

No. 13445

Supreme Court of Illinois

Ryder

vs.

Clark.

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 273.

Ryder
vs
Clark

13445

State of Illinois ss. In the Circuit Court
County of Ogle of said Ogle County.

Transcript from the files & records of
the Honorable the Circuit Court of Ogle County
Illinois

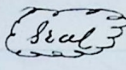
Be it known that in a certain cause
lately determined by the Honorable the Circuit
Court of Ogle County Illinois wherein George
Clark was Plaintiff and Seth Ryder defend-
ant the following files and records of proceed-
ings appear as part of the records of said
Court to wit: A summons issued by me
Isaac Woolley Esq. a justice of the peace in
and for said Ogle County which is in the words
and figures following.

State of Illinois The People of the State of
Ogle County ss. Illinois to any constable of
said County. Greeting.

You are hereby commanded to summon
Seth Ryder to appear before me at my office in
Oregon on the 30th day of December 1857 at 11 o
clock A.M. to answer the complaint of George
Clark for a failure to pay him a certain de-
mand not exceeding one hundred dollars;

N

and there of make due return as the Law directs.
Given under my hand and seal this 17 day
of December AD 1857

Isaac S. Woolly J P 

On the back of said summons appears the
following endorsement:

Demand \$35.50
Justices fees .75

Served the within by reading in the presence
and hearing of the within named Seth Ryder
this 21st day of December 1857

Service	.25
In Village	<u>.40</u>
	.65

Wm R Buser

Filed Jan 25 1858

Clerk -

W W Smith Clerk.

And further among the files of said Court there
appears a transcript from the docket of said
Isaac S. Woolly Esq which is in the words &
figures following to wit:

George Clark		
vs		In Assumpsit
Seth Ryder		

Am't of debt \$5.50 Summons issued on the 17 day of
December 1857 Made returnable
on the 30 day of December 1857 at 11

doct 12 o'clock AM & handed to Wm R

Seem 19 Busser Const.

1 Subpoena B 19 Summons returned served Decem

1 Subpa do 19 21st 1857

ad Ex parte 31 December 30 1857 parties present

Ex Judg 25 and plaintiff having proved his

Ex Appeal 25 account judgment is rendered

Bond 25 against said defendant for the

Transcript 25 sum of thirty five dollars & fifty
200 cents debt and costs tax at the

Wm R Busser sum of four dollars and fifty three
fees on Summons & 15 Cents

1 Subpoena P 13

Isaac S. Woolly J. P. C.D.

128

Witnesses I do hereby certify that the above
Wm R Busser 50 is a true transcript of the proceed-
B Marks 50 ings in the above cause as entered
S Warner 50 in my docket.
John Riben 50 Oregon Jan'y 25-1858

Isaac S. Woolly J. P.

On the back of said transcript the following
enclosurement to wit: "Filed Jan'y 25-1858

Wm W Smith Clerk"

x
And further among the files of said Court there appears an appeal bond which is in the words and figures following to wit:

Know all men by these presents. That we Seth Ryder & Joseph Ryder of the County of Ogle and State of Illinois are well and firmly bound unto George Clark in the penal sum of Eighty and $\frac{1}{100}$ dollars lawful money of the United States for the payment of which well and truly to be made we and ourselves our heirs executors administrators and assigns jointly severally and jointly by these presents

Now the condition of the above Obligation is such, That whereas, the said George Clark did on the Thirtieth day of December A.D. 1857 before Isaac S. Woolly a Justice of the Peace in and for the County aforesaid recover a judgment against the above bounden Seth Ryder for the sum of Thirty three & $\frac{51}{100}$ dollars & four & $\frac{53}{100}$ dollars costs; from which said judgment of the said Justice the said Seth Ryder has taken an appeal to the Circuit Court of the County aforesaid & State of Illinois. Now if the said Seth Ryder shall prosecute his appeal with effect, and shall pay whatever judgment may be rendered upon the trial or dismissal of said appeal then the above obligation to be void. otherwise to remain in full force & effect.

Seal
Seal

Setn Ryder
Taken and entered into Joseph Ryder
before me at my office
This 12 day of Jan'y A.D. 1858
Isaac S. Woolley J. P.

On the back of said bond is the following en-
dorsement to wit-

Filed Jan'y 25 1858
M W Sam. th Clerk.

And further there appears among the
files of said Court an appeal summons which
is in the words and figures following to wit:

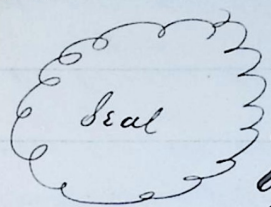
State of Illinois } The People of the State of
Ogle County ss } Illinois, to the Sheriff of
said County. Greeting

We command you to summon George Clark
if he shall be found in your County personally
to be and appear before the Circuit Court of said
County on the first day of the next term thereof
to be begun and holden at the Court-house in
Oregon on the first Monday of March next
to answer to an appeal taken by Setn Ryder
from a judgment rendered by Isaac S. Woolley
Esq a justice of the Peace of said County on

5

6

The 30th day of December 1857 against the
said Seth Ryder and in favor of the said
George Clark And have you then & there this
writ



Witness Mortimer W Smith Clerk
of our said Court and the seal thereof
This 25th day of January AD 1858
M W Smith Clerk

On the back of said appeal summons appears
the following endorsement to wit:

George Clark not found

E B Ryder Sheriff

By W B. Stoddard deputy

And afterwards to wit on Thursday the
17th day of June AD 1858 the same being one of
the days of the said June Term of the said Ogle
County Circuit Court the following among other
proceedings were entered of record in said Court
to wit

George Clark

vs

Seth Ryder

Appral

This day comes the said Plaintiff
by Dutcher his attorney and the defendant
comes by Mix his attorney and by the agreement

of parties. It is ordered that this cause be con-
tinued generally.

And afterwards to wit: - at the June Term Ad 1859
of said Court and on Monday the thirteenth day
of said month - the same being one of the days of
said June Term the following order was entered of
record in said Court - to wit:

George Clark
vs
Seth Ryder

Appral

And now on this day come
the said parties as heretofore and by agreement it
is ordered that this cause be continued generally.

And afterwards to wit: at the November Term Ad
1859 of said Court and on Friday the Eleventh day
of said November the same being one of the days of the
said November Term the following proceeding were entered
of record - to wit:

George Clark
vs
Seth Ryder

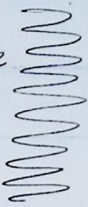
Appral

This day comes the said Plaintiff
by Dutcher his attorney and the said defendant - comes

8
by his attorney, and now to try the issue herein.
come the jurors of a jury good and law full men to wit:
H W Macdonald Henry Talbot Jacob Williams Jacob
Leimbarger J. M. Webb John Carpenter Samuel Storer
John Bersant Perry Barker Elijah Clark Samuel Mc
Farland and Matthew Blair who being duly elected
tried and sworn after hearing the evidence and arguments
of counsel and the instructions of the Court retire
with leave to seal their verdict and leave the same with
the Clerk of this Court.

And afterwards - to wit: on Tuesday the 15th day
of said November, the same being yet one of the days
of the said November Term A.D. 1859 the following
proceedings were entered of record to wit:

George Clark
vs
Seth Ryder

 Appral.

This day come the said parties as
heretofore and the jury also come and by their verdict
say that they find the issues for the Plaintiff and as-
sess his damages at thirty six dollars. Whereupon the
said Defendant enters his motion for arrest of
judgment & for a new trial herein

And further among the files of said Court there
appears a verdict in said cause which is in the
words and figures to wit:

We the Jury find for the Plaintiff and assess
the damages at thirty six dollars

Matthew Blair
Jacob Dornbarger
Samuel Dwyer
James M. Webb
Samuel McFarland
Elijah Clark
John Carpenter
Jacob Williams
Perry Barker
John Corsaut
W W Madenworth
Henry Talbot

On the back of said verdict appears the following
enclosure to wit:

Dated Nov 15 1859

W W Smith Clerk.

And afterwards to wit at the March Term A D 1860
of said Court and Friday the 30th day of said March

the same being one of the days of said March Term
The following proceedings were entered of record to wit

George Clark
vs
Seth Byler

Appral

This day come the said parties as
heretofore and now comes on to be heard the motion
of the said defendant for a new trial herein and after
argument of counsel and consideration by the Court
it is ordered that said motion be sustained and
that upon the payment by the said defendant of
all costs herein he have a new trial herein -

And afterwards to wit: on Tuesday the 12th day of
June A.D. 1860 it being one of the days of June Term of
said Court the following proceedings were entered of
record in said Court to wit:

George Clark
vs
Seth Byler

Appral

This day comes the said Plaintiff
by Dutcher his attorney and the said defendant comes
by Mix his attorney and by agreement between the said
parties It is ordered that this cause be continued
generally -

And afterwards to wit: at the November Term And
1860 of said Court and on Friday the 23rd day of
said November. the same being one of the days of
said November Term the following proceedings
were entered of record to wit:

George Clark
vs
Seth Byler

Appral

And now on this day comes
the said Plaintiff by C. F. Dutcher his said attorney
and enters his motion for judgment upon the
verdict of the jury herein. And now the defendant
also comes by H. A. Mix his said attorney and it
is ordered by the Court that so much of an order
heretofore made as required the said defendant
to pay costs be vacated and set aside; and now
the motion of the defendant for a new trial
herein coming on for hearing, and the Court being
advised in the premises it is ordered that said
motion be overruled to which ruling of the
Court the said defendant by his counsel does except.
And now the Plaintiff's motion for judgment
being heard and considered is sustained; and it
is considered by the Court that the said Plain-
tiff have and recover of the defendant the said
sum of thirty six dollars his damages here in

12 - assessed by the jury as aforesaid together with his costs and charges in and about this suit in and about his suit in this behalf expended and that he have execution therefor. And now a bill of exceptions being presented to the Court by the said defendant is approved and signed and sealed and the defendant by his said attorney prays an appeal of this cause to the Supreme Court which is allowed upon the filing of bond by the said defendant in the sum of three hundred dollars within sixty days conditioned according to the form of the statute in such case made and provided, with security to be approved by the Clerk of this Court.

And further among the files of said Court there appears a bill of exceptions which is in the words and figures following to wit:

State of Illinois In the Circuit Court of said
Ogle County ss County of the November
Term A.D. 1859

George Clark vs Appeal from Isaac N. Wool-
Seth Ryder by a magistrate. Action
brought by Plaintiff against
defendant for work & labor in the harvest of A.D. 1857

Be it remembered that on the trial of the above entitled suit the Plaintiff to prove his account offered the testimony of William Diamond, to the introduction of which the defendant then and there excepted on the ground of interest, and to prove the interest of said Diamond offered the following evidence.

Samuel Danner being sworn testified

That Clark

The Plaintiff was in his employ in the fore part of the season of A.D. 1857. That he Clark told witness that he had agreed to work for William Diamond through harvest. Witness afterwards saw Clark & Diamond at work for Ryder. This conversation with Clark was about one week before I saw Clark at work for Ryder. Diamond had from 24 to 28 acres of harvesting. Ryder had 100 or more acres.

Witness further stated that about the time Clark the Plaintiff left him Diamond (the witness) came to him and stated that he wanted Clark to help him during harvest. That he Diamond had agreed with ^{the} defendant Ryder to exchange work during harvest. Ryder was going to cut his harvest and he was going to help him with a hand and did not know what he would do

if he could not get Clark (who was a brother in law). Could put up with his accommodations better than a stranger. Diamond had no other hand. I saw Diamond in about a week after at work for Ryder and Ryder afterwards helped Diamond.

^N
Further to show interest defendant read the deposition of James Bond who deposed in answer to the interrogatories propounded deposed as follows.

Interrogatory First:

What is your name age and occupation and where do you reside?

Answer to 1st Int:-

My name is James Bond. I am twenty years old Reside at present in Mt Morris in Ogle County

Interrogatory 2^d

Are you acquainted with the parties to the above entitled cause?

Answer

I am acquainted with both parties -

Int 3^d.

Who employed you in the harvest of 1857 for whom did you work? and who worked with you and who was to pay you for your labor during said harvest?

Answer.

Robert Marks employed me in said harvest. I worked for Robert Marks and did some work for Seth Ryder. William Diamond Wesley Lappam Robert Marks Benjamin Sharp Henry Ryder Seth Ryder E. Donlap and George Clark worked with me. Robert Marks was to pay me for my labor during said harvest.

Interroga 4-

Did you or not during said harvest at the direction of the said Robert Marks do work for other individuals besides the said Marks if yes for whom and under what arrangement did you so work?

Answer.

I did do work for Seth Ryder at the direction of said Marks. We went to harvest for Seth Ryder and Seth Ryder was to harvest for Robert Marks in return.

Int 5th

While you were so at work as aforesaid for the said Seth Ryder did you or not have a conversation with the Plaintiff George Clark. If you please state fully what the said Clark said in said conversation in regard to whom he was employed by and who was to pay him.

Answer.

I did have several conversations with said

16
Blark at said times, he said he was employed
by William Diamond. He said he engaged him-
self to William Diamond to harvest before he
went to Samuel Donners. I suppose William
Diamond was to pay him. He said that he was
at work for Ryder the same as I was under an
arrangement for exchange of work, and that
he looked to Diamond for his pay the same as
I looked to Marks for mine. He did not use
these exact words but this is the purport of what
he said.

Int- 6th

Is there any other matter or thing
material to be proven by the defendant in this
case that you have ^{not} embraced in your answers
to previous interrogatories. If you state the same
Answer

I know of nothing further material
to the defendant.

And further to show interest defendant
introduced Robert Marks who being sworn &
duly qualified testified

That himself and Ryder
had agreed to exchange work in harvest; that
he had no reaper but Ryder had and he had
agreed to work for Ryder with his man James
Bond and Ryder in return was to work for him

with his reaper and man - that one or two days before they commenced harvesting he went up to Ryders to see Ryder when he would cut eye when taking Diamond came up to get some corn Ryder said to Diamond are you coming in with Clark to help me through harvest as you have agreed I understand that I never says he had agreed to work for him through the season & will not let him come. Diamond replied that Clark would come or if he did not he would get another hand to help him through harvest. A day or two after we commenced cutting for Ryder. Diamond & Clark came in they went home nights but boarded at Ryders. As soon as Diamonds crops were ready Ryder went with his reaper and team and six or seven men to cut Diamonds crops, a part of his grain was down and took longer to cut it. Ryder and men boarded at Diamonds while cutting but slept at Ryders. Diamond had no hand but Clark that season Clark worked some days.

st
To rebut the evidence offered by the Defendant the Plaintiff introduced a witness Benjamin Sharp by name who being produced and sworn said: That he lived in the town of Leaf River two miles from Ryders and worked for Ryder during the

harvest of 1857. That Clark the Plaintiff worked there also. That one day they went in to dinner and when they came out and while passing the yard or pen Clark said to Ryder I want to get some money, that he had bought some land & had to go and see about it that afternoon. That Ryder said he had not got any money, that he said he had some collected at Odell and would not get it until Saturday. Clark went to see about his land that afternoon and worked the next day.

On cross examination said witnesses said. That Clark might have said he wished to borrow money did not recollect which he said.

And thereupon the Court admitted said diamond as a witness to which ruling the defendant excepts and asks that this his bill of exceptions may be signed & sealed which is done in open court & which was all the evidence offered on the point.

John V. Eustace *(Seal)*
Judge 2nd J. C.

On the back of said bill of exceptions appears an endorsement in the words & figures following to wit:

²¹
Filed Nov 23 1861

M. W. Smith clk
By H. J. Smith dep-

And further among the files of said Court appears an appeal bond to the Supreme Court of the State of Illinois which said bond is in the words & figures following to wit:

Know all men by these presence that we Seth Ryder Joseph Ryder and Henry A. Ruiz are held and jointly bound unto George Clark in the penal sum of Three hundred Dollars for the payment of which well and truly to be made we bind ourselves our heirs administrators and assigns jointly severally and jointly by these presence

Witness our hands and seals this 16th day of January A.D. 1861

The Condition of the above obligation is such that whereas the above named George Clark did at the November term 1860 of the Circuit Court of Ogle County Illinois recover a judgment against the above bounden Seth Ryder for the sum of thirty six dollars damages & costs of suit. from which judgment the said Seth Ryder prayed an appeal to the Supreme Court of the State of Illinois.

Now if the said Seth Ryder shall well and truly pay whatever judgment costs interests

and damages in case the judgment shall be affirmed in said Supreme Court and shall also prosecute his said appeal then this obligation to be void otherwise to remain in full force & virtue

State of Illinois

Ogle County

Approved by me

This 22nd day of January A.D.

1861

F. L. Petrie Clerk

By B. F. Shurtis deputy

Seth Ryder

Joseph Ryder

Henry A. Davis

By G. P. Jacobs

his Attorney in fact

On the back of said appeal bond appears the following endorsement to wit:

Filed Jan 22 1861

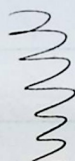
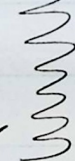
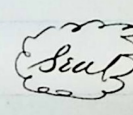
F. L. Petrie Clerk

By B. F. Shurtis deputy

And further among the files of said Court appears a power of attorney which is in the words and figures following to wit:

Know all men by these Presents that I Henry A. Davis of Ogle County and State of Illinois have made constituted and appointed and By these Presents do make constitute and appoint George P. Jacobs of said County & State my true and lawful attorney for me and in my name place

and stand to sign and seal an appeal bond
to the Supreme Court of the State of Illinois
in a certain cause determined in the Cycle
County Circuit Court in the State of Illinois
at the November Term A.D. 1861 of said Court wherein
George Clark was plaintiff & Seth Bycer defend-
ant giving and granting unto my said attorney
full power and authority to do and perform all
and every act & thing whatsoever requisite and
necessary to be done in and about the premises
as fully to all intents and purposes as I might
or could do if personally present with full
power of substitution and revocation, hereby ratify-
ing and confirming all that my said attorney
or his substitute shall lawfully do or cause
to be done by virtue thereof.

In Witness Whereof I have hereunto set
my hand and seal the Fifth day of January
one thousand eight hundred & sixty one
Sealed and delivered 
in presence of  J. A. Mix 
James A. B. Butterfield 

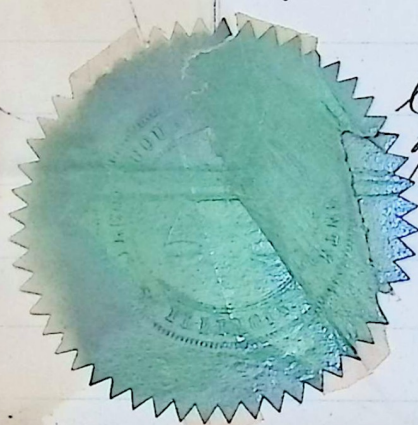
On the back of said power of attorney was
is the following endorsement to wit:

Filed Jan'y 22nd A.D. 1861 - F. G. Petrie clk
By B. F. Sheets Day

State of Illinois }
 County of Ogle ss. } I. Frederick L. Petrie, clerk of
 the Circuit Court, in and for the said
 County, do hereby certify, that the foregoing is a full, true
 and complete Transcript of the Records and Files of
 a certain Cause lately pending in said Court, wherein
 George Clark was Plaintiff, and Seth Ryder was
 Defendant - and the whole thereof

Witness my hand, and the Seal of our said
 Court at my Office in Oregon, this 12th day of
 March, A. D. 1861 —

F. L. Petrie Clerk
 By B. F. Shute Deputy



and now comes the appellant by Glover
Cook & Campbell his attys and says that
in the record of proceedings of forswear and in
the recollection of the Suleymant of forswear
there is manifest error in this to wit
1st The court erred in admitting William Diamond
to testify as a witness in said suit

2nd The court received improper evidence
in the cause, offered by the plaintiff below

3rd The court erred in rendering the said
of forswear in manner of form of forswear
Glover Cook & Campbell

Seth Ryder
vs 273
George Clork
Records & Errors

Filed April 18. 1861
L. Leland
Clerk