

No. 14235

Supreme Court of Illinois

Kenner

vs.

Thrall

No 49

Pyramus W. Kemmer
Appellans
vs

Isaac P. Thrall
Appellee

Appeal from Nabask

Dismissed at cost of P. W.
Kemmer, with Damages for
Delay - Damages \$6.55. Cost \$8.40 -
When sent down to Clerk a
final order bill issued to
Shff. for Damages & Cost,
Dec. 1. 1855 -

14235

W. C. Cannel Esq

Oct. 27. 1855—

Clerk Sup. Court.

Dear Sir:

Enclosed, please find transcripts
in case of Pyram N. Korman appellant. at Joel
P. Thall appellee. Another transcript was made
out at the instance of the counsel for Korman
appellant, but the Lawyers objected it, and thus
prevented the cause from coming on for trial
at the last Nov. Term.—

Yours Respectfully
Edward Bell

131-10

5

655 JV

Joel P Thrall }
vs. }
Byram W. Kenner }
Wabash Circuit Court
Mumpst.
August Term 1854

Pleas

Before the Honorable Rowing Dargle Sole Judge
of said Court. As it remembered that heretofore
its writ. on the 9th day of August A.D. 1854, the following
summons was issued out of the Clerks office of said
Court to wit:

"State of Illinois - ss

Wabash County } The People of the State of
Illinois; do the Sheriff of White County Greeting:

We command you to summon Byram W.
Kenner if he can be found in your County to be
and appear before the Judge of our Circuit Court
Court on the first day of the next term thereof to
be holden at the Court House in Mount Carmel
within and for the said County of Wabash on the
fourth Monday in the month of August instant
to answer Joel P Thrall of a plea of Trespass on the
case on promised to the damage of him the said
Joel P Thrall two hundred dollars as he saith,
and of this writ make legal service and due return
at the time and place aforesaid. Witness My hand

Wm Bell Clerk of said Circuit Court at Mount
Carmel this 9th day of August A.D. 1854
Wm Bell Clerk"

Upon which said summons is endorsed the following
Sheriffs return to wit:

"Executed by reading to the within named
Byram W Kenner August 16th 1854. John Crow Sheriff W Co"

And afterwards to wit on the 18th day of August
A^D 1854 said Joel P^r Thrall by his Attorney filed
in said Court his declaration in said Cause which
is in the words and figures following to wit.

" State of Illinois Wabash County ss
Wabash Circuit Court

August Term 1854

Joel P. Thrall Plaintiff complains of Pyram
W. Kemmer defendant being summoned &c of a
plea of Disresp on the case on promises, For that
the said defendant by the name and description
of P. W. Kemmer heretofore to wit: on the 28th day of
June A^D 1849, at Mount Carmel to wit; at the County
aforesaid made his certain promissory note bearing
date the day and year last aforesaid and thereby then
and there promised to pay to Joshua Beall or order
five years after the date thereof the sum of one
hundred and twenty nine dollars and sixty four
cents for value received. And the said Joshua Beall
afterwards to wit: on the 24th day of April A^D 1852, at
the County aforesaid endorsed and delivered the
said promissory note to the said plaintiff without
recourse by means whereof the said defendant
then and there became liable to pay to the said
Plaintiff the said sum of money in the said
note specified, according to the tenor and effect
of the said promissory note, and being so liable
he the said defendant in consideration thereof
afterwards to wit: on the day and year aforesaid
at the County aforesaid undertook and then
and there faithfully promised the said plaintiff
to pay him the said sum of money in the said
promissory note specified according to the tenor
and effect thereof. And the said Plaintiff

avens that the contract and cause of action
for which said promissory note was given, accrued
in the County of the Plaintiff to wit the County of
Wabash aforesaid, and that said Plaintiff resides,
in said County of Wabash.

And whereas also the said defendant after-
wards, to wit, on the day and year aforesaid at the
County aforesaid was indebted to the said plaintiff
in the further sum of Two hundred dollars for so
much money by the said plaintiff before that
time lent and advanced to the said defendant
at his special instance and request, and also in
the further sum of Two hundred dollars for so
much money by the said plaintiff before that
time paid, laid out and expended to and for the
use of the said defendant at his like special in-
stances and request, and also in the further
sum of two hundred dollars for so much money
by the said defendant before that time had and
received to and for the use of the said plaintiff,
and being so indebted he the said defendant
in consideration thereof afterwards, to wit on
the day and year aforesaid at the County aforesaid
undertook and promised the said plaintiff to
pay him the said several sums of money
in this court mentioned when he the said
defendant should be thereunto afterwards requested.
And the plff avens that the cause of action
in this court mentioned, originated in the County
of Wabash aforesaid and that said plaintiff
resides in said County of Wabash

Yet the said defendant although often
requested hath not paid the said sum of money

in the first count mentioned nor any part thereof
either to the said Joshua Beale before the assign-
ment of the note therein mentioned nor to the
said Joel P. Thrall plaintiff since the said assign-
ment, nor hath he paid the said several sums
of money in the last count mentioned nor either
of them nor any part thereof to the said Plaintiff
to the damage of the said plaintiff of two hundred
dollars and therefore he sues &c.

W. B. Beale atty P. D.

And the plaintiff herewith files the note upon
which this suit is instituted together with a copy
of his account

Copy of Note

" \$ 129 ⁶⁴/₁₀₀

Mount Carmel June 23rd 1849.

Five years after date I promise to pay
to Joshua Beale or order One hundred and twenty
nine dollars & sixty four cents for value received
W. W. Kenner

Endorsed

"I hereby assign my right to this note to Joel P.
Thrall without recourse against me, Apr 24th 1852.
Joshua Beale"

Copy of A/c

"Byram W Kenner

To Joel P. Thrall Dr

| | |
|---------------------------------------|-----------|
| To Amt loaned you | \$ 200.00 |
| " " paid, laid out & expended for you | 200.00 |
| " " received by you for my use | 200.00 |

And afterwards to wit on the 31st day of August
A^d 1854, the said defendant by his attorney
filed to said declaration the following

the Court in arrest of judgment and for a new trial which motions after argument of Counsel are overruled by the Court. It is therefore considered by the Court that the said plaintiff recover of the defendant the said sum of One hundred and thirty one dollars and ten cents for his damages by the jury assessed together with his costs and charges, herein expended and thereof have execution. Whereupon the Defendant by his counsel prayed an appeal to the Supreme Court which is allowed by the Court upon the said defendant entering into bond with Alvin R. Kemmer as surety in the penal sum of Two hundred fifty dollars within thirty days from this date."

The Bills of exceptions filed by said Defendant in this cause are in the following words and figures to wit

"Joel P. Thrale } State of Illinois, Habersham County
 vs } Circuit Court Aug^r Term 1854
 Defendant }
 vs }
 Alvin W. Kemmer }

Be it remembered that on this the 31st day of Aug^r 1854 and the fourth day of said term, the above entitled cause came on to be heard before the Hon. D. P. Barry to the jury of said Court to jury and upon the trial of said cause the said Plaintiff offered in evidence a promissory note of which the following is a copy

"\$129 $\frac{64}{100}$ "

Mount Carmel June 23rd 1849.

Five years after date I promise to pay to Joshua Beale or order One hundred and twenty nine dollars & sixty four cents for value received

A. W. Kemmer."

Endorsed - "I hereby assigned my right to this note

to Joel P. Thrall without recourse against me Ap. 24th
1852

Joshua Seal

to which the said defendant by his counsel objected
whereupon the Court overruled such objection and allowed
said costs to go to the jury, to which ruling of the Court
the Deft then & there excepted & prayed that this his
bill of exceptions be signed & sealed & made a part
of the record which is done accordingly

D. Bangs Seal

Filed August 31st 1854. Hiram Bell clk

Byrn W. Kenned

vs

Joel P. Thrall

} Wabash County Circuit Court
} Aug Term AD 1854.

Be it remembered that on this the 31st Aug 1854
& the fourth day of said term, after the hearing of said
Cause the jury sworn therein came into Court and
returned the following verdict, "We the jury find
for the plaintiff and assess his damages at one hun-
dred and thirty one dollars and ten cents" Whereupon
the Deft by his counsel moved the Court for an award
of judgment & a new trial in said cause which
said motions were then severally overruled by the
Court. To which opinion of the Court overruling
said motions, the Deft by his counsel then excepted
and prayed that this his bill of exceptions, be signed
& sealed & made a part of the record which is ac-
cordingly done

D. Bangs Seal


Endorsed "Filed August 31st 1855. Hiram Bell clk"

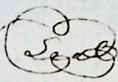
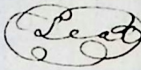
And afterwards to wit on the 26th day of September
AD 1854, the said defendant and Abner R. Kenned



his surety filed in the Clerks Office of said Court
an Appeal Bond in said cause which is in the words
and figures following to wit:

"Know all men by these presents that we
Byram W. Kemmer and Alvin B. Kemmer of the County
of White and State of Illinois are held and firmly
bound unto Joel P. Thrall of the County of Wabash
and State aforesaid in the personal sum of two hun-
dred and fifty dollars, current money of the United
States for the payment of which well and truly to be
made we bind ourselves our heirs, executors and
administrators, jointly severally and firmly by these
presents — Witness our hands and seals this 25th
day of September AD 1854

The condition of the above obligation is such
that whereas the said Joel P. Thrall did on the 31st
day of August AD 1854 in the Circuit Court in and
for the County of Wabash and State of Illinois recover
a judgment against the above bounden Byram W.
Kemmer for the sum of one hundred and thirty one
dollar and two cents, damages and Eleven Dollars
and seventy cents costs from which judgment of
the said Circuit Court the said Byram W. Kemmer
has prayed for and obtained an appeal to the Supreme
Court of the State of Illinois for the Division holding
its sessions at Mount Vernon in said State. Now
if the said Byram W. Kemmer shall duly prosecute
his said appeal with effect, and shall moreover
pay the amount of the judgment, costs, interest
and damages, rendered or to be rendered against
him in case the said judgment shall be affirmed
in the said Supreme Court then the above
obligation to be void otherwise to remain

in full force and virtue
Witness
Jeremiah Roub. 

P. W. Kemmer 
W. R. Kemmer 

State of Illinois 
Wabash County  I Miriam Bell Clerk of the
Circuit Court in and for said County do certify that
the foregoing eight pages contain a full, true, and
perfect transcript of the record and proceedings
in the cause therein mentioned wherein Joel P. Threlk
was Plaintiff and Byron W. Kemmer was defendant
as the same remain in my office —

I further certify that in the month of
September A.D. 1854, I made another transcript
of the record and proceedings in said cause, and
handed the same to William Harrow Esqr of
Counsel for the Defendant and Appellant, at his
request, and that the same was made out by his
instructions for the purpose of being filed in the
Clerk's Office of the Supreme Court at Mount Vernon,
so that the said appeal might be tried at the then
ensuing November Term of said Court.

In Testimony whereof I have
hereunto set my hand and affixed
the seal of said Court at Mount
Carmel this 24th day of October
A.D. 1855.

Miriam Bell Clerk
Clerk this for transcript.

Transcript — \$ 3.20
Certified Seal — .35
\$ 3.55

No 49
Walsh Co.

This Appeal was dismissed
with judgment for 5 percent
damages for delay.

Notice sent to Clerk 26th
Nov. 1855-

Byram W. Turner
Appellant
vs.
Joel P. Thrall
Appellee.

Transcript.

Filed 14. Nov. 1855.

At Johnston Clk
" "
Paid by Judge
Beecher \$5.00

Clk fee for transcript \$2.50⁰⁰