

13706

No. _____

Supreme Court of Illinois

Simpson et al

vs.

McKinney et al

71641  7

State of Illinois
Henderson County

Pleas &c before the
Honorable John S. Thompson Judge of the
South Judicial Circuit in the said State
of Illinois at a Court begun & held at
the Court House in Aquawka Commencing on
the second Monday of May A.D. 1859

It being the 9th day of said Month of May
1859.

Present Hon John S. Thompson Judge
James H. Stewart State atty
George W. Cowden Shff
Hugh C. Thompson CLK
John Mc Kenney &
Hiram Mc Kenney Com-
posing the Firm of
Mc Kenney & Son

Jason B. Simpson
Jonathan Simpson

In Attachment

Be it known
that on the 5th day of April A.D. 1859
John Mc Kenney appeared in the Clerk's Office
of the Henderson Circuit Court and
filed his affidavit in Attachment in
the following words and figures to wit
State of Illinois 2^{ds} the May term of the
Henderson County 3^d Circuit Court in and
for said County

John Mc Kinney &
Hiram Mc Kinney
Partners Composing the
firm of McKinney & Son

Jonathan Simpson &
Jason B Simpson

In Attachment

John McKinney one
of the plaintiffs in this Cause after being first
duly sworn deposes and says that Jason
B Simpson is justly indebted jointly with
one Jonathan Simpson to plaintiffs in the
sum of One Hundred and Six dollars and
thirty cents on a note executed by the
said Jason B Simpson and one Jonathan
Simpson to one Jacob Weber for the sum of
One Hundred dollars dated March 24th
1858 due one Year after date with ten per
cent interest and assigned before the same
became due to plaintiffs That the said
Jason B Simpson is about to depart from
the state of Illinois with the intention of
having his effects removed from the state
of Illinois to the injury of Plaintiffs and
further your affiant says not

Subscribed & Sworn this John Mc Kinney
5th day of April A.D. 1859

Nugh L Thomson Clerk

And the said John McKinney filed
the following Bond to wit

Know all Men by these presents that
we John McKinney and Hiram McKinney
Comprising the firm of McKinney & Son and
James Moir of the County of Henderson
and State of Missouri are held and firmly
bound unto Jason B Simpson in the
penal sum of Two Hundred and Thirty
dollars for the payment of which well
and truly to be made we and each of us
bind ourselves our heirs executors and
administrators jointly and severally and
firmly by these presents sealed with our
seals and dated at Aquawka this fifth
day of April Anno Domini One Thousand
Eight Hundred and Fifty Nine The Con-
dition of the above obligation is such
that Whereas the above bounden Mc-
Kinney & Son hath on the day of the date
hereof prayed an attachment at the
suit of John McKinney and Hiram
McKinney Comprising the firm of McKinney
& Son against the estate above the above
named Jason B Simpson for the sum of
One Hundred and Ten ^{30/100} dollars and
the same being about to be sued out re-
turnable on the Ninth day of May next
to the Term of the Court then to be holden

Now if the said McKinney & Son shall prosecute said suit with effect or in case of failure therein shall well and truly pay and satisfy the said Jason B Simpson all such costs in said suit and such damages as shall be awarded against the said McKinney & Son ~~therein~~ Heirs Executors or administrators, in any suit or suits which may hereafter be brought for wrongfully suing out the said attachment then the above obligation to be void otherwise to remain in full force and effect
Taken and entered into the }
date first above written }
Hugh L Thomson Clerk }
McKinney & Son }
James Moor }
Ed

And the following Attachment and summons was issued to the Sheriff of said County to wit
State of Illinois }
Henderson County }

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

Whereas John McKinney Sr hath complained on oath to Hugh L Thomson Clerk of the Circuit Court of Henderson County that Jason B Simpson is justly indebted jointly with Jonathan Simpson to John McKinney and Horan McKinney to the amount

of Composing the firm of McKinney & Son
 to the amount of One Hundred and Ten
 Dollars and thirty cents And oaths having
 also been made that the said Jason B
 Simpson is about to leave the State of
 Illinois with the intention of moving
 his effects therefrom to the injury of said
 Plaintiffs And the said John McKinney
 sen having given Bond and security ac-
 cording to the directions of the act in
 such Case made and provided We
 therefore Command you as we have here-
 tofore Commanded you, that you attach
 so much of the Estate real or personal of
 the said Jason B Simpson as is to be found
 in your County as shall be of value
 sufficient to satisfy the said debt and
 costs according to the Complaint and
 such estate so attached in your hands to
 secure or so to provide that the same may
 be liable to further proceedings thereupon
 according to law at a Court to be holden
 at Aquanika for the County of Henderson
 on the 9th day of May next so as to com-
 pel the said Jason B Simpson to appear
 and answer the Complaint of the
 said McKinney & Son

State of Illinois }
 Henderson County } State of Illinois

To the Sheriff of said County Greeting
We Command you to summon
Jonathan Simpson and Jason S Simpson
if to be found in your County personally
to be and appear before the Circuit Court
of the County of Henderson on the first
day of the Next Term thereof to be holden
at the Court House in Aquawka on the
second Monday in the Month of May next
to the Answer the Complaint of John Mc
Kinney and Abram McKinney Composing
the firm of McKinney and Son of a plea
of trespass on the case on premises to
them damages the sum of Two Hundred
Dollars as they say And have you there
and there this writ and make due return
therein in what manner you executed
the same

Witness Hugh L Thomson
Clerk of our said Court
at Aquawka this 5th day of
April A D 1859 the seal of
said Court being hereto
affixed

Hugh L Thomson Clerk
And said Writ was returned by said
Sheriff endorsed as follows to wit
State of Missouri }
Henderson County }
By Virtue of the

within Attachment I have levied on the following described Real Estate to wit Lot Six in Block Sixty Seven in the Town of Aquawka State of Illinois taken as the property of Jason B Simpson to satisfy said Attachment

Aquawka April 5th 1859

Geo W Cowden Sheriff

And afterwards to wit on the 29th day of April 1859. The following declaration was filed in the Clerk's Office of the Henderson Circuit Court in Vacations to wit

State of Illinois 2^d May Term 4th 1859
Henderson County 2^d of the Henderson County
3^d Circuit Court 2^d

John McKenny & Hiram McKenny by the name & style of McKenny & Son Plaintiffs by Stewart & Wolfe their Attorneys complain of Jonathan Simpson and Jason B Simpson Defendants who were attached to answer of a plea of Trespass on the Case on promise For that whereas the said defendants herebefore to wit in the Year of our Lord one thousand eight hundred at the County aforesaid by the name and style of J. Simpson & J. B. Simpson made a certain Note in writing commonly called a promissory Note bearing date the day and year last

aforsaid and then and there delivered
the said Note to one Jacob Weber by
which said Note the defendants promised
to pay to the said Jacob Weber or order
the sum of One Hundred dollars one year
after date with Ten per cent Interest for
value And the said Jacob Weber then and
there assigned the said promissory Note and
the said sum of Money in the said promissory
note specified to the said plaintiffs and then
and there delivered the said promissory
Note so endorsed to the said plaintiffs
By reason whereof and by force of the
Statute in such case made and provided
The said defendants then and there became
liable to pay to the said plaintiffs the
said sum of Money in the said Note spec-
ified according to the tenor and effect of
the said Note and being so liable the said
defendants in consideration thereof, after-
wards to wit on the same day and year
at the place aforsaid undertook and
then and there faithfully promised the
said plaintiffs well and truly to pay
unto the said plaintiffs the said sum
of Money in the said Note specified
according to the tenor and effect of the
said Note And Whereas also the

the said defendants afterwards to wit on the
first day of April in the Year of our Lord
one thousand Eight Hundred and Fifty Nine
at the County aforesaid were indebted to the
said plaintiffs in the sum of One Hundred
dollars lawful Money of the United States
of America for so much Money before that time
lent and advanced by the said plaintiffs
to the said defendants and at the special
instance and request of the said defendants
And for other Money by the said plaintiffs
before that time paid laid out and expended
to and for the said defendants and at the
like request of the said defendants And
for other Money by the said defendants
before that time had and received to
and for the use of the said Plaintiffs
And being so indebted the said defendants
in Consideration thereof afterwards to wit
on the same day and Year last aforesaid
and at the place aforesaid understood
and then and there faithfully promised
the said plaintiffs well and truly to pay
unto the said plaintiffs the said sums of
Money in this Count mentioned when the
said defendants should be thereunto after
wards requested And Whereas also
the said defendants afterwards to wit
on the same day and Year last aforesaid

and at the place aforesaid accounted together with the said plaintiffs of and concerning divers other sums of Money before the time due and owing from the said defendants to the said plaintiffs and then and there being in arrear and unpaid And upon such accounting the said defendants then and there were found to be in arrear and indebted to the said plaintiffs in the further sum of One Hundred Dollars of lawful Money as aforesaid And being so found in arrear and indebted to the said plaintiffs the said defendants in consideration thereof afterwards to wit on the same day and year last aforesaid and at the place aforesaid undertook and then and there faithfully promised the said plaintiffs each and truly to pay unto the said plaintiffs the said sum of Money last mentioned when the said defendants should be thereunto afterwards requested Nevertheless the said defendants (although after requested so to wit at the time when the said Note became due and payable according to the tenor and effect thereof and after times since to wit at the place aforesaid have not yet paid the said several sums above mentioned or any or either of them or any

part thereof to the said plaintiffs but
to pay the same or any part thereof
to the said plaintiffs the said defen-
dants have ~~withheld~~ neglected altogether
neglected and refused still to do right
and refuse to the damage of the
said plaintiffs of Two Hundred
dollars and therefore the said plain-
tiffs bring suit &c

Stewart & Wolfe Atty for Plffs
Copy of Note Dued on
one year after date for value received
we promise to pay to the order of Jacob
Weber the sum of one hundred dollars
with ten per cent interest

March 24th 1858 J Simpson

J.B. Simpson

Assignment on said Note
For value received I assign the
within Note to McKinnin & son
Jacob Weber

Copy of account sued on in Common
Counts, To Money had and received from
To Money paid laid out & expended 100.00
" Money lent and advanced 100.00
" Money due on account stated 100.00

And afterwards to wit on the
17th day of May 1859 at the May
Term 1859 of the Henderson Circuit

Court in said State, before the Judge
aforesaid This day comes on this
Cause for hearing and the issues being
joined And by agreement of the parties
a jury is waived and the trial by the
Court and after hearing the evidence the
Court finding for the Plaintiff in the sum
of one Hundred and Eleven $47/100$
dollars Therefore it is considered by
the Court that the Plaintiffs have and
recover of the defendants the sum of
one Hundred and Eleven $47/100$ dollars
together with their costs in this behalf
paid out and expended and that they
may have execution therefor against
the said defendants And it is fur-
ther ordered by the Court that the Clerk
issue a special execution to sell the pro-
perty attached, Then comes the defen-
dant by his Attorney and prays an ap-
peal to the Supreme Court and after
consideration It is ordered by the Court
that the appeal be allowed by Jona-
than Simpson giving bond with Samuel
Larnell security in the sum of Three
Hundred dollars said Bond to be
filed within in ten days from the date
hereof And afterwards to wit
on the 26th day of May 1859 the

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Bond above referred to was filed
to wit

State of Illinois }
Henderson County }

Know all Men
by these presents that we Jonathan
Simpson as principal and Samuel
Larnell as security are held and
firmly bound unto John McKinney
and Wiram McKinney partners trading
doing business under the name firm and
style of McKinney & Son in the penal
sum of Three Hundred dollars for the
payment of which well and truly to
be made we hereby bind ourselves our
administrators Executors and heirs jointly
by these presents Witness our hands
and seals this 25th day of May A.D.
1859 The condition of the foregoing
obligation is such that Whereas on
the 17th day of May A.D. 1859 in the Circuit
Court of Henderson County and State
of Illinois the John McKinney and
Wiram McKinney partners Com-
posing the firm of McKinney &
Son as aforesaid did obtain a
judgment against the said
Jonathan Simpson and one Jason
B Simpson for the sum of one

Hundred and Eleven dollars and
Forty Seven Cents and costs of suit
from which said judgment said
Jonathan Simpson one of the above
named dependants has taken an
Appeal to the Supreme Court of
said State of Illinois. Now if the
said Jonathan Simpson shall duly prose-
cute his appeal and pay whatever
Judgment said Supreme Court may
render on trial or dismissal of said
appeal then this obligation shall be
void otherwise remain in full force
and effect

Jonathan Simpson Seal
Samuel Darnell Seal

State of Illinois }
County of Henderson }

I Hugh S Thomson Clerk
of the Circuit Court of Said County and
in the State aforesaid do certify that the
foregoing is a true and full Transcript of
of the proceedings and judgment in the
above entitled cause

Given under my hand
and the Seal of Said Court
this 27th day of August 1859
Hugh S Thomson Clerk

13326

Simpson Ad
by
McKinney Ad

[Faint handwritten scribbles]

Filed April 20/68
L. Ireland
Ch.

111,470

\$5,573.50

13706