison County  
upon the Habeas Corpus  
herein.

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David Martin Gillespie  
Attys for Prisoners.

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Filed 17<sup>th</sup> July 1844  
E. C. C.  
184

State of Illinois

Supreme Court S.

December Term A.D. 1843

I Andrew Miller Sheriff of Madison County and State of Illinois have the body of the within named Jonathan Dow now here in open Court ready to abide the further order and judgment of this honorable Court herein as within Comma<sup>d</sup>

And the said Sheriff further certifies that heretofore to wit on the twenty eighth day of August in the year of our Lord 1843 he as Sheriff of the County of Madison aforesaid received a writ of Attachment issued out of & from the Circuit Court of Madison County in the State of Illinois and to him as Sheriff of said County directed under the hand of the Clerk of said Court & the seal thereof and bearing date the said 28<sup>th</sup> day of August A.D. 1843 which said writ had been issued by the said Clerk upon the certificate of John G. Cameron Master in Chancery in & for the County of Madison aforesaid and the order of James Semple Judge of the Supreme Court directed to the Clerk of said Circuit Court of Madison County Copies of which said writ of Attachment and the said Certificate of said Master in Chancery & the now of said Judge are hereto attached and prayed to be taken as a part of this return, and returnable to the October Term of the said Circuit Court then next following

and that he as such Sheriff as aforesaid  
by virtue of said writ of Attachment on the  
second day of September 1843  
attached the body of the within named Jon  
athan Dow as therein and thereby com-  
manded and according to the exigency  
of the said writ, and detained him  
thereby

And he further certifies that while he  
had and held the ~~body~~ of the said Jonathan  
Dow in manner & form as aforesaid he  
was commanded by a certain writ of  
Habeas Corpus directed to the said Sher-  
iff of Madison County & issued by the  
Clerk of the said Circuit Court of Mad-  
ison County under the seal of said Court, com-  
manded to have the body of the said Jonathan  
Dow before the Honorable the Circuit Court of  
Randolph County in the State of Illinois to pre-  
=ce with the cause of his caption and detention  
on the fourth day of the September Term A.D.  
1843 then sitting at the Court House in  
the Town of Nashville in and for the County  
of Randolph aforesaid, then and there to re-  
=main and abide the judgment and decision  
of the said Court in the premises

And the said Sheriff further certifies that in  
obedience to the said writ of Habeas Corpus  
on the twenty eighth day of September in the year  
1843 being the fourth day of the said September  
Term of the Randolph Circuit Court in the  
County of Randolph aforesaid and according to  
the exigency & commands of said writ of Habeas

Express he the said Sheriff had the body of the said Jonathan Dow before the said Court together with the cause and manner of his capture and detention and thereupon, it was ordered by the the said Court on hearing the allegations of the said Jonathan Dow and the arguments of counsel, that the said Jonathan Dow be remanded to the custody of the Sheriff of Madison County aforesaid, and that he be allowed to enter into Bond to the Sheriff with security to be approved by the said Sheriff in the penalty of Nine hundred and forty eight Dollars conditioned for his appearance on the first day of the next Term of the Madison Circuit Court then and there to purge himself of the said Contempt with which he stands charged

And he further certifies that in pursuance of the said Order of the said Circuit Court of Randolph County he afterwards to wit on the thirtieth day of September in the year 1823 admitted the said Jonathan Dow to bail in the said sum of \$948.00 with Alfred Dow M. G. Atwood John Dyer P. B. Whipple Abner Preath George Inezly and John Bulkshie as his securities conditioned as aforesaid

And he further certifies that afterwards to wit on the return day of said writ of attachment he returned the same into the said Circuit Court with his return thereon endorsed and how he had executed the same together with

with the said bond ~~so taken~~ as aforesaid  
and which was filed of record in said Court  
And he further certifies that afterwards  
by the order and judgment of the said  
Circuit Court of Madison County he  
the said Jonathan Dow was required to  
enter into bonds ~~with security~~ to the  
said Sheriff of Madison County in the  
further penal sum of Two Hundred and  
fifty Two Dollars with security to be appor-  
tioned by the said Sheriff conditioned that  
the said Jonathan Dow should be and  
appear before the said Madison Circuit  
Court in & for the County of Madison  
aforesaid on the first day of the next  
Term thereof to be holden at the County  
House in the Town of Edwardville in said  
County on the fourth Monday of May  
next then & then <sup>to purge himself of</sup> ~~to answer~~  
~~the said~~ ~~charges~~ ~~and~~ ~~abide~~ ~~the~~  
~~order~~ ~~and~~ ~~judgment~~ ~~of~~ ~~the~~ ~~said~~ ~~Court~~  
thereon which said order the said Jonathan Dow has neglected  
and refused to comply with

And he further certifies that afterwards  
to wit on the 30th day of December in the  
year 1843 he the said Jonathan Dow  
was surrendered into his custody by John  
Dyer one of his said bail. And by virtue  
of the said writ of Attachment and the said  
several orders of the said Randolph Circuit  
Court and the said Madison Circuit Court  
he now holds and detains the body of

of him the said Jonathan Dow  
in his custody as by the Executions of the  
said writ of Attachment and the said  
Orders of the said Circuit Courts he is  
Commanded - January 16<sup>th</sup> 1844

Andrew Miller, Sheriff  
of Madison County, Illinois

I have Jonathan Dow in custody as  
Sheriff of Madison County, Illinois, by virtue  
of an order of James Semple, Judge of the  
Supreme Court, and an Attachment ~~issued~~  
true copies of each, being herewith annexed  
and marked, (A.) and made part of  
my return, January 15<sup>th</sup> 1844

Andrew Miller Sheriff. C.

Supreme Court  
Dec. Term 1843.

Habeas Corpus to the  
Sheriff of Madison  
County

"By the Habeas  
Corpus Act."

Filed 17<sup>th</sup> Jan'y 1864  
Eck  
etc

Fees \$2.00 Recd of Matthews  
P.

State of Illinois }  
Sangamon County } 3p

The People of the State of Illinois -  
To the Sheriff of Madison County - Greeting  
Whereas a petition has been presented to the  
Supreme Court by Jonathan Dow alleging that  
he the said Jonathan Dow is now in your  
custody restrained of his liberty, without any  
color or authority of law, and praying the benefit  
of the People's writ of Habeas Corpus, in order that  
he may be released from custody, upon which an  
order has been made requiring the issuing of the  
said writ, and directing that the said writ be  
made returnable before the said Supreme Court  
of the State of Illinois now in session, all which  
appears from the Petition aforesaid and order  
in that behalf.

Wherefore we  
command you that you do without delay cause  
the said Jonathan Dow to be brought before  
the said Supreme Court of the said State of  
Illinois (together with an account of the causes  
of his being taken and detained in custody) to  
perform and abide such order as the said Supreme  
Court shall make in the premises, and that you  
also return this writ to the said Court, and  
hereof fail not under the penalty of the law.

Witness the Honorable William  
Wilson Chief Justice of our said Court  
and the seal thereof at Springfield this  
eighth day of January in the year of  
our Lord one thousand eight hundred  
and forty four.

Wick

l. 26.

"By the Habeas Corpus act"

Deck 6. 26.

The officer will execute this writ upon being paid mileage at the rate of ten cents per mile for eighty miles.

Deck 6. 26.

To the Honorable The Supreme Court of Judicature of the  
State of Illinois

Your Petitioner Jonathan Dow of the  
County of Madison in the State of Illinois respectfully represents  
and sheweth unto Your Honors, that he is now in the custody of  
the Sheriff of said County and State first aforesaid restrained of his  
liberty without any color or authority of Law. That the pretext for  
the illegal imprisonment of your petitioner is an attachment  
issued by the Clerk of the Madison Circuit Court in the State  
aforesaid of which the annexed exhibit marked A contains a  
true and perfect copy; which process or attachment was issued  
upon an order made by James Semple late a Justice  
of the Supreme Court of this State, at his chambers when no  
Court over which the said Semple presided was in session nor  
any Term thereof in existence; a copy of which said order is also  
annexed in exhibit B. And your petitioner expressly alleges  
that he is imprisoned by virtue of the process and order of Court  
true copies of which are annexed as aforesaid; and under no  
other pretense or pretext whatever. Your petitioner therefore prays  
that the writ of Habeas Corpus may issue returnable at an  
early day therein to be named before this Honorable Court ac-  
cording to the provisions of the Statute in such case made  
and provided. And your petitioner will ever pray &c.

Jonathan Dow

State of Illinois

Madison County ss: Jonathan Dow being duly sworn doth de-  
=clare and say that the foregoing petition by him sub-  
=scribed is true in substance and in fact and  
further this deponent saith not.

Subscribed and sworn before  
me this 30<sup>th</sup> day of December AD 1843  
at 5 o'clock P.M.

G. E. Brown  
Notary Public.

Jonathan Dow

Madison Co. Illinois

Exhibit A

State of Illinois } Madison Circuit Court of the May Term AD 1843  
Madison County } In Chancery. Bill for Specific Performance  
Joel Foster }

vs  
Jonathan Dow } Whereas it was decreed by the said Circuit Court  
at the May Term thereof AD 1843 (on the 5<sup>th</sup> day of July  
of said Term) that Jonathan Dow the defendant in  
the above entitled cause should within thirty days thereafter  
deliver up to the Master in Chancery of said Court, a certain pro-  
-missory note drawn by Charles S Hempstead in favor of said de-  
-fendant for the sum of Four Hundred and Fifty Dollars and dated  
the 4<sup>th</sup> day of November 1841 - or the sum of Two hundred and Twenty  
Five Dollars in money within the said time - I therefore do certify  
that the said defendant has not as yet complied with the said  
decree - either by delivering up the said note, or paying the said  
sum of money although duly notified so to do. Given under  
my hand at Edwardsville August 9<sup>th</sup> 1843.

I G Cameron  
Master in Chancery

State of Illinois }  
Madison County }

The Clerk of the Madison Circuit Court will issue  
an attachment in the above case so as to compel a performance  
of the decree in the above entitled case. Attest 13<sup>th</sup> August 1843

James Semple Judge of Sup<sup>r</sup> Court

State of Illinois } The People of the State of Illinois: To The Sheriff of  
Madison County } Madison County Greeting: Whereas at the May Term  
AD 1843 of the Circuit Court of Madison County aforesaid  
to wit on the 5<sup>th</sup> day of July AD 1843 by the judgment and considera-  
-tion of said Court it was adjudged and decreed in the case of  
Joel Foster Complainant against Jonathan Dow defendant, pen-  
-ding on the Chancery side of said Court, that the said Dow  
should within thirty days from the rendering of said decree  
pay or cause to be paid to the said Foster the sum of Seven Hun-

dred and Twenty Three dollars and thirty nine cents, and that he said Dow should also within said Thirty days from the rendering of said decree, deliver over to the Master in Chancery of said Court for the use of said Joel Foster a certain promissory note drawn by Charles S Hempstead in favor of said Jonathan Dow for the sum of Four Hundred and Fifty dollars and date on the 4<sup>th</sup> day of November 1841, or that he said Dow should pay within said thirty days to the said Master in Chancery for the use of said Foster, the sum of Two hundred and Twenty five dollars in money, and whereas it appears from the certificate of John G. Barnerow Esq<sup>r</sup> Master in Chancery of Madison County now of Record and on file in our said Court, that he the said Jonathan Dow has neglected, failed and refused to perform and comply with the conditions and requisitions of said decree, as above set forth, but stands in contempt of said Circuit Court aforesaid for failing neglecting and refusing so to do. We therefore command you that you attach the body of said Jonathan Dow if to be found in your County and him safely keep in close custody, until he shall strictly comply with and perform the judgment and decree of our said Court so as aforesaid made or until the further order thereof shall be made in the premises; Keep you will fail not under penalty of the Law; and this writ you will have before the Judge of the said Circuit Court on the first day of the next term thereof to be holden at the Court House in Edwardsville on the 4<sup>th</sup> Monday in the Month of October AD 1843 with your return thereon endorsed in what manner you shall have executed the same. Witness W<sup>m</sup> Taylor Brown Clerk of our said Circuit Court for Madison County aforesaid and the Seal thereof at Edwardsville this 26<sup>th</sup> day of August AD 1843

L S

W<sup>m</sup> T Brown Clk

Jonathan Dow  
Ex parte -

Application

For

Habeas Corpus -

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People

Filed 6<sup>th</sup> Jan'y 1844

Esch

Ch

14028