

12370

No. _____

Supreme Court of Illinois

Frink, et al.

vs.

Bolton.

17
John Fennik et al
vs
John Bolton
1854

77

12370

1854

[2970-1]

John W. Frints et al

vs

John Bolton

Greene

Filed June 15, 1884

Leland

Clk.

United States of America
State of Illinois }
DuPage County }

Plas before the
Honorable Hugh Henderson presiding
Judge of the Eleventh Judicial Circuit in the
State of Illinois, at a Circuit Court in and
for the County of DuPage in said Judicial Circuit.
it began and held at Naperville, in said County,
on Monday the Tenth day of April, in the
year of our Lord one thousand eight hundred
and Fifty four, and of the Independence of
the United States of America the Twenty Eighth.

Present. The Honorable Hugh Henderson, Judge.
Sherman N. Bowen, State Attorney.
Truman W. Smith, Sheriff of said County.
Attest Peter Northrop, Clerk.

State of Illinois
Circuit Court of DuPage County.
April Term A.D. 1854

John Bolton
vs
John Frink and
Martin C. Walker }

Be it remembered
that at this present April term of the DuPage
County Circuit Court, the said Court being in
session, it being the 18th day of said month of April, came
the said Defendants by their Counsel and filed the

following affidavits to wit.

The Affidavit of John Frink,

State of Illinois }
De Page County }

Henry Frink being duly sworn upon his oath says that he was one of the Attorneys and Counsellors of the said Defendants. John Frink and Martin C. Walker, at the time of trial of said cause in said Court at the October term thereof, and that Judgement was then and there obtained against the said defendant for the sum of Seven Hundred Dollars, damages or about that sum and for costs of suit from which Judgement the said defendants took an Appeal to the Supreme Court of said State, and further says that at the June term of the said Supreme Court, Isaac S. Arnold, the Attorney and Counsellor for the said Plaintiff, John Bolton, agreed to and with this deponent then and there acting as the attorney of the said defendants, that in consideration that this deponent would dismiss the said Appeal, to take and receive the sum of Six hundred and fifty Dollars in full payment for the Judgement aforesaid, to which this deponent agreed and thereupon and in pursuance thereof, gave to said Arnold an order on John Frink & Co of Chicago, for the payment of said sum of Six hundred and fifty Dollars, in the words and figures following, and without any reservation of costs, to wit.

\$650.

Pay to I. S. Arnold or order Six hundred &

fifty Dollars being in full for Judgement of
Bolton vs Frink & Walker.

Henry Frink

To John Frink & Co.

Chicago

Ottawa July 6th 1853.

Which said order this deponent
is informed and believes was duly paid by said
John Frink & Co. by their Agent William Vernon.
at Chicago and the receipt of said Isaac N. Arnold
endorsed upon the back thereof in the words and
figures following, to wit:

July 9/53 Rec of W Vernon for J Frink
& Co

I. N. Arnold

And this deponent further says that notwithstan-
ding his settlement aforesaid with the said Isaac
N. Arnold. and the payment of the said sum of
money in pursuance thereof, and the receipt of
said Arnold so endorsed the said Plaintiff John
Bolton or some person in his behalf has caused
Execution to be issued out of said One Page County
Circuit Court, and fee bills directed to the Sheriff
of Cook County, which execution and fee bill are
now in the hands of said Sheriff for collection
and copies thereof hereto attached

Subscribed and sworn to
before me this 10th day of
July 1854

N. Kimball, Clerk

Henry Frink.

And also the affidavit of William Vernon.

State of Illinois)
Cook County)

William Vernon of said County,
being duly sworn says that on or about the ninth
day of July in the year eighteen hundred and
fifty three at the Office of John Frink & Co in the
City of Chicago. he paid Isaac S. Arnold the
sum of Six hundred and fifty Dollars on an
Order for said sum given by Henry Frink
upon John Frink & Co. and dated Ottawa July
6th 1853, and in the words and figures set forth
in the foregoing affidavit of Henry Frink
and that said Arnold thereupon indorsed his
receipt thereon as is also set forth in said affida-
vit, and further says that he paid said sum
on account and as the Agent of John Frink
& Co.

Subscribed and sworn to
before me this 10th day of
February 1854

N. Kimball Clk

} N. Vernon.

And also the Execution and fee bill accompanying
said affidavit issued by the Clerk of said Circuit Court

State of Illinois)
DuPage County)

The People of the State of Illinois
to the Sheriff of Cook County Greeting;

^{Effects and tenements}
The command
you, that of the Goods and Chattels of John Frink
and Martin C. Walker Defendants in your County

you cause to be made the sum of One hundred
and thirty eight Dollars and One cent which John
Bolton Plaintiff lately in the DuPage Circuit
Court of said County, at a Term thereof began
and held at Naperville in said County, on the
18th day of October past, recovered against the said
Defendants, and which by the said Court was adjud-
ged to the said Plaintiff for his costs and charges
in that behalf expended. Whereof the said defendants
were convicted as appears to us of record.

And have you these moneys ready to render
to the said Plaintiff for his costs aforesaid, and
make return of this writ with an endorsement thereon
in what manner you shall have executed the same,
in ninety days from the date hereof.

Witness Peter Northrop Clerk of our said Court
and the seal thereof at Naperville in said
County, this fourth day of January A.D. 1834
Peter Northrop
Clerk

State of Illinois
DuPage County

The People of the State of Illinois
to the Sheriff of Cook County Greeting

We command
you that of the Lands and Tenements, Goods and
Chattels of John Trunk and Martin C. Walker
Defendants in your County, you cause to be made the
sum of One hundred and thirty six dollars and one
cent, which John Bolton Plaintiff lately in the
DuPage Circuit Court of said County, at a Term
thereof began and held at Naperville in said

County on the 18th day of October 1852, past recovered against the said Defendants and which by the said Court was adjudged to the said Plaintiff for his costs and charges in that behalf expended, whereof the said Defendants were convicted as appears to us of record. And have you these moneys ready to render to the said Plaintiff for his costs assessed and make return of this writ with an endorsement thereon in what manner you shall have executed the same, in ninety days from date hereof.

Witness Peter Northrop Clerk of our said Court and the seal thereof at Naperville in the said County this fourth day of January A.D. 1854
Peter Northrop Clerk

State of Illinois
DuPage County

Copy of Ex Bill

John Bolton

vs
John Frank & Martin O'Walker

Clerks Fee	Apr Term 1852	Doc app & att. 25	2 pre 10 ⁰	33	
J. J. Riddle	9 Subs & fil 3.60	1 wit aff and fil 1/4		3 98	
Sept 7 1852	Dec 10	Pre 5 6 Subs 2.40	& fil do 2.40	4 93	
Oct 7 1852	Dec 10 or Jury 20	swr Jury 13	or dis	45	
10 or dis 10	or dis 10	or dis 10	or dis 10	or dis 20	60
Jury 25 or 20	fil 10	hears 30	fil cor of	93	
Mineps 5.24	Subs & fil 10.40	25	Mit aff & fil	10 45	
4.68	swr Jurors to answer 2.60	swr wit 1.00		8 28	29 81

Apr 7, 1832

Shuff of De Kalo 7

" " Cook 7 ser 1, 75. 8 m 40 Ret 10.	2	25	70
" " Du Page 2 ser 30. 2 m 10 Ret 10.			70
" " Kane 4 ser 1, 00 8 m 40 Ret 10.	1	50	
4 ser 1, 00. 8 m 40. Ret 10. 4 ser 1, 00 8 m 40 Ret 10.	3	00	
3 ser 75. 51 m 255 Ret 10. 2 ser 50. 34 m 170 Ret 10.	5	00	
2 ser 30. 80 m 400 Ret 10. 3 ser 75. 59 m ⁽²⁵⁵⁾ 275 Ret 10.	8	00	
1 ser 25. 10 m 30. Ret 10. 2 ser 50. 30 m 150 Ret 10	2	95	24 80

April 7 1832 Witness A. Gates 1 day 20 m 1, 00

October 9 1832 Shuff fee of Du Page ser 65. 10 m 50 Ret 10

4 ser 1, 00 8 m 40. Ret 10. 2 ser 50. 34 m 170 Ret 10	3	80	
2 ser 30. 30 m 150 Ret 10. 3 ser 75. 51 m 2, 55 Ret 10	5	50	
4 ser 1, 00 32 m 1, 60. Ret 10. 3 ser 75. 6 m 30. Ret 10	3	85	
3 ser 75. 51 m 255 Ret 10. 2 ser 50 80 m 4, 00 Ret 10	8	00	
ser 25. 1 m 5 Ret 10.		40	

Oct 9 1832 Shuff of De Kalo ser &c

" " Cook 4 ser 1, 00 4 m 20 Ret 10.	1	30	70
" " Kane 4 ser 1, 00 10 m 30 Ret 10.	1	60	
4 ser 1, 00 8 m 40. Ret 10. 2 ser 25. 2 m 10 Ret 10	1	75	
4 ser 1, 00 8 m 40 Ret 10.	1	50	29 45

Witness fee for Deft to pay a certified

J. B. Mayo. 4 d 80 m 4, 00. Kendall Jan 4 d 10 m 4, 00	8	00	
J. B. Hunt 3 d 30 m 2, 30. T. B. Watterman 4 d 30 m 2, 75	5	05	
J. Andrews. 4 d 30 m 2, 75. N. G. Conklin. 4 d 30 m 2, 75	5	50	
Dr. D. D. Waite. 4 d 30 m 2, 75. Dr. H. M. Crawford 4 d 30 m 2, 75	3	50	
Dr. Palmer. 3 d 60 m 3, 00 Mrs. Hacking 2 d 20 m 1, 50	4	50	
George W. Thompson. 4 d 30 m 2, 75 C. L. Cents 4 d 60 m 3, 50	6	25	
J. Hensley. 4 d 22 m 2, 35. W. A. Lake 4 d 30 m 2, 75	5	30	
Andrew Nelson. 4 d 60 m 3, 30. N. H. Whiting 4 d 60 m 3, 50	9	00	
Dr. Brown 4 d 30 m 2, 75 Thompson Mead 3 d 24 m 2, 10	4	85	51 95

Clerks fees	Northrop Execution fil 45 Doc Ret 20. Sat 15. copy 20.	1 00
	Jury Fees	3 00
	Sheriff of Kane. fees on Sub	2 30
	" " Cook 2 Ser 50. 2 m. 10. Ret 10.	70
	7 Ser 175 8 m. 40. Ret 10	2 30
	Witness fee Ezra Gilbert 2 days 28 m.	1 70
Clerks fees	Northrop C. B. 30 Cordeal 33. Doc Ret 20	1 25
	Sat 15. fil 5. Copy 20	

I Peter Northrop Clerk of DuPage County Circuit Court, do hereby certify, that the above is a true copy from my fee book

Peter Northrop
Clerk

And the following order of Buckner S. Morris.
State of Illinois
Cook County

This is to certify that there is probable cause for staying further proceedings on the Execution mentioned in the foregoing proceeding & papers until the further order of the Court from which said execution issued.

Given under my hand this 17th
day of February A.D. 1854 at Chicago
Buckner S. Morris
Judge 9th Cir Ill

And thereupon the following rule was entered

John Bolton vs. John Frink & Martin O. Walker

And now again come the parties herein by their respective Attorneys and on motion of the Defendants attorney a Rule is entered on said Plaintiff to show cause if any instanter why the Execution and fee bill herein should not be quashed.

And thereupon come said Plaintiff by his Attorney and filed the Affidavit of Isaac N. Arnold, herein.

On Page Circuit Court

John Bolton

vs
John Frink and
Martin O. Walker

Cook County p

Isaac N. Arnold being duly sworn, says that a stipulation of Copy of which is hereto attached, and was signed & filed by this deponent and J. C. Frink Attorney of Frink & Walker, as the bases on which the suit was settled in Supreme Court, that it was his understanding that the Six hundred and fifty dollars was to be paid for damages and the appeal was to be dismissed at costs of Frink & Walker, and leaving them to pay costs in court below, this deponent would not have settled the case on any other terms and

this ^{deponent} is clear in his ~~own~~ recollection that this was his understanding of the settlement and he is confirmed in it by recollecting that the costs were mentioned in the discussion between said Frink and himself and that it was mentioned that most of them was paid and that Frink & Walker would have little more than costs of last trial term to pay that such is his recollection and that he does not believe that he can be mistaken about it.

(Seal)

Isaac Arnold

Subscribed and sworn
before me at Chicago this 9th day of April A.D. 1854
Witness my hand and the seal of the Circuit Court
of Cook County S. D. & Coar. Clk

And also filed herein the certified copy of the order
of the Supreme Court of said State of Illinois
and the stipulation therein

Supreme Court 3rd Division, State of Illinois
June Term 1853 Tuesday July 12 1853

John Frink et al

vs
John Bolton

} Appeal from De Page

This day the Court ordered ^{that} this
be dismissed at the costs of the Appellants, and
it is further ordered considered by the Court
that the said Appellee recover of from the said
appellants his costs by him in this behalf

expended and that he have Execution therefor.
A Stipulation of which the following is a
copy was filed in my Office July 13th 1833

John Bolton
vs
Frink & Walker } On payment of H. Frink
Draft on John Frink & Co for
\$130, the appeal to be dismissed at cost of Frink
& Walker
July 1st 1833
H. Frink for Plffs
J. N. Arnold for Bolton

I George Seland Clerk of said Supreme
Court Certify that the foregoing are true Copies
of the final order recorded and the stipulation
filed in the above described cause of Frink et al
vs Bolton

(Seal)

Witness my hand & the seal
of said Court at Ottawa this
28th day of February A.D. 1834
Signed G. Seland Clerk.

And after hearing the arguments of Counsel
the Court entered the following order

John Bolton

vs
John Frink &
Martin O Walker }

And now again come the
parties by their respective Attorneys and the

Court having heard the Evidence and the argument
of Counsel. It is Ordered that the Order of Judge
B. S. Morris staying the Execution of the Bill
herin be vacated and that an alias Execution
of the bill be issued by the Clerk of this Court

To the entering of which the Defendants by
their Counsel excepted, and Twenty days is given
by the Court to make up sign, seal, and file a
Bill of Exceptions

Done at my chambers in Joliet this 6th of
May A.D. 1854

Hugh Henderson 
Judge of the 11th Judicial
Circuit State of Illinois

State of Illinois
Peoria County

I, Peter Northrop Clerk of
the Circuit Court in and for said County
in the State of Illinois hereby Certify the foregoing
to be a true and correct copy of papers filed
as also a true and correct copy of the Rule and
final Order entered of Record by said Court
in the aforesaid cause

Witness my hand and the seal
of said Court at Naperville.
this 5th day of June A.D. 1854
Peter Northrop
Clerk

Supreme Court

John Frink &

Martin Walker

vs

John Bolton

And now comes the said John Frink & Martin Walker by Judd & Frink their attorneys and say that in the record and proceedings aforesaid there is error in this to wit

First That the ~~said~~ Circuit Court ought to have given judgment in favour of said John Frink and Martin Walker on their motion to set aside & stay the execution issued against them at the suit of said John Bolton for costs

Wherefore and for other errors apparent in said record they pray that said judgment may be set aside & annulled

Judd & Frink

Supreme Court.

John Smith vs
Martin O Walker
John Bolton

Motion to supersede ~~set~~ aside &
quash execution for costs

L. L. Leland Clerk

You will please issue
a writ of error in the above entitled cause at the suit
of John Smith vs Martin O Walker vs John Bolton and
direct the same to the Clerk of the Supreme Court of this
Court, commanding him to send up to this Court the
record in the above cause.

Given 13. 1854.

Judge T. Smith
att for P & J in error

Sup Court

John Smith &
Martin Chalken
vs

John Bolton

Receipt for amount

Filed June 14, 1854.
S. Seland Clerk

Supreme Court. State of Illinois
June Term AD 1854.

John Frink &

Martin O. Walker, plffs in error

vs

John Bolton Deft in error

} from the Page

It is hereby stipulated by the attys for the
respective parties, that this case may
be submitted to the court without
argument, upon the record.

Ottawa June 22^o 1854.

J. F. Farnsworth

Attorney for Bolton

Judd & Frink

for Frink & Walker

Supreme Court
Hunt & Walker
as
John Bottom.
Stipulation.

Filed June 23 1884.
L. Leland Clk.
By P. H. Leland dep.

STATE OF ILLINOIS, {

Supreme Court, {

ss.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the county of Du Page - 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 Du Page — county, before the Judge there of, between

John Friick & Martin C. Walker

plaintiffs ~~and~~ in a motion to supersede, set aside & quash an execution for costs — and John Bolton —

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

as we are informed by ~~their~~ 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 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 ~~forthwith~~ *forthwith* — ~~that~~, 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. **SAMUEL H. TREAT**, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 14th day of June — in the Year of Our Lord One Thousand Eight Hundred and Fifty-four.

L. Leland Clerk of the Supreme Court.

77
Wm Smith et al.

John Bolton

Writ of Error

John Smith & others vs John Bolton

John Bolton - John Bolton
John Bolton - John Bolton
John Bolton - John Bolton

as we are informed

Richard D. Smith of the Supreme Court

NOTES: the Rev. SAMUEL H. TRIST, and Justice

of the Court of the State of New York, and the Court of the State of New York

that the record and proceedings, being inspected,

the record and proceedings of the trial, appearing in the Court of the State of New York,

and the proceedings of the trial, appearing in the Court of the State of New York,

and the proceedings of the trial, appearing in the Court of the State of New York,

and the proceedings of the trial, appearing in the Court of the State of New York,

and the proceedings of the trial, appearing in the Court of the State of New York,

and the proceedings of the trial, appearing in the Court of the State of New York,

and the proceedings of the trial, appearing in the Court of the State of New York,

and the proceedings of the trial, appearing in the Court of the State of New York,

STATE OF ILLINOIS,

The People of the State of Illinois,