

No. 14645

Supreme Court of Illinois

Mann

vs.

People

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

People's Causes.

Proposed
No. 15 / 864
149

J. W. Middleton & Co., Stationers, 196 Lake St.

M. W. N. S.
75
1863

1864

[Gazette Print, Kankakee City, Illinois.]

SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION.

April Term, A. D. 1864.

FREDERICK W. MANN, *Plaintiff in Error*,
vs.
THE PEOPLE OF THE STATE OF ILLINOIS. } *Error to Kankakee.*

ABSTRACT OF RECORD.

- 2 Defendant F. W. Mann moves the Court for a continuance—continuance granted. Bail ordered in the sum of seven hundred dollars.

Defendant F. W. Mann, with John Mann his surety, entered into a recognizance in the usual form for the appearance of defendant at the next term of said Court.

- 4 Defendant files petition for change of venue and afterwards withdraws it.
5 Defendant arranged and interrogated by the Court as to what plea he makes

to the complaint filed herein which complaint is in the following words and figures, to-wit:

State of Illinois, Kankakee County, ss.

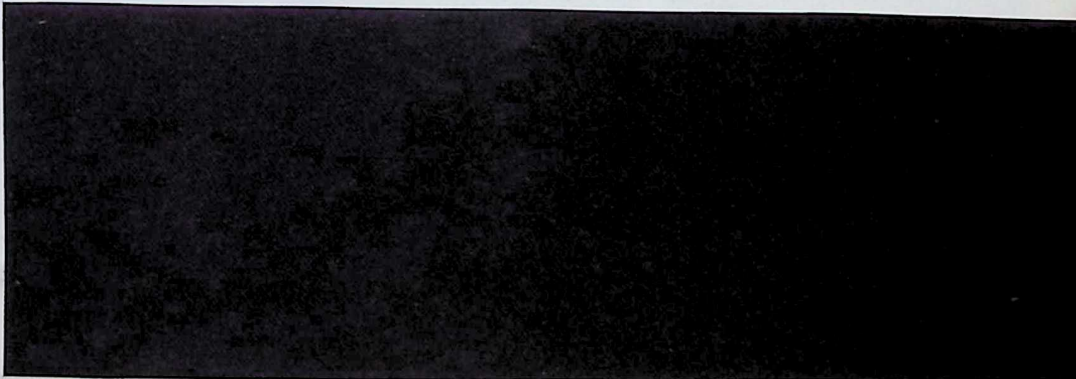
The complaint of Cordelia Davidson, of said county, an unmarried woman, made before Rodney Ashley, Esquire, one of the Justices of the Peace in and for said county, under oath, who says that she is now pregnant with child, and that said child is likely to be born a bastard, and that Frederick W. Mann of said county, is the father of said child.

Taken and subscribed before me and sworn to before me this 10th day of September, A. D., 1863.

RODNEY ASHLEY, J. P.

To which complaint the defendant pleads not guilty and denies the charge; whereupon a jury was ordered who were empanelled and sworn in the usual form; jury returned a verdict of guilty against the defendant on the testimony set out and stated in the bill of exceptions.

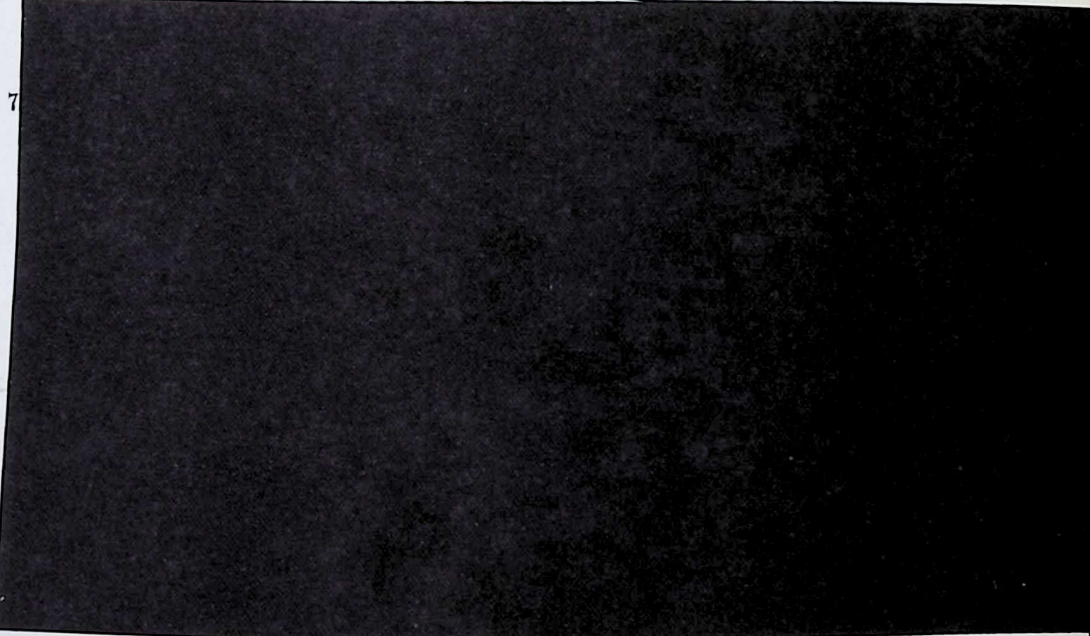
6 - Whereupon the defendant entered his motion to set aside the verdict of the jury and grant him a new trial for the reasons and causes stated in the bill of exceptions; Court overruled said motion, defendant excepted; defendant then entered a motion in arrest of judgment; Court overruled said motion, and the defendant excepted; counsel for defendant then surrendered the defendant in discharge of his bail; defendant is thereupon committed to the custody of the Sheriff and bail discharged; Court thereupon rendered judgment in the following words and figures:



Whereupon the defendant filed his bill of exceptions in the words and figure following, to-wit :

State of Illinois, Kankakee County, ss. The people of the State of Illinois, vs. Frederick W. Mann.	}	Circuit Court of April Term, A. D., 1864.— <i>Bastardy</i> .
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7 April 13, 1864. The above entitled cause came on to be heard before a jury,



CHARLES R. STARR, [Seal].
Judge 20th Judicial Circuit.

Defendants brief and points relied on.



ERRORS ASSIGNED.

Court erred in not setting verdict aside and granting new trial.

In overruling motion for new trial.

In overruling motion in arrest of judgment.

In giving judgment against defendant.

By reason whereof the said Frederick W. Mann, prays that said judgment may be reversed.

C. A. LAKE,
Attorney for Plaintiff in Error.

1509.
F. W. Mann
ps
Profr

Abstracts

Filed April 19, 1864

L. S. Leland OK

C. A. Locke
Pltffs Atty

" whereupon said defendant being arraigned is
" interrogated by the Court as to what Plea he makes to
" the complaint filed herein. which Complaint is in
" the words and figures following to wit:

" State of Illinois
" Kansas County } ^{as}

" The Complaint of Cordelia Davidson
" of said County an unmarried woman made before
" Rodney Ashley Esquire one of the justices of the Peace in
" and for said County under oath who says that she is
" now pregnant with child. and that said child is
" likely to be born a Bastard and that Fredrick Mann
" of said County is the father of said Child

" Taken & subscribed before me Cordelia Davidson
" & sworn to before me this 10th day
" of September AD 1863 ~

" Rodney Ashley J P

" To which Complaint
" the Defendant pleads not guilty and denies the charge
" whereupon a jury of twelve good and lawful men
" was called to try the issue. To wit. John Lamb
" Calvin Matten William Cooper John B. S Semone
" Symon Flint Job Williams Joshua Aldrich
" George R. Setouns Wm Townsend John Flagell And
" Eljah Andrews. who were duly empanelled and
" sworn to well and truly try the issues joined between
" the parties to this suit and a true verdict give according
" to the evidence said jury retire in charge of an officer
" sworn for that purpose. and having agreed thereon

" again come into open Court and for verdict
" say ~~in~~ "We the Jury find the defend-
" ant guilty". Whereupon Defendant enters his motion
" to set aside the verdict - which motion is overruled by the
" Court - to which the Defendant excepts - Thereupon Defendant
" enters his motion in arrest of Judgment - which motion
" is overruled by the Court to which the Defendant excepts -
" Whereupon the Counsel for the Defendant surrenders
" him in open Court and he is committed to the custody
" of the Sheriff in discharge of his Bail - It is Thereupon
" ordered by the Court that the Defendant pay the sum
" of one Hundred dollars for the first year from
" the birth of said child and fifty dollars per year
" for nine years succeeding for the support of said
" child and to pay all costs of this Prosecution and
" that the Defendant do enter into a Bond conditioned
" in the sum of one thousand dollars for the
" complying with the order of this Court and it is
" further ordered by the Court that the Defendant be
" committed to the County Jail until he complies with
" the order of this Court in executing said Bond accord-
" ing to the provisions of the statute in such cases
" made and provided - To all of which the Defen-
" dent excepts

Thereupon comes the Defendant
and files his Bill of exceptions in the words and
figures following to wit:

State of Illinois {

Kankakee County {

The People of the State of Illinois {

Circuit Court of April

Term A.D. 1864

25
Fredrick Mann } Bastardy

April 13 - 1864 the above
entitled cause came on to be heard before a Jury and
the People to maintain the issue on their part produced
Lorelia Davidson who swore that she knew the de-
fendant Fredrick^d Mann that she had been acquainted
with him four years that said acquaintance con-
tinued till within the last eight months that she
lived about a half a mile from the Dept. that she is
an unmarried woman and was never mar-
ried and that she gave birth to a child on the fif-
teenth day of October A.D. 1863 at Rockville Kane
County in the State of Illinois and that the
defendant Fredrick W. Mann was the father
of it and then the People rested their cause

And the defendant rested his case and there
was no other testimony or proofs in the case given
to said jury and the jury returned a verdict of
guilty against the said defendant whereupon the
defendant moved the court to set aside the verdict
and grant him a new trial because there was
no testimony showing or tending to show that said
child was living or was born alive which motion
the court overruled to which holding ruling and
deciding of said the Dept. excepted and prays
that this his Bill of exceptions may be allowed
and signed and sealed in that behalf and made a part
of the Record in this case which is done accordingly

Chas R. Starr

Judge of the 25 Judicial Circuit

State of Illinois
Kankaskee County } I Elon Curtis Clerk of the Circuit
Court in and for said County in the State aforesaid
do hereby certify that the foregoing is a true and
correct transcript of the Records of the proceedings
of the Kankaskee County Circuit Court in a cer-
tain case lately pending therein wherein the
People of the State of Illinois ~~were~~ Plaintiffs and
Fredrick Mann was Defendant upon a
charge of Bastardy tried in said Court
Witness my hand and the seal of
said Court hereunto affixed at office
in the City of Kankaskee County aforesaid
this April 15th A.D. 1864



Elon Curtis Clerk
by J.B. Welch sept

15. P.B.

The People of the State
of Illinois

Fredrick Mann

Record

Filed April 12. 1864
L. Leland
Clerk

The State of Illinois
Supreme Court Third
Grand Division

Frederick W. Mann
Plaintiff in Error

(S)
The People of the State
of Illinois

And the said Frederick W.
Mann says there is Manifest
Error in the record and praying
in the above entitled cause
in this to wit
The Court erred in not setting
verdict aside and granting new
trial

In overruling Motion for new trial
In overruling Motion in arrest of
judgment

In giving judgment against ~~left~~
By reason whereof the said ~~Frank~~
W. Mann prays that said judgment
may be reversed C. A. Lake Atty
for Puff in error
finder in error
By A. P. Jones
States Atty

15 P.D. 149
The People of the State
of Illinois
vs
Frederick Mann

Recor

Filed April 19, 1864
L. L. Leland Clerk

Supreme Court of the State of Illinois
April Term 1864

J. H. Mann

vs.
The People &c.

Peoples Points and Contentions

This was a prosecution under
the bastardy act.

It was claimed that there was ^{no}
evidence before the jury that the
child was alive or born alive

The presumption of law in the
absence of proof to the contrary is
that a child is born alive and
continues to live - that being the
ordinary course of nature.

But the inquiry was for the
Court, not the jury

The 2^d sec. of the bastardy act
provides that the Circuit Court shall
cause an issue to be made up
whether the person charged as

aforsaid is the real father of the child
or not, which issue shall be tried by
a jury"

The 5th Sec. provides that if the
issue is found against the defendant,
the court shall take bonds for the
support of the child, or in default
of the same commit to jail & that "if
said child should never be born
alive, or being born alive should
die at any time, and the fact shall
be suggested on the record of the
said court, then the bond aforsaid
shall from thenceforth be void"

D. P. Jones
States Atty.

15 P.D

F. W. Munn

vs.

The People &c.

Peoples Points

Given May 9. 1864
J. L. Munn

The People of the State of Illinois
To all to whom these Presents shall come.
Greeting :::

Know Ye that we having caused to be
inspected the Records and Proceedings now remaining
on file in the Office of our Clerk of our Circuit Court
for the County of Kankakee do find there certain Rec-
ords and Proceedings in the words and figures following
To Wit:

" United States of America
" State of Illinois ss
" Kankakee County }

" Pleas before the Honorable
" Charles R. Starr Judge of the Twentieth Judicial Circuit
" and Presiding Judge of the Kankakee County Circuit
" Court of the State of Illinois at a Term of said Court
" begun and held at the Court House in Kankakee City
" in the County and State aforesaid on the first Monday
" (the same being the seventh day) of December in the year
" of our Lord one thousand Eight Hundredth and Sixty
" Three and of the Independence of the United States
" the Eighty Eighth
" Present

" Hon Charles R Starr Judge of the 20th Judicial Circuit
" Charles H Wood States atty of 20th " "
" Jacob. Obricht Sheriff of Kankakee County
" Elon Curtis Clerk of the Kankakee County Circuit Court.

And afterward To Wit on the 8th day
of December A.D. 1863 the same being one of the regular

days of the December Term of said Court and the said Court being duly organized and sitting for the transaction of business the following proceedings were had and entered of record by said Court to wit:

411 " The People of the
" State of Illinois }
" vs } Bastardy - appeal
" Frederick Mann }

" Now comes the defendant by C A Lake
" his Attorney and enters his motion to continue and the Court
" having heard the arguments of Counsel grants the motion
" and this cause is continued and the Bail to be taken
" in the sum of Seven Hundred dollars.

and afterwards
to wit on the 9th day of December AD 1863 the same
being one of the regular days of the December Term of said
Court for said AD 1863 the following proceedings were
had and entered of Record by said Court: the same
being duly organized and sitting for the transaction
of business - to wit:

411 " The People of the }
" State of Illinois } Bastardy
" vs }
" Frederick Mann }

" Be it remembered that on this the 9th day
" of December AD 1863 personally came into open Court
" Frederick W Mann as principal and John Mann as surety
" and jointly and severally acknowledged themselves to owe
" and be indebted unto the People of the State of Illinois

" now comes the defendant and files his
" petition verified by affidavit and enters his motion
" for a change of venue in this cause

and afterward to wit on the 12th
day of April A.D. 1864 the same being one of the regular
days of the April Term of said Court for said year
and the Court being then duly organized and
sitting for the transaction of business the following pro-
ceedings were had and entered of Record by said
Court in the words and figures following to wit:

" The People of the State of Illinois {

414 "

vs

Bastardy

" Frederick Mann }

" Now comes defendant's
" Counsel and withdraws his motion for a change of
" venue

And afterward to wit on the 13th day of
April A.D. 1864. the same being one of the regular days
of the April Term of said Court for said year and
the said Court being then duly organized and sitting
for the transaction of business certain other proceed-
ings were had and entered of Record in said
cause by said Court in the words and figures

" following to wit:
" The People of the
" State of Illinois

411 "

vs

Bastardy

" Frederick Mann }

" .. and now come
" the people by L.H. Wood State Attorney and
" also comes the defendant by his Attorney C.A. Lake