

No. 13102

Supreme Court of Illinois

Roe

vs.

Hu**l**l burt

71641  7

STATE OF ILLINOIS,

SUPREME COURT.

Third Grand Division.

No. 63.

260

Roe
vs
Hurlburt

13102

STATE OF ILLINOIS,
SUPREME COURT,

} ss. The People of the State of Illinois,

To the Clerk of the Circuit

Court for the County of Cook 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 Cook County, before the Judge thereof, between
Nelson C. Roe

plaintiff, and William Hulbert & La Fayette Hulbert

defendants, it is said manifest error hath intervened, to the injury of the aforesaid Nelson C. Roe

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 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 first Tuesday after the third Monday in April 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^r. John D. Caton, Chief
Justice of our said Court, and the Seal
thereof, at Ottawa, this 28th day of
June in the Year of Our Lord
our thousand eight hundred and fifty-nine.
L. Deland

Clerk of the Supreme Court.
by J. B. Rice Deputy

Nelson B. Roe
107 63

William Hulbert et al

Writ of Error

This writ of Error is made
a supersedeas and as such
is to be obeyed by all
concerned,

L. Leland Clerk
by J. D. Rice Deputy

Filed June 28. 1839
L. Leland
Clerk

Know all men by these presents that we Nelson
C. Roe and Milton S. Patrick
are held and firmly bound unto William Hurl-
burt and Lafayette Hurlburt in the penal sum
of five hundred dollars lawful money for the
payment of which well and truly to be made we
bind ourselves our heirs, executors & administrators
jointly severally and firmly by these presents.
Witness our hands and seals this 20th day of
June A D 1854

The Condition of the above obligation is such that
whereas on the first day of December ^{A D 1854} in a certain
proceeding then pending in the Cook County Court
upon the application of the above named Nelson C.
Roe to be discharged from arrest upon an execu-
tion issued in favor of said obligees, as an
insolvent debtor, the said Court refused such dis-
charge and said Roe took an appeal therefrom
to the Cook County Court of Common Pleas, and on
the 28th day of June A D 1855 the Cook County Circuit
Court ordered and adjudged that the said appeal
be dismissed, to reverse which order and judgment
the said Nelson C. Roe has sued and procured out
of the Supreme Court a writ of error to said Circuit
Court. Now therefore if said Nelson C. Roe shall
duly and diligently prosecute the said writ in the
said Supreme Court and shall pay the judgments
costs, interest and damages in case the said

judgment shall be affirmed by the said
Supreme Court then this obligation to be void
otherwise to remain in full force and virtue

Nelson, C. Ros. Seal
Milton S Patrick Seal

State of Illinois ?
County of Cook } Milton S Patrick being
duly sworn deposes and says
that he resides in the City of Chicago that
he is worth in unencumbered real estate
situate in said City and in the County
of Cook aforesaid, more than ten thousand
dollars over and above all just debts and
liabilities against him?

And further says not
Subscribed and sworn Milton S Patrick
this 22^d day of June
A D 1859,



Philip A. Moore
Notary Public
Chicago Illinois

Nelson B. Roe
63 27

William Hulbert

Supds Bond

Filed June 28. 1859
L. Leland
Clerk

Supreme Court

Nelson & Roe Plffs in error

vs

William Hurlburt &

Lafayette Hurlburt Defts in error

I do hereby enter myself security for costs in this cause, and acknowledge myself 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 June 20th 1859

M. S. Patrick

Supreme Court

Nelson & Roe

v 63

Hurlbush & Hurlbush
Security for Costs

Filed June 28th 1859
L. Leland
clerk

S U P R E M E C O U R T ,

APRIL TERM, A. D. 1860.

NELSON C. ROE,
Plaintiff in Error.

V S.

WILLIAM HULBURT,
Et Al. Defendants in Error.

POINTS FOR PLAINTIFF IN ERROR.

I.

The Circuit Court had no authority or jurisdiction to take the default of Roe, or to make the order dismissing his appeal from the County Court. That appeal was taken to the Cook County Court of Common Pleas, and if, without any regular change of venue from that Court, the cause could be placed on the docket of another Court, and the appeal then dismissed, it would lead to the most unjust consequences both to the party appellant and his surety on the appeal bond. No such practice can be sustained. There was no change of venue in this case—there is no order, transcript or anything else required by the statute upon a change of venue, except a petition which purports to have been addressed to the Common Pleas Court, but whose genuineness is in no manner verified.

SCATES, McALLISTER & JEWETT,

Attorneys for Plaintiff in Error.

Supreme Court
Nelson & Roe

¹²⁴
William Hurlburt
et al

Points

Filed Apr. 18. 1860

G. Ireland
Clerk

S U P R E M E C O U R T ,

APRIL TERM, A. D. 1860.

NELSON C. ROE,

Plaintiff in Error.

v s.

WILLIAM HULBURT,

Et Al. Defendants in Error.

POINTS FOR PLAINTIFF IN ERROR.

I.

The Circuit Court had no authority or jurisdiction to take the default of Roe, or to make the order dismissing his appeal from the County Court. That appeal was taken to the Cook County Court of Common Pleas, and if, without any regular change of venue from that Court, the cause could be placed on the docket of another Court, and the appeal then dismissed, it would lead to the most unjust consequences both to the party appellant and his surety on the appeal bond. No such practice can be sustained. There was no change of venue in this case—there is no order, transcript or anything else required by the statute upon a change of venue, except a petition which purports to have been addressed to the Common Pleas Court, but whose genuineness is in no manner verified.

SCATES, McALLISTER & JEWETT,

Attorneys for Plaintiff in Error.

Supreme Court

Nelson & Roe

by

William Hulburt
et al

Poult

Filed Apr. 18, 1860

L. Leland
Clerk

United States of America }
 STATE OF ILLINOIS, COUNTY OF COOK, S. S. } Pleas, before the Honorable George Mannin

Judge of the Seventh Judicial Circuit of the State of Illinois, and Solo Presiding
 Judge of the Circuit Court of Cook County, in the State aforesaid, and at a ^{Special} term thereof
 begun and held at the Court House in the City of Chicago, in said County, on the
Month Monday, (being the twenty second day) of
July ~~June~~ in the year of our Lord one thousand eight hundred and
Eighty Seven and of the Independence of the said United States the
Eighty First

Present, Honorable

George Mannin Judge of the 7th Judicial
 Circuit of the State of Illinois. }

Daniel McIlroy States Attorney.

James Andrew Sheriff of Cook County.

Attest;

Louis S. Hoar Clerk.

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Be it remembered that heretofore, to wit, on the 19th day of April A.D. 1855. certain documents and papers were filed in the office of the clerk of the Court aforesaid, in the words and figures following, to wit-

Schedule

of Nelson C. Roe, an insolvent debtor showing all his real and personal estate, including money, notes, bonds, bills, obligations and contracts for money and property of any and every description or kind, name, or nature whatsoever, together with a true and perfect account of all debts, dues and demands of every nature, owing by him to other persons at the present time-

One Bed and Bedding, one Store, one Bureau- one set Chairs, one Sofa, one Table, Carpet, one Stand- necessary wearing apparel of himself and family- 1 gold watch and chain, and probably five dollars worth of other jewelry- Has no real estate, no money, no notes or bonds due- Has four thousand dollars premium paid on Virginia bonds deposited with State Auditor- Has no bills- Has no Obligations or ~~Contracts~~ for money or property of any kind or description, name or nature whatsoever- And he owns no other property, goods or effects whatsoever- Is the head of a family and residing with the same in this State-

He owes the following debts- viz-

Wm Hulbert, and La Fayette Hulbert, the debt he is now arrested for and costs as claimed by Plaintiffs in this suit, but not admitted by defendant to be a just claim

\$10,865.20

Mrs. Reynolds	apc	about	100.00
Horatio Ballard	apc	"	50.00
Lyman Reynolds borrowed Money	"	"	1300.00

Enclosed - Filed 17th Nov. 1854. C. B. Russell clk. Filed Dec 4, 1854. W. Kimball. clk. Nelson C. Roe.

Know all men by these Presents, that we, Nelson C. Roe and Milton S. Patrick are held and firmly bound unto Henry L. Rucker, County Judge of the County of Cook and State of Illinois, and to his successor in office for the use and benefit of William Hulbert and La Fayette Hulbert, in the penal sum of Twenty two thousand and for the payment whereof, well and truly to be made, we hereby bind ourselves, our heirs, executors, and administrators, jointly, severally and firmly, as witness our hands and seals, this seventeenth day of November, A.D. 1854.

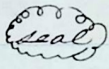
The condition of the above obligation is such, that whereas the above bounden Nelson C. Roe, who has been arrested and is now in custody of Cyrus P. Bradley, Sheriff of Cook County, on a capias ad satisfaciendum, at the suit of the above named William Hulbert and La Fayette Hulbert, and has applied to the County Court of said County for a discharge from such arrest, and pursuant to the provisions of Chapter 52. of the Revised Statutes of said State, entitled "Insolvent Debtors", and the examination of said Nelson C. Roe, having been adjourned to this seventeenth day of November 1854. at 4 o'clock P.M.

Now if the said Nelson C. Roe shall personally be and appear before the said County Court, on the day and

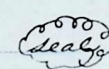
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at the hour adjourned to as aforesaid, and prosecute his said application - and shall also surrender all the goods, chattels and estate whereof he is now possessed and mentioned, or to be mentioned, in his schedule at the time adjourned to, then the above obligation to be void, and become null and void, and otherwise to remain of full force and virtue -

Nelson C. Roe



M. S. Patrick



Endorsed "Filed 17th November 1854. C. B. Harwell, clk
"Filed Dec. 4th 1854. W. Kimball. clk."

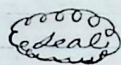
Know all men by these Presents, that we, Nelson C. Roe, and Milton S. Patrick, are held and firmly bound unto Henry L. Rucker, County Judge of the County of Cook, and State of Illinois, and to his successor in office, for the use and benefit of William Hurlbert and La Fayette Hurlbert, in the penal sum of Twenty two thousand dollars and for the payment whereof, well and truly to be made, we hereby bind ourselves, our heirs executors, and administrators, jointly, severally and firmly, by these presents and witness our hands and seals, this seventeenth day of November, A D. 1854 -

The condition of the above obligation is such, that whereas the above bounden Nelson C. Roe, who has been arrested and is now in custody of Cyrus P. Bradley, Sheriff of Cook County, on a capias ad satisfaciendum, at the suit of the above named William Hurlbert and La Fayette Hurlbert, and has applied to the County Court of said County, for a discharge from such arrest

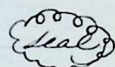
under, and pursuant to the provisions of Chapter 3 of the Revised Statutes of said State, entitled "Insolvent Debtors," and the examination of said Nelson C. Roe, having been adjourned to the eighteenth day of November, A.D. 1854. at 8 1/2 o'clock A.M.

Now if the said Nelson C. Roe shall personally be and appear before the said County Court, on the day and at the hour adjourned to as aforesaid and prosecute his said application - and shall also surrender all the goods, chattels and estate whereof he is now possessed, and mentioned, or to be mentioned, in his schedule, at the time adjourned to, then the above obligation to be and become null and void, and otherwise to remain of full force and virtue.

Nelson C. Roe



M. S. Patrick



Endorsed - "Filed 17th November 1854. C. B. Farwell Clk"

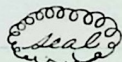
"Filed Dec. 4. 1854. W. Kimball, Clk"

Know all men by these Presents, that we, Nelson C. Roe and Milton S. Patrick, are held and firmly bound unto Henry L. Rucker, County Judge of the County of Cook and State of Illinois, and to his successor in office, for the use and benefit of William Hurlbert and La Fayette Hurlbert, in the penal sum of Twenty two thousand and for the payment whereof, well and truly to be made, we hereby bind ourselves our heirs, executors and administrators, jointly, severally and finally, as witness our hands and seals, this 28th day of November, A.D. 1854.

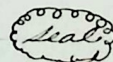
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The condition of the above obligation is such, that whereas the
above bounden Nelson C. Roe, who has been arrested and
now in custody of James Andrew, Sheriff of Cook County, on
a capias ad satisfaciendum, at the suit of the above named
William Hurlbert, La Fayette Hurlbert, and has applied
to the County Court of said County, for a discharge from such
arrest under, and pursuant to the provisions of Chapter 52 of
the Revised Statutes of said State, entitled "Insolvent Debtors"
and the examination of said Nelson C. Roe, having been ad-
journed to the 30th day of Nov. 1854. at 9 1/2 o'clock, A.M.

Now if the said Nelson C. Roe shall personally be and ap-
pear before the said County Court, on the day and at the
hour adjourned to as aforesaid and prosecute his said ap-
plication - and shall also surrender all the goods, chattels
and estate whereof he is now possessed, and mentioned
or to be mentioned in his schedule, at the time adjourned
to, then the above obligation to be and become null and
void, and otherwise to remain of full force and virtue.

Nelson C. Roe -



M. S. Patrick



Endorsed - "Filed Nov. 29. 1854. C. B. Harwell, Clk"

"Filed Dec 4. 1854. W. Kimball, Clk"

Schedule

of N. C. Roe, an insolvent debtor showing all his real and
personal estate, including money, notes, bonds, bills, obliga-
tions and contracts for money and property of any and every
description or kind, name or nature whatsoever, toge-
ther with a true and perfect account of ^{all} debts, dues and
demands of every nature, owing by him to other persons and

the present time, individually—

7 One bed and bedding, one stove, one bureau, one set of chairs, one table, one wash-stand, Carpet, one sofa, necessary amount of clothing for himself and family, one watch and chain, about five dollars ^{worth} of jewelry. Have no real estate, no money, no notes or bonds due. Owe nothing else whatsoever—

I owe Mrs. Reynolds for Board \$100.,

H. Ballard atty 50.,

L. Reynolds about 13.00.,

Wm Mulbert & Co. claims their due \$10.

Am the Head of a family, and reside in this State with the same—

I am one of the firm of A. C. Roe & Co. and said Co. has the following accounts, and owes the following Debts

C. D. Gibson's Paper in Acceptance \$10.000

Van Duzer, Hoard & Co. in Judgment 3.000

John L. Wright over Draft & note 12.400

Due from Depositor 5.447 8

Earnes Gray & Co. check & note 728. 8

Elliott Dyat " 100.

O. J. Roe " 500.

W. B. Egan " 250,

A Judgment against J. E. Greenleaf about 6.400

Putnam & Books \$350. E. K. Krum note 500., 830

on Watch & Chain worth about 140

W. H. Bartlett note 700. E. B. Krum 600. 1.300

We owe Depositors \$4.142

C. D. Gibson on ap 10.000

8

Due Depositor by Certificate	6. 812
On bills out about	7. 000
G. F. Deboerhus Co. notes about	21. 000
Thos. Hale about	1. 020

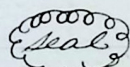
Endorsed "Filed 28th April, 1854. C. B. Harwell, clk"
 "Filed Dec. 4. 1854. W. Kimball, clk"

Know all men by these presents, that we, Nelson C. Roe and Milton S. Patrick, of the County of Cook and State of Illinois, are held and firmly bound unto Henry L. Rucker, County Judge of Cook County and his Successor in office, in the penal sum of Twenty two thousand dollars, and for the payment whereof well and truly to be made, we do hereby ^{bind} ourselves, our heirs, executors and Administrators, jointly, severally and firmly by these presents, as witness our hands and seals, this First day of December, A D. 1854.

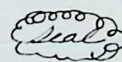
The condition of the above obligation is such, that whereas the said Nelson C. Roe, on the seventeenth day of November, A D. 1854. was brought into Court in custody of Cyrus P. Bradley, Sheriff of Cook County, on a capias ad satisfaciendum, issued out of the Cook County Court of Common Pleas, at the Suit of William Hulbert and La Hazette Hulbert, and made application to the Court to be discharged from his arrest and Imprisonment, upon his complying with the provisions of the laws of this State for the Relief of Insolvent Debtors, and whereas such proceedings were thereupon had, that the said County Court of Cook County, on the first day of December A D. 1854. did refuse

to make an assignee and grant a discharge from such arrest and Imprisonment to the said Applicant, and whereas the said Nelson C. Roe has thereupon prayed before said Court for an appeal to the next term of the Cook County Court of Common Pleas. Now therefore if the said Nelson C. Roe shall appear on the first day of the next term of the said Cook County Court of Common Pleas, to be next hereafter held in said County, and abide the decision thereof and also will not sell or dispose of, or remove or lessen in value, any or all of the Estate or property mentioned in the Schedule of the said Applicant but that the same shall be there forthcoming and subject to the Order of the said Cook County Court of Common Pleas, then this obligation to be null and void, otherwise to remain in full force and virtue.

Nelson C. Roe



M. S. Patrick



Endorsed "Filed Dec 4. 1854. W. Kimball. Clk"

State of Illinois }
County of Cook } p.

Be it remembered that heretofore, to wit, on the seventeenth, and again on the eighteenth day of November, A. D. 1854. the same being two days of the November Term of the County Court of Cook County, and again on the twenty-eighth, twenty-ninth and thirtieth days of November, A. D. 1854. and also on the first day of December, A. D. 1854. the same being Special Terms of the County Court of Cook County, the following

among other things and proceedings were had and done, to wit-

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County Court of Cook County-
{ November Term November 17th 1854.
{ Court met pursuant to adjournment
{ Present: Hon Henry L. Rucker - Judge
 Ed. B. Harwell - Clerk
 Cyrus P. Bradley - Sheriff

Roe - Nelson C. }
An Applicant } Application for discharge under the
solvent Laws -

This day comes into Court Nelson C. Roe
in custody of Cyrus P. Bradley, Sheriff of Cook County, on
a ca. sa. issued out of the Cook County Court of Comm
Pleas, at the suit of William Hulbert and La Fayette
Hulbert, and makes application to the Court to be
discharged from his arrest and imprisonment,
upon his complying with the provisions of the Law
of this State for the relief of Insolvent Debtors, where
upon the Court ordered said Applicant to render a
fair, full and complete Schedule of all his Estate
Real and personal, including, money, notes, bonds,
bills, obligations and contracts for money or property
of any and every description or kind, name or nature
whatsoever, together with a full and complete Sched
ule of all his debts which he shall or may be owing
at this time - And the said Nelson C. Roe thereupon
prays that time may be granted him to make the
said Schedule - whereupon it is ordered that the

Prayer of the applicant be granted, upon his entering into Bonds for his appearance &c. in the penal sum of Twenty two thousand dollars, conditioned and payable as the law directs - and the said Applicant having produced the bond with Milton S. Patrick as his security, who is approved by the Court, it is ordered that this Case stand adjourned to this P.M. at 4 o'clock -

Roe. Nelson C. }
An Applicant } Application for discharge under the
Insolvent Laws -

And now again comes into Court the said Nelson C. Roe, by himself and by ^{his} Attorneys Andersen and Jones, and also the Creditors by Goodrich & Scille, their Attorneys - And the Applicant having rendered his Schedule and subscribed the same with his name, and the same having been examined thereon by the Attorneys for the said Creditors, it is ordered that the further examination of this Case be adjourned, and that the said Nelson C. Roe enter into Bond for his appearance &c. in the penal sum of Twenty two thousand dollars, conditioned and payable as the law directs - And the said Applicant having produced the Bond with Milton S. Patrick as his security, who is approved by the Court, it is ordered that the Case be continued to tomorrow morning, at 8 1/2 o'clock A.M.

{ County Court of Cook County -
{ November Term November 18th 1885

Court met pursuant to adjournment
 Present as on yesterday

Roe, Nelson C. }

An Applicant }

Application for discharge under the
 insolvent laws.

This day again came
 into Court, the said Applicant by himself and by
 Andersen & Jones, his Counsel, and also the said Creditors,
 by Goodrich & Scoville, their Attorneys—
 And the said Applicant having again been examined
 on his Schedule, begs leave of the Court to withdraw
 the same, and to have time granted him to amend
 the same, whereupon it is ordered that the prayer
 of the Applicant be granted, and that he enter
 into Bond for his appearance &c. in the penal
 sum of Twenty two thousand dollars, conditioned and
 payable as the Law directs. And the Applicant
 having produced the Bond required, with Milton
 Patrick as his Security, who is approved by the Court,
 it is ordered that this case be continued to the 28th
 November inst, at 2 o'clock, P.M.

County Court of Cook County—
 November Special Term 28th Nov. 1854
 Court met to call for business—
 Present Hon. Henry L. Rucker Judge
 Charles B. Farwell Clerk

Roe, Nelson C. }

An Applicant }

Application for discharge under In-
 solvent Laws.

This day again appears in Court the Applicant Nelson C. Roe by himself, and by Andrew Harvey, his attorney, pursuant to his application for discharge from imprisonment, heretofore made, and his bond for appearance &c. and also the Creditors by Goodrich and Scoville, their attorneys, and the said Nelson C. Roe then produces a Schedule as required and amended, and subscribed with his name, and the Examination of the said Roe is thereupon resumed, and such Examination not having been completed, it is ordered that the further Examination of this case be adjourned to the 29th November instant, at 8 1/2 o'clock A. M.

And the said Nelson C. Roe thereupon gave bond for his appearance at such time &c as required by law, in the penal sum of Twenty two thousand dollars, with Milton S. Patrick as his security, who is approved by the Court—

County Court of Cook County—
 November Special Term. Nov. 29th 185
 Court met to call for business—
 Present, Hon. Henry L. Pickers Judge
 Charles B. Harwell, Clerk

Roe, Nelson C. }
 An Applicant } Application for discharge under the
 Insolvent Laws.

This day again comes into Court, Nelson C. Roe the applicant, pursuant to his application for discharge from Imprisonment,

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and Bond given for appearance &c. by himself, and by Andrew Harvey, his attorney, and also the Creditors by Goodrich & Seville, their attorneys.

And the said Nelson C. Roe and sundry witnesses are examined, and such examination not being completed, it is ordered that the Case be adjourned to November 30th at 9 1/2 O'clock A.M. instantly. And the said Nelson C. Roe thereupon gave bond for his appearance at such time &c. as required by law, in the penal sum of Twenty two thousand dollars, with Milton S. Patrick as his Security, who is approved by the Court.

County Court of Cook County
November Special Term Nov. 30th 1854
Court met to call for business.
Present. Hon Henry L. Rucker. Judge
Charles B. Farwell. Clerk

Roe, Nelson C. }
An Applicant } Application for discharge under the
Insolvent Laws.

This day again appears in Court, Nelson C. Roe, the Applicant pursuant to his application for discharge from Imprisonment, and his Bond for appearance &c. in person, and by Andrew Harvey, his Counsel, and also Goodrich and Seville, the attorneys for the Creditors.

And the Examination of Witnesses is thereupon resumed and concluded, and it is ordered that this Case be adjourned for argument of Counsel to December

1st 1854. at 8 1/2 o'clock A M.

And the said Nelson C. Roe thereupon gave Bond for his appearance at such time &c. as required by Law in the penal sum of Twenty Two Thousand Dollars, with Milton S. Patrick as his security, who is approved by the Court.

County Court of Cook County
December Special Term December 1st 1854
Court met to call for business—
Present Hon Henry L. Rucker Judge
Charles B. Farwell Clerk

Roe, Nelson C. }
An Applicant }

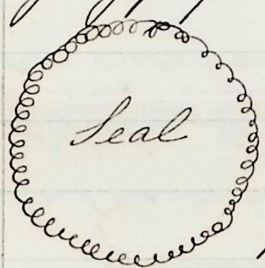
This day again comes into Court, Nelson C. Roe, the Applicant pursuant to his application and his bond for appearance &c. in person, and Andrew Harvey his Counsel, and also Goodrich and Seville, the Attorneys for the Creditors. And the Court having heard the arguments of Counsel, and it not appearing to the Court, after a full investigation and fair examination of the said Roe and the Witnesses, so had, that the proceedings of said Roe are fair, just and honest, the Court refused to make an Assignee of said Applicant, and to grant him a discharge from imprisonment, and it is further ordered that the said Nelson C. Roe be remanded to the custody of the officer as he was before his application for a discharge from imprisonment. And the said Nelson C. Roe thereupon prays the

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Court that he may be allowed to appeal to the next
County Court of Common Pleas, to be held in Cook
County, from the decision of this Court- whereupon
it is ordered that such an appeal be granted to the
said Nelson C. Roe, upon his entering into Bond in
the penal sum of Twenty two thousand dollars, con-
ditioned and payable as prescribed by Law-
And the said Nelson C. Roe having produced the
Bond with Milton S. Patrick as his security, who is
approved by the Court, it is ordered by the Court
that an appeal from the decision of this Court to
the next Cook County Court of Common Pleas be
granted to said Nelson C. Roe "

State of Illinois }
County of Cook } ss.

A. Charles B. Farwell, Clerk of the
County Court of Cook County, do hereby certify the
foregoing to be a true and correct transcript from the
Records of this Court of Proceedings had and done in
matters of Nelson C. Roe, an Applicant for discharge
from imprisonment, under the provisions of the In-
solvent Laws of this State, and that the accompa-
nying papers are the papers filed in this Cause-



In witness whereof, I have hereunto set
my hand and the seal of the County
Court of Cook County at the Chicago, this
1st day of December - A D. 1854.

C. B. Farwell

Clerk of the County Court-

Endorsed "Filed Dec. 4. 1854. W. Kimball - Clk."

State of Illinois—

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In the Cook County Court of Common Pleas
of the February term of said Court, A. D. 1855.
In the matter of the application
of Nelson C. Roe for a discharge as } An Appeal—
an insolvent debtor

And the said Nelson C. Roe, by Andrew Harvie his attorney, moves the Court to set aside the default entered in said cause—said motion being founded on files in cause and affidavits on file—

Andrew Harvie

Chicago February 27th 1855. Atty for Applicant—
Endorsed—Filed Feb 27. 1855. W. Kimball, Clk."

State of Illinois }
Cook County } p.

In the matter of the application
of Nelson C. Roe, for a discharge as an
insolvent—

Appeal from County Court—

Feb. Term A. D. 1855 of
the Cook Cty Ct. of Com. Pleas

This affiant, Nelson C. Roe, the above named applicant, being duly sworn on oath, says that he has been at all times, willing to appear in the above named cause at the said term of the Court, and that affiant could and would have entered his personal appearance before the said Court, on the first day of the said term, if he had deemed it necessary—

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to do - that he was informed and believed that if
 he was before the said Court upon the day upon
 which the same was set for hearing by the Court
 that that would be sufficient, and having been
 informed by his Counsel Andrew Harvie Esq. that
 the cause above named was set for a hearing on the
 Saturday of the third week of the said term of the
 Court, and having business to transact in the West,
 he left the City for a few days to attend to said busi-
 ness, which was to fulfil an engagement previ-
 ously entered into by him - that the affiant was
 detained for several days longer than he expected,
 on account of the impediment to the roads caused
 by the snow storms which happened about that
 time, but he, the said affiant, was enabled to
 reach the City some time previous to said day, when
 the said cause was set for hearing - And he, the af-
 fiant was at the Court House in said County, with
 his Counsel, on the said Saturday, when the said
 Cause was set for hearing, and that he has been in
 attendance on said Court, every day since, and has
 never had any intention of failing to appear in the
 Cause -

Nelson C. Roe

Subscribed and sworn to before
 me, this 27th day of February A.D.

1885 - J. A. Hoisington. J. P.

Endorsed - Filed Feb. 27. 1885.

W. Kimball. Clerk

State of Illinois }
Cook County } ss.

In the matter of the application
of Nelson C. Roe, for a discharge as an insolvent debtor.

February Term A D. 1855.

of the Cook County Court of Com. Pleas.

This affiant Andrew Harvie being duly sworn on
oath says that he is the attorney for the above nam-
ed Nelson C. Roe, in the above named cause, and
was by said Roe retained some time before the com-
mencement of this term of said Court, that he is
informed said Roe, on Friday next previous to the
first day of said term, that his, the said Roe's above
cited application was fixed for a hearing on the
Saturday of the third week of the next term of the
said Court, and that he, the said attorney, has ap-
peared from day to day, in said Court, since the
commencement of the said term, in order to attend
to the interests of the said Roe in said Cause - That
said Roe was with him, the said attorney, before
the Court, on the said Saturday, and every day
since, ready to proceed with the said application of
the said Roe and further saith not.

Subscribed and sworn to Andrew Harvie

before me, this 27th day of
February A D. 1855 - W. Kimball - Clerk -

Endorsed - "Filed Feb. 27. 1855. W. Kimball - Clk"

State of Illinois } ss.

In the Cook County Court of Common Pleas

In the matter of the application of Nelson C. Roe, for a discharge as an insolvent debtor } An appeal from } County Court of Cook

To the Honorable John M. Wilson, Judge of the Cook County Court of Common Pleas—

The petition of the above named Nelson C. Roe, respectfully sets forth That on or about the 17th day of November, A.D. 1854. this petitioner made application to the Hon. H. L. Rucker Judge of the County Court of Cook County, for a discharge as an insolvent debtor, under and by virtue of the 32nd Chapter of the Revised Statutes of the State of Illinois, relating to "insolvent debtors"— That on the hearing of said application, the said Judge of the said County Court refused to grant the order for his (petitioner's) discharge, pursuant to the provisions of the said act. That thereupon an appeal was taken by your petitioner on or about the 1st day of December, A.D. 1854. from the judgment of the said County Court in said matter to this Court, where said appeal is now pending and undecided in this Court.

That your petitioner is informed, and believes the same to be true, that the Honorable, the Judge of this the said Cook County Court of Common Pleas, is prejudiced to such an extent against this petitioner, and against his said cause, that he cannot receive a fair and impartial trial in the said cause in this Court, where the same is now pending—

And this petitioner says that he does fear that he will not receive a fair trial in said cause in this Court, where the same is now pending, on account that the said Judge, the Honorable John M. Wilson is prejudiced against him (petitioner) and his said cause, and therefore petitioner prays a change of venue in the said cause—

The said petitioner further says that he does not ask the said change of venue for the purpose of vexation or delay, but for the reasons above stated—

Nelson C. Roe—

State of Illinois }
Cook County } p.

The above named Nelson C. Roe, being duly sworn, on oath, says that the facts set forth in the foregoing petition, are true—

Subscribed and sworn to, before } Nelson C. Roe—
me, this 3rd day of March A.D. }

1855.

J. A. Worthington J. P.

Endorsed—Filed March 5th 1855. W. Kimball Clk

State of Illinois } p.

In the matter of the application } In the Cook County
of Nelson C. Roe, for a discharge as } Court of Common Pleas
an insolvent debtor } at its Sep. Term A.D. 1855

Pending—

On appeal from the County Court of Cook County—

To the Honorable John M. Wilson, Judge of the
said Cook County Court of Common Pleas—

The petition of the said Nelson C. Roe, for a change

of venue in said cause, respectfully shows - That on or about the 17th day of November, A. D. 1854. he made an application to the County Court of Cook County, for a discharge as an insolvent debtor, and by virtue of the 52nd Chapter of the Revised Statutes of the State of Illinois, relating to "Insolvent Debtors" - and that the Judge of the said Court decided adversely to the said application of your petitioner - That on or about the 1st day of December, A. D. 1854. he, the said petitioner, took an appeal from the said judgment of the said County Court of Cook County, in said cause, to the said Cook County Court of Common Pleas, at its then next ensuing term, and that the said Nelson C. Roe was ready and desirous of a hearing in said cause at the last term of this Court, but did not obtain the same - That he, the said Roe, has been informed and believes that the Honorable, the said John M. Wilson, Judge of the said Cook County Court of Common Pleas, is prejudiced against him, and against his said cause, to such an extent, that the said Roe, can not have a fair and impartial trial in said cause - That the said information has been received by him, said Roe, since the 1st or 2nd of March instant, and that previous to said 1st or 2nd of March, he, said Roe, was not aware of the prejudice of the said Honorable Judge, John M. Wilson against him and his said cause - The said Roe says that he does fear that he will

not receive a fair trial in the Court, in which his said action or cause is now pending, on account that the Judge of said Court, the Honorable John M. Wilson is prejudiced against him, and against his said cause, and that of the existence of said prejudice he was not aware until the 1st or 2nd of March, as above stated.

The said Roe therefore prays change of venue to some other Court or County, where the said causes complained of, do not exist.

The said Roe further says that he does not ask said change of venue for the purpose of vexation or delay but for the reasons above stated. Nelson C. Roe.
 State of Illinois }
 Cook County } J.

The above named Nelson C. Roe, being duly sworn, on oath says that the facts set forth in the above and foregoing petition, are true. Subscribed and sworn to Nelson C. Roe.

before me, this 5th day of March. A.D. 1855. J. A. Hoisington - J.P.

Endorsed "Filed March 7. 1855. W. Kimball - Clk."

And afterwards, to wit, at the March Vacation Term of said ^{County} Court, to wit, on the 24th day of April, the following order was made and entered of record therein in said cause, to wit -

In the matter of the application of Nelson C. Roe, to be discharged from arrest, under the Insolvent Law -

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Appeal from Probate Court

Ordered that this cause be placed on the trial docket for the ensuing May Term -

And afterwards, to wit, at the June Special Term of said Court, to wit, on the 22nd day of June in the year last aforesaid, the following proceedings among others, were had and entered of record therein in said cause, to wit -

In the matter of the application
of Nelson C. Roe, to be discharged } Appeal from Probate Court
^{from arrest}
under the Insolvent Law

This Cause being now regularly called for a hearing, it is ordered on motion of Messrs. Goodrich, Scoville & Seelye, who appear for the Creditors, herein Ordered that the said Nelson C. Roe be called, and he being thereupon three times solemnly called, comes not, either in person, or by attorney, but herein fails to prosecute his said appeal - It is ordered that his default be entered, and thereupon Messrs. Goodrich, Scoville & Seelye, on behalf of said Creditors, move the Court to dismiss this appeal, which said motion the Court takes under advisement -

And afterwards, to wit, at the same term of said Court, last aforesaid, to wit, on the 28th day of June in the year last aforesaid, the following further proceedings were had therein in said cause to wit -

In the matter of the application }
of Nelson C. Roe, to be discharged } Appeal from Probate Court

from arrest under the Insolvent Laws.

This day again
come the Creditors of said applicant by Messrs. Go-
rich, Scoville & Seelye, his attorney, and the said ap-
plicant by his attorney, also comes, and the Court
being now fully advised, upon the motion to dis-
miss the appeal, heretofore entered herein, orders
that the said motion be sustained, and this ap-
peal is dismissed.

State of Illinois, }
COUNTY OF COOK. } s. s.

I, WILLIAM L. CHURCH, Clerk of the Circuit
Court of Cook County, in the State aforesaid, do hereby
certify the above and foregoing, to be a true, perfect and complete
copy of the papers filed & proceedings had and
taken of record
in a certain cause lately pending in said Court on the
Common Law ^{in the matter of the application of} side thereof, ^{wherein} Nelson & Roe
to be discharged from arrest under the ~~and~~
Insolvent law ^{dependent}

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the seal of our
said Court at Chicago, this tenth day of May A. D. 1859
Mes 6 35

W. L. Church
Clerk.

Let a supersedeas issue in this case; bond
in the sum of five hundred dollars
with Milton & Patrick surety
June 27, 1859. J. D. Cawen

Supreme Court

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Nelson & Roe

vs

William Hurlburt &
La Fayette Hurlburt

In the matter of the application
of Nelson & Roe to be discharged
as an insolvent debtor

And now comes the said Nelson & Roe before the
Justices of the Supreme Court, at the Court house in
the City of Ottawa by Scates McAllister Jewett his attorney
and says that in the record and proceedings aforesaid
and in giving the judgment aforesaid there is
manifest error in this to wit

1st The Court erred in dismissing the appeal of the
said Nelson & Roe.

2 The Court erred in taking the default of said
Nelson & Roe.

3 The Court had no power authority or jurisdiction
to take the default of said Roe or to dismiss
the said appeal

4th There was no sufficient transfer of said
proceeding from the Cook County Court of Common
Pleas to which said appeal was taken, to authorizing
the said Cook County Circuit Court to ~~at~~ entertain
jurisdiction of said case & proceedings, or to make
the aforesaid order of dismissal, but the said
Court should have ordered said case back to
said Common Pleas Court, for a transcript to be
made in pursuance of the statute in such case
made & provided, wherefore ^{for} the said errors and other
errors appearing in the record & proceedings aforesaid

the said Nelson & Roe pray, that said judgment may
be reversed &c. Scates McAllister & Jewett
attys for Plff in error

Supreme Court

Nelson & Roe

vs
Melvin Hulbert &
Lea Fayette Hulbert

And now comes the said
Melvin & Lea Fayette Hulbert
defendants by Donnell Smith
& Thomas their attorneys and
they say that there is no error in the
proceedings or record of the said case
in the giving of the judgment upon
said rehearing, pray that said judgment
be affirmed. Donnell Smith & Thomas
attys

\$5.00 / d. 6/2

Supreme Court
Nelson & Roe
vs
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Melvin Hulbert et al
Transcript Record &
Adapt of Errors

Filed June 28, 1854
Leland
clerk