

No. 12597

Supreme Court of Illinois

Lawrence

vs.

Fast

71641  7

1.
Pleas before the Honorable
John S. Thompson Judge of the tenth Judicial
Circuit of the State of Illinois. At a Special
Term of the Court began and held at the Court
House in Mornmouth within and for the
County of Warren and State of Illinois. On
the fourth Monday of November In the Year
of our Lord One thousand eight hundred
and fifty six, It being the 24th day of
said Month,

Present Hon John S. Thompson Judge
James H. Stewart States Attorney
William Billings Clerk
James McCoy Sheriff

(Copy of Declaration & notice)

State of Illinois ss of the Special November term
Warren County AD 1856. of the Warren Circuit Court
John J. Fast, was summoned to
answer unto Henry C. Lawrence of a plea
of trespass and Ejectment. For that whereas
heretofore to wit, On the first day of October in
the Year Eighteen hundred and fifty six at and
within the County of Warren and State of
Illinois, the said Plaintiff was possessed as
of his own demense in fee simple of a
certain tract of land situate at and with
in the said County & State and known

As the North East quarter of Section Thirty Six (36) in Township Eight (8) North of Range One (1) West, and the said Plaintiff being then and there so possessed of said premises he the said Defendant there afterward to wit, on the day and year aforesaid entered into the said described premises and from the time last aforesaid has unlawfully withheld and does now unlawfully withhold from the said Plaintiff the possession of the said premises to the damage of the said Plaintiff the sum of One hundred dollars and therefore he brings Suit &c,

A & J H Williams Attorneys
for Plaintiff

To Mr John J East, You are hereby notified that the declaration with a copy of which you are now herewith served and to which copy this notice is subjoined will be filed in the Hannibal Circuit Court in the State of Illinois on the first day of the November Special Term thereof A.D. 1886 and that upon filing the same, a rule will be entered requiring you to appear and plead to the said declaration within twenty days after the entry of said rule, and that if you neglect so to appear, and plead, a judgment by default will be entered against you and the

Plaintiff will recover possession of the premises
Specified in the said Declaration,
Dated this 28th day of October AD 1856

A. J. H. Williams Attorney
for Plaintiff

State of Illinois } ss Circuit Court
Hann County } Special Term AD 1856

Henry C Lawrence,

v

In Ejectment
John J. Fast

John Mann being duly
sworn, deposes and says, that he did on
the 29th day of Oct AD 1856 personally serve
John J. Fast the defendant in this suit
with a true copy of the Declaration hereto
annexed; and also a true copy of the notice
in Writing, to the said Declaration, Subjoined
and likewise hereto annexed. And further
this Deponent saith not.

Subscribed and sworn to } John Mann
before me this 30th day of }
October AD 1856, L. L. Wry, J. P.

Filed Nov 25th 1856

Billings Clk

And on the Second day of said term the following appears of record in the above entitled Cause,

Henry C. Lawrence }
 vs } Ejectment
 John J. East }

This day came the Plaintiff by his Attorney and files his declaration, notice and affidavit of service herein and the said notice having been proved to the satisfaction of the Court, Thereupon it is ordered by the Court, That the said defendant be ruled to plead in twenty days, from the date hereof, and that if he neglect so to appear and plead, a judgment by default will be entered against him, and the Plaintiff will recover possession of the premises described in his said declaration.

Ordered that this Cause be continued until the next term of this Court,

State of Illinois } Of the November Term
 Warren County } of the Warren Circuit
 Court A D 1856

Henry C Lawrence,
 vs } In Ejectment
 John J. Fast }

And the said defendant comes
 and defends the force and injury when &c
 and says that he is not guilty of the supposed
 trespass and Ejectment above laid to
 his charge or of any part thereof in manner
 and form as the said Plaintiff hath above
 thereof complained against him. And of
 this the said defendant puts himself
 upon the Country &c

Bailey Dan Black & Wells
 Atty for defendant

And the Plaintiff doth the like
 Coua & Juds Plffs Atty

Filed Dec 2/56

Billings clk

7

Pleas before the Honorable John S Thompson Judge of the tenth Judicial Circuit of the State of Illinois. At a circuit Court began and held at the Court house in Moomouth within and for the County of Hancock and State of Illinois On the third Monday in the month of March In the year of our Lord One Thousand Eight hundred and fifty seven. It being the sixteenth day of said month.

Present Hon John S Thompson Judge
James H Stewart States Atty
William Sapety Clerk
Charles M Mills Sheriff

41 Henry C Lawrence }
as } Ejectment
John J East }

And afterwards to wit on the sixth day of said term the following appears of record in the above entitled Cause.

41 Henry C Lawrence }
as } Ejectment
John J East }

By agreement of parties herein it is ordered by the Court that this be continued at the Plaintiff Cost, Therefore it is considered

by the Court. That the Defendant have
and recover of the said Plaintiff his costs
by him at this term expended, and may
have Execution Therefor,

Pleas before the Honorable John S
Thompson Judge of the tenth Judicial Cir-
cuit of the State of Illinois. At a Circuit
Court begun and held at the Court House
in Monmouth Within and for the County
of Warren and State of Illinois, on the
third Monday in the Month of September
In the Year of our Lord One thousand
eight hundred and fifty seven, It being
the Twenty first day of said month,

Present Now John S Thompson Judge
James H Stewart States Attorney
William Laferty Clerk
Charles M Mills Sheriff

29 Henry C Lawrence
as } Ejectment
John J East }

And afterwards to Wit, on the
third day of said Term the following
record was made in the above entitled
Cause,

Henry C Lawrence
vs
John J Fast

Ejectment

29

9

This day came the parties
by their respective Counsel, And issue
being joined for trial they put themselves
upon the Country, Thereupon came a
Jury to wit, Seth Smith, Harman Straw
Cornelius Dewees, Alexander Fairbro,
Corbley Bowen, H. A. Hogan, William
Walker, Michael Cook, Samuel H. Moley,
John Ray, Charles M. Felt, and A. W. Woods,
who being elected tried and sworn well and
truly to try the Issue joined herein, And
after hearing part of the Evidence, Court
adjourned until tomorrow morning,

And afterward to wit, on the fourth day
of said term the following record was made
in the above entitled Cause,

Henry C Lawrence
vs

Ejectment

29

John J Fast

This day again this Cause coming on for a
hearing and the Jury that was Empaneled and sworn
herein on Yesterday came into Court, and after hearing
part of the Evidence. It was ordered that Court
adjourn until tomorrow morning,

And afterward to Wt. on the fifth day of said term the following record was made in the above entitled Cause

29 Henry C. Lawrence }
 vs } Ejectment
 John J. Fash }

This day again this Cause coming on for a hearing, and the jury that was empaneled and sworn herein, came into Court, and after hearing all the evidence, Without leaving their seats gave their verdict in favour of the defendant, as follows to Wt. "We the jury find for the defendant," Thereupon came the Plaintiff by his Counsel & enters his motion for a new trial herein, Which said motion was heard and overruled by the Court, Thereupon it was ordered by the Court that judgment be entered against the said Plaintiff for Costs of Suit, Therefore it is considered by the Court that the said defendant have and recover of and from the said Plaintiff his Costs by him in this Cause laid out & expended and may have execution therefor &c. Then came the Plaintiff by his Counsel, and prays an appeal to the Supreme Court which is allowed on the condition, That the Bond be filed during the present term of this Court in the sum of two hundred dollars with William C. Gould as security. The bill of Exceptions to be filed in thirty days

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(Copy of Bill of Exceptions)

State of Illinois County of Warren
Henry C. Lawrence, Circuit Court

as { September Term A.D.
John J. East } 1857. Ejectment

Be it remembered that on the trial
of this Cause the Plaintiff in support of the
issue on his part offered and read in evidence
an Exemplification or Transcript of a Record
of the Judgment against delinquent lands
by the County Court at the June Term 1852
which reads as follows, to wit:

Record of the County Court

June 7th 1852

At a regular term of the County Court
Commenced and held at Mounmouth this
7th day of June A.D. 1852 being the first
Monday in said Month

Present John Riggs &
Joseph Hogan

Associate Judges

R. A. Allen Sheriff

Wm. F. Smith Clerk

Ordered that Court Adjourn until to mor-
row morning at 8 O'clock A.M. June 7th 1852

Record of the County Court

June 8th 1852

Court met pursuant to adjournment
8 O'clock, A.M. June 8th 1852

present Ivory Quincy Judge
John Riggs & Joseph
Hogan. Associates
R. A. Allen Sheriff
Jm F Smith, Clerk

A list of lands and Town lots reported
by R. A. Allen Collector of the Revenue for the
Year 1851, upon which he has been unable
to collect the Taxes and thereon; and now on
this 31st day of May 1852 files this his Petition
for a judgment and order of Sale against said
Lands and Lots at the June Term 1852 of the
County Court for the County of Warren
and State of Illinois

Owners Names	Description	Sec.	Township	Range	Acres	Valuation	State Tax	State Special	Co. Tax	Co. Special	Total
Phineas P. Smith	E 1/2 NE	1	8 N. 17.	79	158 ²⁰	125, 90.	107.	36.	3.	39	
Israel Dagget	NE	36	" " "	160	240	84	61	72	24	248	

State of Illinois
Warren County } I Rodliff A Allen Collector
for the County of Warren do solemnly swear
that the foregoing is a true and correct ac-
-cord of the delinquent lands and Town lots

within the County of Wanea upon which I have been unable to collect the Taxes as required by law for the Year or Years therein set forth, that said Taxes now remain due and unpaid. And that due notice of application for judgment and of Sale has been given as required by law

Subscribed and sworn R. A. Allen, Collector
to before me this 9th day of June A.D. 1852
Wm. Quincy County Judge

Whereas due notice has been given of the intended application for a judgment against said lands and no owner hath appeared to make defence or show Cause why judgment should not be entered against the said lands for the Taxes Interest and Costs due and unpaid thereon for the year or Years herein set forth. Therefore it is considered by the Court that judgment be and is hereby entered against the aforesaid Tract or Tracts of land or parts of Tracts (as the case may be) in the name of the State of Illinois for the sum annexed to each Tract or parcel of land being the amount of Taxes interest and Cost due severally thereon. And it is ordered by the Court that the said several Tracts of Land or so much thereof as shall be sufficient

of each of them to satisfy the Amount
of Taxes Interest and Costs annexed to
them severally, be sold as the law directs

Irving Quincy
County Judge

State of Illinois
County of Warren Set

I, Ephraim S. Scrimmey
Clerk of the County Court in and for
the County and State aforesaid do hereby
Certify that the foregoing is a true Copy
and Exemplification of the Judgment
rendered in said Court against delinquent
lands for Taxes interest and Costs due
thereon at the June Term A D 1852 of
said Court, so far as the same relates
to the tracts of Land set forth in the fore-
going Copy, as the same appears of record
in my office

In Testimony whereof I have
hereunto set my hand and affixed
the seal of the County Court at
my office in Monmouth this 23^d
day of September A D 1857

E S Scrimmey

for \$1.00

Ephraim S. Scrimmey Clerk
And in further support of the issue a precept
for the sale of said lands was offered and read
in evidence which reads as follows to wit,

A list of lands and Town Lots reported by R. A. Allen Collector of the Revenue for the year 1851 upon which he has been unable to collect the Taxes due thereon and now on this 31st day of May 1852 files his petition for a judgment and order of sale against said lands and lots at the June Term 1852 of the County Court for the County of Warren and State of Illinois

Owners Names	Parts of Section	Section	Town	Range	Acres	Valuation	State Tax	State Special	County Tax	County Sp. Tax	Total
Phineas Smith & Co	N.E.	1	8 N.	17 W.	79.4	158 ²⁰ / ₁₀₀	125	90	107	36	\$3.59 paid
Israel Daggett	N.E.	36			160	240	84	61	72	24	248

State of Illinois }
 Warren County }

I Rodliff A Allen Collector for the County of Warren do Solemnly Swear that the foregoing is a true and correct record of the delinquent lands and Town Lots within the County of Warren upon which I have been unable to collect the Taxes required by law for the years therein set forth that said taxes now remain due and unpaid and that due notice of application for judgment and of sale has been given as required by law

Subscribed and sworn to before me this 31st day of May 1852
 Wm H Smith Co Clerk

R A Allen Collector

Whereas due notice has been given of the intended application for a judgment against said lands and no owner hath appeared to make defence or show cause why judgment should not be entered against said lands for the taxes interest and cost due and unpaid thereon for the years herein set forth, Therefore it is considered by the Court that judgment be and is hereby entered against the aforesaid tract or tracts of land or parts of tracts (as the case may be) in the name of the State of Illinois for the sum annexed to each tract or parcel of land being the amount of taxes interest and cost due severally thereon. And it is ordered by the Court that the said several tracts of land or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes interest and cost annexed to them severally be sold as the law directs.

Wm. Quincy Judge

State of Illinois
 Warrick County } I William F. Smith
 Clerk of the County for the County Court
 in and for the County and State aforesaid
 do hereby certify that the above and foregoing
 is a true and correct copy of the Collectors
 Report filed in this office and upon which
 judgment was obtained on the 9th day of

June (3rd) day of the Term of the June Court 1852) for Taxes interest and Cost due the County and State aforesaid for the year therein set forth before J. W. L. Judge of the Warren County Court.

In testimony whereof I have hereunto set my hand and affixed the seal of the County Court at Mounmouth this 9th day June AD 1852.

Wm. J. Smith Clerk

And proved that R. A. Allen received the same from the Clerk of the County Court and by virtue of the same sold the tract of land in the Plaintiffs Declaration described on the 15th day of June 1852.

The Plaintiff then offered and read in evidence an affidavit of Seth C. Sherman which reads as follows. to Wit,

(Copy of Notice attached)

To Whom it May Concern,

Take notice that on the 15th day of June AD 1852. at a sale of lands for taxes. held at Mounmouth I purchased the following described tracts of land situated in Warren County in the State of Illinois Viz,

160 Acres the S^W 12. 12 A. 3 R.

160 Acres the S^W 7 9 A. 3 R.

160 Acres the N^E 13 8 A. 1 R.

160 Acres the NE 17. 8 N 1 W
 160 Acres the NE 36. 8 N 1 W
 160 Acres the SE 21. 10 N 1 W
 160 Acres the NE 28. 12 N 1 W
 160 Acres the SW 21. 8 N 2 W
 160 Acres the SE 35. 8 N 2 W
 160 Acres the NE 19. 9 N 2 W
 160 Acres the NW 13. 9 N 3 W
 160 Acres the SE 23. 8 N 3 W
 160 Acres the SE 5. 11 N 2 W
 160 Acres the NW 26. 10 N 3 W
 160 Acres the NE 27. 10 N 3 W
 160 Acres the SW 33. 11 N 3 W
 160 Acres the NW 36. 8 N 2 W
 160 Acres the NE 30. 11 N 3 W
 126³/₄ Acres east side of the NW 18. 12 N 2 W
 Also that the time of redemption will expire
 on the 15th day of June A D 1884
 May 2^d 1883 Seth C Sherman
 State of Illinois - Warren County
 Seth C Sherman Being Sworn says that
 he caused a certain notice, of which a copy
 is hereto attached and made part of this
 Affidavit to be published three times in the
 Monmouth Atlas a Newspaper published
 at Monmouth in Warren County in the State
 of Illinois the last publication being made
 in the number of that paper dated the 17th

day of June AD 1853,

And this affiant further States That at the time of the publication of the notice aforesaid as he is informed and believes, there was no person or persons in possession of the following described lands, being part of the lands described in said notice viz,

SW 33. 11 A. 3 R = NE 27. 10 A 3 R

NE 26. 10 A. 3 R NE 7. 9 A 3 R

NE 13. 9 A. 3 R SE 23. 8 A 3 R

NE 19. 9 A. 2 R NE 28. 12 A 1 R

NE 36. 8 A. 1 R NE 17. 8 A 1 R

126^{3/4} East side NE 18. 12 A 2 R

And also that none of the lands last above described were taxed for the 1851 in the name of any person residing in Warren County in the State of Illinois

Seth C Sherman

Subscribed & sworn to
before me this 18th day
of April AD 1855

Witness my hand and seal of the
County Court the date above written

E. S. Swinney

C. Clerk.

Filed Apr 18th 1855

E. S. Swinney

Clerk

Recorded on pages 74 & 75

E. S. Swinney clerk

And proved that the same was filed in the office of the County Clerk of Warren County and by him recorded in a book kept by him for that purpose in his office on the 18th day of April 1855.

The plaintiff then offered and read in evidence a deed from the Sheriff to Seth C. Sherman bearing date April 18th 1855. which reads as follows, to Wit,

14165 Know all men by these presents that where
 as at the June term 1852 of the County Court of Warren County in the State of Illinois a judgment was obtained in said Court in favour of the State of Illinois against a certain Tract of land situated in said County described as being the North East quarter of Section Thirty Six in Township Eight North Range One West for the sum of Two dollars and forty eight cents, being the amount of Taxes assessed on said Tract of land for the year 1851 And whereas on the 15th day of June AD 1852 R. A. Allen Sheriff of the County aforesaid by virtue of a precept issued out of the County Court of the County aforesaid dated the 9th day of June AD 1852 and to the Sheriff of said County directed did expose to public sale at the Door of the Court House in the County aforesaid in conformity with all the

requisitions of the Statute in such case
 made and provided the tract of land above
 described for the satisfaction of the judgment
 so rendered as aforesaid and whereas at the
 time and place aforesaid Seth C. Sherman
 of the County of Adams in the State of Illinois
 having offered to pay the aforesaid sum of
 Two Dollars and forty eight cents for the tract
 of land above described which was the least
 quantity bid for, the said tract of land was
 stricken off to him at that price. And
 Whereas the said Seth C. Sherman has deliv-
 -ered to the undersigned Sheriff of the County
 aforesaid an affidavit that he has given
 notice of the purchase aforesaid in compliance
 with the conditions of the Constitution and
 laws of the State of Illinois in that case
 provided. Now therefore I James McCoy
 Sheriff of said County for and in consid-
 -eration of the said sum of Two Dollars and
 forty eight cents to the Sheriff of said County
 as aforesaid in hand paid by the said Seth
 C. Sherman at the time of the aforesaid
 sale and by virtue of the Statute in such
 case made and provided have granted barg-
 -ained and sold and by these presents do
 grant bargain and sell unto the said
 Seth C. Sherman his heirs and assigns

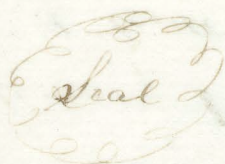
the North East quarter of Section Thirty
Six in Township Eight north range One
West, To have and to hold unto the said
Seth C. Sherman his heirs and assigns
forever. Subject however to all the rights
of redemption provided by law.

In Witness Whereof I James McCoy Sheriff
as aforesaid by virtue of the authority afo-
said have hereunto subscribed my name
and affixed my seal this 18th day of April
A.D. 1855

James McCoy 
Sheriff of Warren County Illinois

State of Illinois }
Warren County }

I certify that on the
18th day of April in the Year of our Lord
one thousand eight hundred and fifty
five personally appeared before me E. S.
Swimney Clerk of the County Court of the
County aforesaid James McCoy Sheriff of
said County of Warren who is personally
known to me the said Clerk to be the
Identical person whose name is subscribed
to the foregoing deed as having executed the
same and acknowledged that he executed
said deed for the uses and purposes therein
mentioned. In testimony whereof I have
hereunto subscribed my name and affixed
the seal of said Court the day above written,
Ephraim S. Swimney Clerk


Seal

The Plaintiff offered and read in evidence deeds properly acknowledged proving a conveyance of the land in fee in the Plaintiff's declaration described from Seth C. Sherman to the Plaintiff and further proved that the time of the Commencement of this suit that the defendant was in the actual possession of the premises. And the Witness further stated that he sold the land to defendant and the defendant claimed to own the same in good faith by virtue of the sale from the Witness, and thereupon rested his case.

To the introduction of which said transcript or exemplification, precept, advertisement and deeds the said Deft. by his Counsel then and there severally objected: but the Court overruled the objections and allowed the same to be read in evidence to the jury, to which said decisions the said Deft. then and thereby his Counsel severally excepted.

The Defendant thereupon in support of the issue on his part produced Ephraim S. Sevinny who was sworn and testified that he was the County Clerk of Warren County and as such had the custody of the Records of that office, and he thereupon produced and identified as one of the records of the County Court of Warren County a book which

Contained a record of the Sales of Land in Warren County for Taxes and proved that the premises in Controversy had not been sold for Taxes since the Year 1882.

The Witness then produced a book which he testified was the general record of the proceedings of the County Court of Warren County for County business. And also another book which he testified was the record of judgments against delinquent lands in the County Court of said Warren County.

He further testified that he prepared and certified the exemplification offered and read by the Plaintiff in this case and that in making the same he copied transcript down to the words "A list of lands and town lots reported &c" from the book containing the general Records as aforesaid and the rest of said transcript. Commencing with the words aforesaid, from the Record of judgments against delinquent lands of said Warren County, Court. to the introduction of which evidence the Plaintiff by his counsel objected but the Court overruled the objection and permitted the same. to which decision the Plaintiff then and then by his counsel excepted.

The Defendant then offered in evidence the

original record books identified as the records of the County Court of said Warren County by the witness Ephraim S. Scrimmy Clerk of said County Court from which it appeared that the transcript or exemplification offered and read by the Plaintiff was a true and correct copy of the Proceedings contained on the two books except that the general Record of the proceedings for County business, adjourned on the evening of the 8th day of June 1852 until the morning of the 9th of the same month, when the Court was convened all the judges being present, and that the Court finally adjourned for the term on the 11th day of the same month, to the introduction of which the Plaintiff by his counsel objected, but the Court overruled the objection and permitted the same to go to the jury, to which decision of the Court the Plaintiff then and there by his counsel excepted,

The said Defendant by his Counsel then moved the Court to exclude all the Plaintiff evidence from the consideration of the Jury, because there was no valid judgment for the sale of the land in controversy on which to predicate the Sheriff's deed to Seth C. Sherman to the allowance of

which the Plaintiff objected, but the Court sustained the motion and excluded the Plaintiff evidence, to which decision of the Court, the Plaintiff by his Counsel then and there excepted,

There being no further evidence offered by either party, the jury rendered a verdict that the Defendant was not guilty,

Whereupon the Plaintiff entered his motion for a new trial and assigned in support thereof the following reasons, to wit,

1st Because the Court permitted the Defendant to introduce improper evidence,

2^d Because the Court wrongfully sustained the Defendants motion and excluded the Plaintiffs evidence

3^d Because the verdict of the jury ought to have been for the Plaintiff

Upon a hearing of which the Court overruled the same and rendered judgment against the Plaintiff for costs, to which decision of the Court the Plaintiff then and there by his Counsel excepted,

And forasmuch as the foregoing does not appear of record the said Plaintiff prays that this his bill of exceptions be signed and sealed by the Court and made a part of the records

Which is accordingly done,

Given Oct 25 1857

Wm. S. Safford, clk

John S. Thompson, *Att. Gen.*

(Copy of Appeal Bond)

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Know all men by these presents that we
Henry C. Lawrence and William C. Goudy of
the County of and State of Illinois are
held and firmly bound unto John J. Fast in
the penal sum of Two hundred 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 severa-
lly, and firmly by these presents, Sealed with our
seals, and dated at Monmouth this 25th day of
September Anno Domini One thousand eight
hundred and fifty seven

The Condition of the above obligation is such
that whereas John J. Fast did on the 25th day of
September 1857 in the Circuit Court within and
for the County of Warren and State of Illinois
obtain a judgment against the above bounden
Henry C. Lawrence for costs of suit, from which
judgment the said Henry C. Lawrence has prayed
for and obtained an appeal to the Supreme Court
of said State. Now if the said Henry C. Law-
rence shall duly prosecute said appeals and
shall moreover pay the amount of the judgments
costs, interests, and damages rendered and to be
rendered against the said Henry C. Lawrence
in case the said judgment shall be affirmed in
the said Supreme Court then the above obligation
be null and void otherwise to remain in full force
and virtue.

[1859-12]

Witness my hand and seal
Sept 25th 1857
Wm. Safety clerk

H. C. Lawrence Seal
W. C. Goudy Seal

State of Illinois }
Wanda County } I William Laferty Clerk
of the Circuit Court for said County do
hereby Certify that the foregoing is a full
and true copy of all the proceedings in
the foregoing case as appears from the
files and records now in my office



In Testimony whereof I have hereunto
set my hand and affixed the Seal of
said Court at my office in Moun-
outh this 23^d day of December A.D. 1887
William Laferty Clerk

State of Missouri, 3rd Grand Division
Supreme Court, April Term 1858.

Henry C. Lawrence 3
vs 3
John J. Host 3
Appeal from Warren

And Henry C. Lawrence
the said Appellant comes by
his attorneys and says that manifest
error hath intervened in the
proceedings whereof the foregoing
is a record to the manifest injury
of him the said Appellant, and
he assigns the following errors

1st The Circuit Court of Warren
County erred in overruling the
motion for a new trial

2^d The Circuit Court erred
in rendering judgment for
the defendant

3^d The proceedings are
otherwise informal and erroneous.

Wherefore he prays judgment
that the said judgment be re-
versed and the cause remanded
etc.

Gouldy & Fidd
Appellants Attys

and The said defendant answers and says that
the circuit court of warren county did not err in
manner and form as said appellant hath alleged
wherefore defendant prays judgment that the said
judgment be affirmed

J. J. Barclay
Att. for appellee

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Henry C Lawrence
of

John J East

Transcript

Filed April 22, 1888
L. Leland
Clerk

fees \$8.00
 3

STATE OF ILLINOIS--Third Grand Division.
SUPREME COURT.---April Term, A. D. 1858.

HENRY C. LAWRENCE, }
 ^{vs.} } **Appeal from Warren.**
JOHN J. FAST. }

A B S T R A C T .

This was an action of Ejectment brought by the Appellant against the Appellee to recover the possession of the N. E. 36, 8-N. 1 W., in the Circuit Court of Warren county.

The cause was tried by a jury before Hon. John S. Thompson at the September Term 1857; a verdict was rendered for the Defendant; motion was made by the Plaintiff for a new trial, which was overruled by the Court, and judgment rendered against the plaintiff for costs. The Plaintiff appealed to this Court.

On the trial the Plaintiff read in evidence an exemplification of a record of a judgment against delinquent lands for the taxes of 1851, rendered at the June Term 1852, by the County Court of Warren County, among which was the tract of land described in the Plaintiff's declaration.

This exemplification shows the usual convening order on the 7th day of June 1852, and a judgment in the form required by the statute of 1849, rendered on the 8th day of the same month.

The Plaintiff then read a precept to the jury and proved that the sheriff and ex-officio collector received the same from the Clerk and sold the lands on the 15th day of June 1852, by virtue thereof.

The Plaintiff then read in evidence an affidavit of Seth C. Sherman with the notice required by the Constitution from purchasers at tax sales, and proved that the affidavit and notice was filed in the office of the County Clerk of Warren County and by him recorded in a book kept by him for that purpose on the 18th day of April 1855.

The Plaintiff then read in evidence a deed from the Sheriff to Seth C. Sherman the purchaser at the tax sale.

The Plaintiff then read in evidence deeds connecting himself with Seth C. Sherman, and proved that the defendant was in the possession of the premises at the time of the commencement of the suit.

The witness further stated that he sold the land to Defendant and the Defendant claimed to to own the same in good faith by virtue of the sale from the witness.

The Defendant produced Ephriam S. Sevinney as a witness, who testified that he was County Clerk, and he produced a book containing a record of the sales for taxes in Warren County, and proved that the premises had not been sold since the year 1852.

The witness also produced another book which he testified was the general record of the proceedings of the County Court of Warren County for County business. And also another book which he testified was the record of judgments against delinquent lands in the County Court.

24 The witness further testified that he prepared and certified the exemplification read in evidence by the Plaintiff and that in making the same he copied the convening order from the book containing the general records, and the rest of exemplification from the book containing the judgments against delinquent lands.

25 To the evidence of this witness the Plaintiff objected, but the Court overruled the objection, to which decision the plaintiff excepted.

The defendant then offered in evidence the two books last named, to the introduction of which the Plaintiff excepted, but the Court overruled the objection, to which the Plaintiff excepted.

24 These books proved that the exemplification was a true copy from the two books, except that the general record showed that the Court adjourned on the evening of the 8th day of June until the next morning when the Court met, all the judges being present and finally adjourned on the 11th day of June.

25 The Defendant then moved to exclude all the Plaintiff's evidence from the Jury, because there was no valid judgment for the sale of the land in controversy. To the allowance of the motion the Plaintiff objected, but the Court sustained the motion and excluded the evidence, to which the Plaintiff excepted.

26 There being no further evidence the jury rendered a verdict for the Defendant.

The Plaintiff moved for a new trial which was overruled and the plaintiff excepted; judgment was rendered for the defendant to which the plaintiff excepted.

The Appellant now assigns for error—

1st. That the Court erred in overruling the motion for a new trial.

2d. The Court erred in rendering judgment for the Defendant, and,

3d. The proceedings are otherwise informal and erroneous.

GOUDY & JUDD,

Appellant's Attorneys.

The Judgment for taxes will be found on pages 11, 12, & 13 of the record, to which the Court is referred for a full understanding of its contents.

H. C. Lawrence
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John J. Hass

Gondy & Grace
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Filed Apr 23, 1838

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Reference