

No. **12269**

Supreme Court of Illinois

Adams.

vs.

Neely.

State of Illinois

Boone Circuit Court

December Special term A D 1833.

1 Pleas before the Hon John M Wilson Judge of the Cook County Court of Common Pleas held by him in exchange with the hon Isaac G Wilson Judge of the 13th Judicial Circuit at a term of the said Circuit Court, began and held at the Court house in Belvidere in & for said county of Boone on Monday the twelfth day of December A D 1833 in pursuance of & under a call by the Hon Isaac G Wilson aforesaid by an order signed by him in the words & figures following to wit:

To the Clerk of the Circuit Court of Boone County: A Special term of the Circuit Court of Boone County for the transaction of civil & Criminal business will be held in said County at the Court house in Belvidere commencing on the Second Monday in December next at 10 O'clock A.M. and continuing until the Order is disposed of.

General Oct 18th 1833.

Isaac G Wilson

Judge 13th Circuit

2 And the notice of the holding of which Special Term served by the clerk of this Court on Geo J Woods esquire the Sheriff of the said County the said Sheriff returns now here into Court with his return of having posted notices of the holding of said Court Term therein mentioned in five of the most public places in said County & will notice by the clerk & return thereto by the Sheriff and a copy of the notices posted by said Sheriff are as follows to wit: —

State of Illinois }

Boone County }

To George J Woods Sheriff of the County of Boone and State aforesaid;

Greeting: In pursuance of the 30th Section of the

3 Revised Statutes of said State (page 149) you are hereby notified ^{that} the Hon Isaac A Wilson Judge of the Circuit Court of the 13th Judicial Circuit has issued to me ~~this~~ ^{his} own bearing date the 18th day of October AD 1853. for a Special Term of the Circuit Court of Boone County for the transaction of Civil & Criminal business to be held in said County ~~at~~ the Court House in Belvidere commencing on the second Monday in December next at 10 O'Clock A.M. and continuing untill the docket is disposed of. Witness my hand and seal of said Court this ~~24th~~ 24th day of October 1853 *H. J. Kunkin Clerk*
(Endorsed)

4 I have served the within notice by posting up printed notices & copy of which is herewith attached in five of the most public places in Boone County and also by advertising in the County paper twenty days prior to the 12th day of Dec. *Geo J Woods Sheriff Boone*
Special Term of the Circuit Court State of Illinois } Notice is hereby given that there will
Boone County } be held at the Court house in Belvidere
in said County on the second Monday in December AD 1853 a Special Term of the Circuit Court for said County to commence at 10 O'Clock A.M. for the transaction of Civil & Criminal business and will be continued from day to day untill the whole is disposed of Done by Order of the Hon Isaac A Wilson Judge of the 13th Judicial Circuit this 25th October AD 1853.

5 *Geo J Woods Sheriff of Boone County*
Presents the Hon John M Wilson Judge
Melland M Boyce States Attorney
Geo J Woods Sheriff
attest
H. J. Kunkin Clerk

Be it Remembered that heretofore to wit on
the 19th day of September A D 1853 Came Alexander
Acely by his attorney L. W. Pray and sued out a writ
of summons in the words & figures following viz.

6 State of Illinois }
Boone County } The People of the State of Illinois To
the Sheriff of ~~Boone~~^{Copm} Boone County Greeting
We Command You that You summon ~~Henry P Adams~~^{Henry P Adams} and ~~Charles S Chase~~^{Charles S Chase} of Illinois
& Co if they shall be found in Your County personally
to be and appear before the Circuit Court of Boone County
on the first day of the next term thereof to be holden at
the Court House in Belvidere in said County on the
third day of October next to answer unto Alexander
Acely in a plea of Assumpsit to the damage of the said
plaintiff as he says in the sum of eight hundred dollars
And have You there & there this writ with an en-
dorsement thereon in what manner You have seen
the same Witness Fayette B Hamlin Clerk of our
said Court and seal thereof at Belvidere this 19th
day of September A D 1853 L B Hamlin Clerk
L B (Endorse thereon)

Served by reading to the within named Henry P Adams
and Charles S Chase Sept 22 1853

6 Fees 1.20
65
\$1.85

2 Services 1.00

2 miles 10
1 Ret 10
Pay Ref 1.20 C P Bradley Sheriff

By M Regan Deputy

Served by reading to the within named Henry P Adams
September 25 1853

1 Service 50
1 mile 5
1 Ret 10
Pay Ref 65

C P Bradley Sheriff By M Regan Deputy

And afterwards on the 10th day of December A D 1853

And that afterwards on the 2^d day of December 1853
a declaration was filed in said Cause in the words
and figures following viz

In the Circuit Court of Boone County of said
Tenn in the Year of our Lord one thousand
Eight Hundred and ~~Forty~~ Fifty

State of Illinois } Alexander Steele
County of Boone } Plaintiffs in this Suit by L. W. Pray
This Attorney Comes and Complains of
Henry P. Adams Charles S. Chase & Girard Mix & firm
of L. Mix & Co

9. Defendants who are summoned &c of a Pleas of Trespass
on the Case upon promises

10 For that Whereas The said Defendants on the Eleventh day of December in the Year of our Lord One Thousand Eight hundred and fifty two at Belvidere in the County aforesaid under the name of S Mix & Co made their Promissory Note in Writing dated the day & Year last aforesaid and delivered the same to Alexander Neely and thereby then & there promised to pay the said Alexander Neely or order the sum of Six hundred Dollars and interest at ten per Cento per Annum ten days after the date thereof for Value received Which period hath now elapsed. Yet the said Defendant although often requested so to do hath not paid to the said Plaintiff the said sum of money in the said Promissory Note specified or any part thereof according to the tenor and effect thereof but to pay the same hath hitherto wholly refused and still refuses.

And also. For that whereas the Said Defendants on the Eleventh day of December in the Year of our Lord One thousand Eight hundred and fifty two in the County aforesaid was indebted to the Plaintiff in the sum of Eight hundred dollars for the price and value of Goods

11 then and there sold and delivered by the Plaintiff to the defendant at their request

And in Eight hundred dollars for money then & there lent by the Plaintiff to the Defendants at their request

And in Eight hundred dollars for money then & there paid by the Plaintiff for the use of the Defendants at their request

And in Eight hundred dollars for money then and there received by the Defendants for the use of Plaintiff

And in four hundred dollars for interest due from the said Defendants to the said Plaintiff for in respect of said Plaintiff. having forborn and given any of Payments of money due from said Defendants to said Plaintiff at said Defendants request for a long time then elapsed.

And in Eight hundred dollars for Interest due ~~from the said Defendants~~ and owing from the said Defendant to said Plaintiff, at said Defendants request on an account then & there stated between them And Whereas afterwards to wit on the day & year last aforesaid at the place aforesaid in Consideration of the premises respectively undertook afterwards to wit on the day and year last aforesaid at the place aforesaid in Consideration of the premises and promised the said Plaintiff to pay the said several last mentioned moneys respectively to the Plaintiff on request Yet they although often requested to pay the same to wit, afterwards on the day and year and at the place aforesaid have disregarded their promises and have not paid any of the said moneys or any part thereof to the damage of the Plaintiff of Eight hundred dollars and therefore he brings suit &c

L M Pray Pff atty

Copy of accounts

Goods sold & delivered

800

Money lent & advanced

800

Money Paid	8 00
Money Received by defendants	8 00
Interest	4 00
Account Stated	8 00

14 Copy of Note on which suit is brought
viz

Believed Dec 11. 1832

\$600 Ten days after date for value received
I promise to pay Alexander Mearns or order six
thousand dollars with interest at the rate of
ten per cent per annum being for Borrowed money

A. Mearns & Co^{rs}

(Endorsed) Filed Dec 2^d 1833

J. B. Humble

Clerk

And that Afterwards on the 10th day of December
AD 1833 Came the ^{Suit} defendant ^{Charles Adams} by his attorney Lull
Burgess & filed the following

In the Boone Circuit Court

15

Henry P Adams vs. plaintiffs

with Charles L Chase & Hiram

Mearns as

Alexander Mearns

And the said Henry

P Adams by Lull & Burgess

his attorneys comes &

defends the wrong and

injury where he crid prays judgment of the said
court & declarative because he says that the said
Several defendants Charles L Chase Henry P Adams
& Hiram Mearns were not at the time when the said
Several supposed promises & undertakings in said
declarations mentioned partners doing business un-
der the name and firm of A Mearns & Co and the same
promises & undertakings (if any such) were made by
the said Hiram Mearns severally and not jointly with
the said Adams & Chase as partners or otherwise

16

howsoever and this be the said Chase is ready
to verify wherefore in as much as the said Adams &
Chase are named in the said writ with the said
May be the said Chase prays judgment of the said
Court and declaration and that the same may
be quashed &c

Henry P Adams
by Luce & Burges
his Atty

In Boone Circuit Court
Charles J Chase Henry
P Adams & Hiram Chis
add

Alexander Steeles } State of Illinois }
County of Cook } Charles Chase
of said County Being

duely sworn doth depose and say that the within
plea in this case is true in substance & fact
Subscribed & sworn to
before me this 9th day of
December AD 1853

C. L. Chase

17

Wm W Stewart Notary Public

(Endorsed) Filed Dec 10 53 H. Hamilton Clerk

And that on the said 10th day of December
AD 1853 Came the said ^{Chase} Adams by his Atty Luce
Burgess & filed the following

In the Boone Circuit Court

Henry P Adams impleaded }
with Charles J Chase & Hiram } Apt
May add } And the said

Alexander Steeles } Charles Chase by
his attorneys Luce & Burgess Comes & defends the
Wrongs & injury when &c & says that he did not
undertake & promise in manner & form as the
said Plaintiff hath above then of Complaince

20

Subscribed & sworn before
 Me this 9th day of December } Charles L Chase
 1833 }
 W W Stewart Notary Public

(Entered on Book) Filed Dec 10th 1833

F B. Hamilton Clerk

And that afterwards on the 22^d day of
 December during this same December & present
 Term the following proceedings were had and entered
 of record in said Cause to wit

Alexander Stiles

vs

Henry P Adams

Charles L Chase &

Hiram Chipman

and S. May & Co

Assumpsit

This day Comes the said Plaintiff

by Pray & Merrill his

attorneys and the said Defendants by

Fuller & Burgess their attorneys also Come and by the
 agreement of parties this Cause is submitted to the
 Court for trial without the intervention of a jury
 And thereupon the Defendants move the Court to
 Continue this Cause for want of a Copy of the indictment
 and account whereupon Which Motion is overruled
 by the Court to which the defendant excepts. And
 this Cause coming on for trial the Court after
 hearing the Evidence & Arguments of Counsel find
 the issue for the Plaintiff and assess his damages
 at the sum of Six hundred & Sixty one dollars & Sixty six
 Cents It is therefore Considered by the Court that
 the said Plaintiff have and recover from the said
 Defendants the sum of Six hundred & Sixty one $\frac{66}{100}$ cts
 and his damages as also his Costs & Charges in &
 about this suit expended & have execution therefor

And therefore the defendants by Fuller & Burgess

22

The Attorneys enter their Motion for a new trial
herein And the Court after argument had being
fully advised in the premises sustains the same
& orders a new trial on Consideration that the
Defendant pays all the Cost of this Term expended
herein in Twenty days

1184

Alexander Keely

vs

Henry P Adams et al

Copy from the Fee Book of Costs
 Plaintiff's
 Plaintiff's Cost
 Clerk's fees

Dec 2 J. App. Plff & atty 15. Doc. Suit 10. fil fee 5. Sum 40 2 Sum 5 to Cook & 70
 23 Whiteside 80. fil 5 pps 25. 2 app & fil 80. Jury room 20 Mo for 2.05
 Court overruled 20. And cert 20. 3 subps & fil 120 5 Cath. Writ 25 1.85
 Ent & Doc Just 35. Ord cost 20 Mo New trial 20. Ord New trial on 75
 Counsel, 20 And Ex 20. Ex 40 M & E 30 Copy 20 Ser 15 Doc Ex 145
 10. fil Ex & fb 10. 20

Shuff's Fees on Sum 1.85

Witness Fees.

George B Sanderson 2 days 1.00 20 Miles J. 1.00 2.00
 Frederick Norton 5. days 2.30. 20 miles J. 1.00 3.30

Defendants Cost

Clerk Fees

app. Def & atty 15. Mo for Court 20 Swear 4. Writ 20. Mo New trial 35
 20. fil 2 pps 10. Subpoena & fil 40 cert & seal 35 Copy fb 20 125
 24, M & E 30 Doc & fil 15. Ser 10. Ser 15. 70
 \$16.85

State of Illinois
 Boone County

I Fayette B Hamline Clerk of the Circuit Court
 in and for said County do hereby Certify that
 the foregoing is a full correct & complete Trans-
 cript & Copy of the record proceedings & judgments
 in the Cause between Alexander Keely Plaintiff
 and Charles L Chase Henry P Adams & Abram
 Mex under the firm of H. Mex & Co Witness my
 hand & the Seal of said Court at Bellevue Mo
 27th day of February AD 1854 F. B. Hamline Clerk

Alexander Steele

vs

H. Mix & Co

Record

Clarks for \$2.86

In the Supreme court
of the State of Illinois

Henry P. Adams impeached
with Charles J. Chase & Ariam
Mix Plffs in error

vs

Alexander Arley deft in error

} Error to Remove

Afterwards that is to say at the
June Term of this court 1854 before the
Justices thereof at the Court House at
Altona comes the said Henry P. Adams
impeached &c by his Attorneys Lull &
Merges and says that in the Record &
proceedings aforesaid and in giving
the judgment aforesaid, there is mani-
fest error in this

That there is no plea filed by
the said Ariam, Mix, a defendant ser-
ved with Process in the court below, nor
issue joined as to him in the court below
either of law or fact, nor was he defaulted
or called in any manner to answer to
the said action of the said Alexander Arley
in the court below, but judgment was
rendered against him and the other def-
endants in the court below, upon issues
made only as between said Chase & Adams
upon pleas filed by them only & said Alexan-
der Arley - Therefore in that there is
manifest error -

2

3

And the said Adams unpleaded
he prays a writ du to the clerk of said
circuit court to certify du

And he implores as aforesaid
also prays that the judgment aforesaid
for the errors aforesaid & for other errors
in the said record & proceedings being may
be moved annulled & altogether holden
for nought and that he may be restored
to all things which he hath lost by the
occasion of the said judgment &

It is a supercilious issue upon the pliff in Error filing
a notice in the usual form with Paul H. Bing securely
in the pearl sum of fourteen hundred dollars
L. Eaton

14

Henry P Adams
mfr &c

14

Alexander Kelly

Transit &
Asst of Insp
1854

Filed clerk. 9. 1854.
L. Deland Clerk.

Prepared

1854

12269

John H. Murray
Atty

12269-8

Adams & al
vs
Nelly

} error to Brown

Nelly issued summons against
~~At~~ Chase Adams & Mix of firm
vs, Mix & Co, process served on
all of defendants -

Declaration on note of hand
for \$600 - & common counts

Pha denying execution of note
filed by Chase, ^{verified by affd.} & also General issue

Pha in abatement filed by
Adams denying partnership

To these phas no application is
filed, or similar added -

Mix files no pha neither is
his default taken,

Cause submitted to the court
for trial jury waived here Spl Term
1853 -

Judal & judgment against
all of the defendants for \$661.65

after judgment entered leave now for
a new trial, granted on payt. of all costs
then issued -

Adams Nat

us

July

Abstract

Nuly
ad
H. P. Adams }

Prmts for Deft in Error

1. The record shows a general appearance for all the Defendants.
2. The Judgment in this cause is not final & therefore no Writ of Error lies in the case & the cause should be remanded for final judgment.
3. The presumption from the entire record is that all the parties were before the court & the conclusions of Deft's Atty below, should not divest the judgment as to a party who had full trial upon issues made by himself & decided against him.

Writ for Deft
in Error

¹⁴
Boone (Error to)

Alexander Aug
ad } Pratts
 } for
 } Defences

H. P. Adams

Hullbush
for Deft.

Chicago March 3^d 1854

Ill Sup Court.

Sir

Inclosed you have a transcript of Record in Adams et al vs Kelly - Ass't of errors & a five dollar bill for costs - & a bond for supersedeas - Will you lay the papers before the Hon J. D. Catron. & procure the supersedeas & return it to me by mail as soon as possible -

Respectfully yours

Lull Homers
Chicago,

Know all men by these Presents
that we Henry P. Adams, as principal &
Paul B. Pileg as his surety
are held and firmly bound unto Alexander
Arley in the sum of fourteen hun-
dred ~~dollars~~ ^{dollars and}
cents, for the payment of which well and
truly to be made in do bind ourselves our
heirs executors & administrators jointly
severally & firmly unto the said Alex-
ander Arley his heirs executors admin-
istrators & assigns -
Signed sealed and dated this
day of A.D. 1854

The condition of this obligation
is such that whereas the said Alexan-
der Arley did at the December Special
Term of the Brown circuit court began
held on the 12th day of December 1853
at the Court House in Baltimore in & for
said county of Brown by the judgment &
consideration of said court, recover a
judgment against the said Henry P.
Adams, & Brian Mix & Charles & Chas
for the sum of six hundred & sixty one dollars
& sixty six cents — and costs of suit
upon which judgment the said
Adams has sent out a writ of error
and has applied to have the same
made a supersedeas -

Now therefore if the said

Adams shall ^{duly} prosecute said writ of error and shall pay the judgment costs interest & damages in case the said judgment shall be affirmed -
then the above bond to be void otherwise to remain in full force

Henry P. Adams

Paul B. Ring

Edward H. Castle

State of Illinois
County of Cook Sp: Paul B. Ring of said
county being duly sworn do the deposes
and say that he is worth ~~Twenty~~ ^{Twenty Five} ~~thousand~~ ^{thousand} Dollars
and upwards after
the ~~+~~ payment of all his just debts
& liabilities

Subscribed & sworn to before
me this 27th day of } Paul B. Ring
AD. 1854 }

Francis A. Hoffmann,
Not public

We certify that in our opinion said
Paul B. Ring is abundantly responsible
for the conditions of the within bond
Dated Chicago Feby 16. 1854

Sup. court

Henry P Adams
et al
vs

Alex^r Brady.

Bond on writ
of error

Filed March 9, 1854.
Leland Clerk.

STATE OF ILLINOIS,

Supreme Court,

ss.

The People of the State of Illinois,

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

Alexander Arley

plaintiff, and *Henry P. Adams, Ariam Dix and Charles S. Chace*

defendants it is said manifest error hath intervened, to the injury of the aforesaid *Adams*

as 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 Ottawa, in the County of La Salle, on the *2^d Monday in June* 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;

WITNESS, the Hon. **SAMUEL H. TREAT**, Chief Justice
of our said Court, and the Seal thereof, at Ottawa, this *9th* day of *March*
in the Year of Our Lord One Thousand Eight Hundred and Fifty-*four*.

S. Deland

Clerk of the Supreme Court.

Henry P. Adams
v
Alexander Chely
Writ of error

Filed March 9, 1854.
Shelburne Vt.

WILLIAM H. TRACY, Clerk of the Court.

W. H. Tracy

Clerk of the Court

STATE OF ILLINOIS,

Supreme Court,

ss.

The People of the State of Illinois,

To the Sheriff of the County of Boone — Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of Boone — county, before the Judge thereof, between Alexander Crilly, plaintiff — and Henry P. Adams, Aram Dix & Charles J. Chace

defendants; it is said that manifest error hath intervened, to the injury of the said —

Henry P. Adams

as we are informed by his complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said —

Alexander Crilly

that he be and appear before the Justices of our said Supreme Court, at the next term of said court, to be holden at Ottawa, in said state, on the 2nd Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if he shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said Alexander Crilly — notice, together with this writ.

WITNESS, the Hon. Samuel H. Treat, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 9th day of March in the Year of Our Lord One Thousand Eight Hundred and Fifty-four.

S. Seland

Clerk of the Supreme Court.

Henry P. Adams m^{rs}l. &c.
Alexander C. Cady
Sci. Ja.

To June Term 1854

12269

Filed May 18, 1854.
V. Ireland Ck.

~~12269~~

Accepted by reading to Alex. Cady this
13th day of March 1854
Geo. P. Woods
Sherriff Bond

Recd 100