

No. 13526

Supreme Court of Illinois

Pierce

vs.

Wilcox.

Supreme Court of Illinois
April Term 1860

Elephant Pierce

"

Mathaniel B. Wilcox

and having being
some days.

That the order
entering judgment in said
case in the court below
was not made non pro
time to the knowledge of
your affiant. That
your affiant made the
motion for judgment on
the verdict, but said Mo-
tion was not made to have
the same entered non
pro time, and your
affiant avers that he made
said motion and the
same was resisted by your
counsel, appellants attor-
ney, and he has had oppor-
tunity to know and never till

Prerice 374
wlcw

+++ Your affiant further states that he has no knowledge of the fact stated in the Appellants writs against this Motion; that he is in constant attendance at said Court & has never heard or known of any attempt to restore or reelect M- said case, and states that it is his firm belief that the case is not reprobated, & if so it is without the knowledge of his client & attorney.

the moment of seeing the affidavit of Mr Grundy today on this case heard or deemed that said Motion was made on the ground that there was any clerical error in the record. Your affiant states that he moved for Judgment in said case on the ground that no Judgment had been rendered therein - upon the verdict, & that he was entitled to such Judgment as a matter of course - and your affiant states that he knows that on this ground alone the Motion was urged & sustained by the court. +++

Geo. P. Harding

Sworn to & subscribed before me this 2nd day 1860 -

L. Deland Clerk of the sup. Court
by J. N. Rice Deputy.

Additional Affiant
of Geo. P. Harding

Filed May 2. 1860

L. Deland
Clerk

132456
13576

State of Illinois 3rd Grand Division
Supreme Court April Term 1860
Clement Pierce }
vs } Appeal from Warren
Nathl. B. Wilcox }

Mr. Gandy being duly sworn
states he has no recollection of having
heard in any way prior to the last
Term that a motion to dismiss the
appeal would be made, and he
states positively that no written notice
of such intention was ever served
on him or the appellant; he also
states that no notice was ever
served on him or the appellant
until the 18th instant of the intention
to move to set aside the order of
this Court reversing the judgment
for non-joinder; that the statement
in the affidavit of Geo. F. Harding
that "he notified said Gandy of the
foregoing facts & that he would
move to set aside" &c does not relate
to any formal notice, but was merely
a private conversation in which
this affiant informed the said
Harding that the judgment had

been reversed & in which the said
Hording ~~said~~ replied to this affiant
that he would move to set aside the
order, but fixed no time or place, and
this affiant never heard until the
19th instant that such a motion was
made at the last Term.

And this affiant states that
after the appeal was pending in
this Court, ^{& before the reversal} the Circuit Court of
Warren County upon notice to this
affiant by the attorney of the ap-
pellee, rendered a formal judgment
on the Verdict, having found that
the omission to enter it was a
clerical error, that at the time
this Court reversed the judgment
a formal judgment had been en-
tered non pro tunc by the
Circuit Court of Warren County.

W. C. Gandy

Subscribed & sworn to
before me this 20th day
of April 1860

L. Leland Clerk
by J. B. Burt Deputy

Filed April 20 1860
L. Leland
Clerk

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Benjamin D. H. H. H.
Jas. B. H. H. H.
Atty of W. C. H. H.
Residing in Warren.

Supreme Court of Illinois
3rd Grand Division.
April Term 1860

Element Pierce

n

Nathaniel B. Wilcox

George H. Audon being
duly sworn Says

That he is &
at all times since the filing
of this Record in this
Court has been the sole
acting Attorney for said de-
fendant & appellee.

That at the
last term of this Court on
May 4 1859 he moved
said Court to set aside
the reversal of judgment
taken in said case for
non-jurisdiction & to dismiss said
appeal.

That he could not
learn the fate of said
motion at last term of
this Court although having

made repeated applications
at the Clerk's office of
said Court for infor-
mation in regard to
said Motion.

That at this term aforesaid
Court he again called
on the Clerk for in-
formation in regard
to said Motion and the

Reply of the officer was
that he ~~did not~~ did
not know that said ~~motion~~
was decided at that term. x

Your affiant further
states that on the Judge's
docket there is a Mem-
orandum that the Motion
is overruled bearing date
May 14th — and that im-
mediately upon ascertaining
that said Motion was so
overruled Your affiant
on the same day ~~entered~~
filed his Motion for a
rehearing aforesaid Motion
which was filed on the
second day of this term
& gave notice of his intention to
move for a rehearing aforesaid
Motion on the 15th day of said term.
to the Counsel for appellant.

+ Your affiant further states that said defendant is a resident
of Chicago & has no business or other interest in this case
or any other business of the Court in this case

as will appear by the
files of the Court in this case.

Your affiant on
behalf of & for said
defendant prays that
said Motion may be
reheard at this term.

Geo. H. Harding
atty for said
defendant & appellee

Subscribed
before me this
day of April, 1866,
L. Island, Ct.

Pierce
n
Willms

Affidavit

Filed April 22 1861
L. Leland
Clerk