

No. 8558

Supreme Court of Illinois

Hooper & Hay

vs.

J. C. Smith

71641  7

No 13

Nov. 1857

Hooper & Hay
vs

J. C. Smith

Ernest Washington

8558

Reverend and
Remondan

Copy of Summons

State of Illinois } The People of the State of Illinois to any
Washington County } Constable of said County - Greeting:

You are hereby commanded to summon
Andrew C Hooper & A D Hay to be and appear before me, at
my Office at my House on the 18th day of September 1856 at
1 O'clock P.M. to answer the complaint of I Cordis Smith
for a failure to pay him a certain demand not exceeding
one hundred Dollars; and hereof make due return as
the Law directs Given under my hand and seal this
14th day of September 1856

George Tetrick J.P. Secd

Copy of endorsement on Summons

Demand \$83.75 Justice's fees - Summons 18 3/4

Docketing 12 1/2 Dated September the 10th 1856 by reading to
A. D Hay. Services acknowledged Sept the 13th 1856 by
A. C Hooper - for serving 50 Miles @ \$1.75 - \$2.25

Andrew Free Constable

Copy of Bond

Know all Men by These Presents
that we Andrew C Hooper and John Stevens are
held and firmly bound unto I Cordis Smith in the
penal sum of One hundred and seventy Dollars lawful
Money of the United States for the payment of which well
and truly to be made we bind ourselves our heirs and
Administrators, jointly severally and firmly by these Presents
witness our hands and seals this fourth day of October
1856. The condition of the above obligation is such that
whereas the said I Cordis Smith did on the 18th day of
September 1856 before George Tetrick a Justice of the
Peace for the County of Washington receive a Judgment
against the above bounden Andrew C Hooper and
A D Hay for the sum of Eighty three Dollars and seventy

Copy of Transcript from J.P.
Sept 4th 1856

J. Condit Smith

vs

Andrew C Hooper

& A D Hay

Demand \$83.75

Judices fees

Summons 18⁷⁴

Docketing 12¹²

Judgements 25

Appeal Bond 25

Transcripts 25

106¹⁴

Const Andrews Fees fees

Survive 50

Mileage 75

225

Action of debt brought on a note of hand drawn by the Defendants payable as follows to wit. One year after date for value received me or either of us promise to pay to J. Condit Smith or bearer the sum of seventy five Dollars with ten per cent interest from date without deduction or discount July 12th 1855

Complaint being made and note filed, Summons issued to Richard Robinson Constable returnable on the 18th day of Sept 1856 at the hour of one O'clock, P.M. - The summons was returned by by Andrew Free Const served by reading to A D Hay on the 10th inst and on A C Hooper by acknowledgement September 13th - 1856 The day and

hour arrived and J J Vandike appeared as agent for the Plaintiff the Defendants not appearing. Therefore it is ordered that the Plaintiff have Judgement against the Defendant for Eighty three Dollars and seventy five cents and cost of suit as taxed in the Margin this the 18th day of Sept 1856

George Terrick J.P.

I do certify that this transcript and papers contain a full account of all the Proceedings before me This the 14th day of Oct 1856

George Terrick J.P. *(Seal)*

Copy of Note
\$75.00

One year after date for value received me or either of us promise to pay to J Condit Smith or Bearer the sum of seventy five Dollars with ten per cent interest from date without deduction or discount July 12th 1855

Andrew C Hooper
A D Hay

five cents. from which Judgment the said Andrew C Hooper has taken an appeal to the Circuit Court of the County of Washington aforesaid and State of Illinois now if the said Andrew C Hooper shall prosecute his appeal with effect and shall pay whatever Judgment may be rendered by the Court upon dismissal or trial of said appeal then the above obligation to be void otherwise to remain in full force and effect

Appointed by me as my Office
This 4th day of Oct 1856
George Petrick J. P. (Seal)

Andrew C Hooper (Seal)
John Stephens (Seal)

State of Illinois } I Harry H Talbot Clerk
Washington County } of the Circuit Court in and
for said County do certify
that the above and foregoing is a full and complete
transcript of the Record - Proceedings and Papers
on file as taken from the Records of said Court &
from the Papers on file in my Office in the foregoing
and entitled cause

Witness my hand and the seal
of said Circuit Court This
7th day of November A.D. 1856
H. H. Talbot Clerk



(Clerks fees \$1.50)

At a Circuit Court began and held at the
Court House at the Town of Nashville in and
for the County of Washington and State of
Illinois on the second Monday of October in
the year of our Lord one thousand eight
hundred and fifty six the following proceedings
were had & the following order was made in
the following case to wit
October Term Washington Circuit Court

Wednesday October 14th 1856

J. Condit Smith
vs
A C Hooper
& A D Hoay

Appeal

On Tuesday comes said Puff by
Stoker his Atty and enters his appearance in this
cause. And now on Wednesday Appellants are
three times called but do not answer - Appeal
dismissed & Proceedings awarded and Expenses Damages
for delay & Indemnity is entered against Defects for
said Damages to wit \$5.00 & Costs accruing in this
Court & Execution is awarded therefore



J. C. Smith
vs
A. C. Hooper
& A. D. Hoay

J. Emmit Smith

vs

Andrew C Hooper

L. A. D. Hay

In Supreme Court

No. Term ad 1856

Now come the Plfs in error
in the above Cause & say that in
the record & proceedings of said Cause
there is manifest error in this Court

1st

Court erred in dismissing said appeal
awarding procedendo & giving judgment against
Plfs in error at 1st Term begun & held
only 8 days after appeal was taken & appellants
appearance not being entered till 2^d day of the Term

2^d

Court erred in disposing of said case
by dismissal of said appeal &c at the
1st Term of Court no service having
been had upon said Hay who had not
joined in the appeal

3^d

Court erred in giving judgment against
both Plfs in error only one having appealed
to said Court

4th

Court erred in giving judgment for debt in error
against Plfs in error

Wherefore the said Plfs in error pray that said judgment
be reversed & held for naught & amended with instructions &c

Forced in error

C. H. Senious Atty for
debt in error

P. E. Hosmer

Pro Plfs in error

Filed Apr. 12. 1856.

St. Johnston Ct.

Prepaid 14. Apr. 1856 - \$5.00

A. C. Hooper
 & A. D. Hoy
 vs
 J. Condit Smith

} In Supreme Court
 Nov. Term 1856
 1st Grand Division

Clerk will please issue
 a writ of error, ^{I send facias to the Sheriff of Wash Co} in said Cause
 returnable next Term
 in favor of above p^{ts}, in error
 vs above def^t error

I Obey

P. C. Hooper

Atty Pro p^{ts} in error

~~W. H. H.~~
W. H. H.

W. H. H.

W. H. H.

W. H. H.

W. H. H.

STATE OF ILLINOIS
SUPREME COURT,

} SS.

WRIT OF ERROR.

THE PEOPLE OF THE STATE OF ILLINOIS;

To the Clerk of the Circuit Court for the county of *Washington* GREETING,

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Washington* county, before the Judge thereof, between

Andrew C. Hooper and Alexander D. Hay
plaintiffs, and *J. Emmit Smith*

defendant it is said manifest error hath intervened, to the injury of the aforesaid *Andrew C. Hooper and Alexander D. Hay*

as we are informed by *this*

complaint, and we being willing that error, should be corrected if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay, send to our Justices of the Supreme Court, the record and proceedings of the plaint, aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at

Mount Vernon, in the county of Jefferson, on the *Second Monday of November*
next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law:

Witness, the Hon. WALTER B. SCATES Chief Justice
of our said court, and the seal thereof, at Mount Vernon this

Seventeenth day of *November*

in the year of Our Lord One Thousand Eight Hundred
and Fifty-*Six*.

Asah Schuster
Clerk Supreme Court.

This Note of Error is made a Superintendency and
as such is to be obeyed by all concerned.

N. Johnston Ck
11

A. C. Harper &

A. D. Hay

by

J. Lewis Smith

Note of Error

Issued April 17th

Nov. 1836

N. Johnston Ck
11

Know all men by these Presents: That we
Andrew C. Hooper & S. H. Hay & Amos Woots
are held & firmly bound unto J. Candis-
Smith in the sum of two hundred dollars
& cents for the payment of which
well and truly to be made we bind ourselves
our heirs & administrators, jointly, severally
and firmly by these presents. The condi-
tions of the above obligation is this. The
said J. Candis Smith did recover a judg-
ment against the said Hooper & Hay before
George Tetrick a Justice of the Peace in &
for Washington County State of Illinois on
the 18th day of September 1836 for the sum of
\$83.75 & costs of suit, from which judgment
said Hooper appealed to the Circuit Court
of said County, and at the October Term of
the Circuit Court of said County, said ap-
peal was dismissed by said Court &
proceeds awarded to the said Justice of
the Peace to collect said judgment before
him & 6 per cent damages amounting
to \$5.02 & costs of suit & allowed said Plaintiff
and judgment given therefor against said
Hooper & Hay, from which decision & judg-
ment of the said Circuit Court, dismiss-
ing said appeal, awarding proceeds & al-
lowing damages & costs as aforesaid, said Hoop-
er & Hay procure a writ of error to the
Supreme Court of said State, to the 1st grand
division thereof. Now if the said Hooper
& Hay shall duly present said writ of
error & pay the judgment costs interest &

Damages in case said judgment be affirmed
by & in the Supreme Court of the said. Then
the above obligation to be void, otherwise
in full force & virtue

Witness our hands & seals this seven-
teenth 15th / 1856.

Andrew L. Hooper *Clk*
A D May *Secy*
Amos Watts *Secy*

A. C. Harper

G. C.

Bancroft

J. C. Smith

June Nov. 17. 1856

St. Lawrence Ark

A. C. Hooper &	}	In Supreme Court
A. D. Hoy		Nov. Term 1856
vs J. C. Smith		Abstract

P 1st

Deft in error obtained judgment vs.
Plfs. on a note before J. P. Hooper
appealed 8 days before commencement
of Circuit Court

On 3^d day of Term Circuit Court
Deft in error having entered his appearance
by atty on the 2^d day Plfs in error not
answering dismissed appeal awarded
proceeds & gave judgment vs.
both Plfs. in error for \$502 & costs
of suit

P 2^d

Transcript of proceedings before J. P. &
note

P 3^d

Copy of J. P.'s Summons & endorsement

P 3^d 24

Copy of Bond given by Hooper

P. C. Hooper
Atty Pro Plfs.

Mr 13

A. C. Hooper &

A. D. Hoy

vs

J. C. Smetter

err to Washington

vs

Attys Pro Rigo

Filed July 17th Nov. 1856

J. Schumacher Clerk

SUPREME COURT OF ILLINOIS
FIRST GRAND DIVISION.

NOVEMBER TERM, A. D. 1857.

A. C. Hooper & A. D. Hay, }
vs. } In Supreme Court, Nov. Term, 1856.
J. C. Smith.

ABSTRACT.

- P. 1st. Defendant in error obtained judgement vs. Plaintiffs, on a note before J. P. Hooper appealed eight days before commencement of Circuit Court.
On 3d day of Term, Circuit Court, Defendant in error having entered his appearance by attorney on the 2d day, plaintiffs in error not answering, dismissed Appeal, awarded procedendo, and gave judgment vs. both plaintiffs in error, for \$5,02 and costs of suit.
- P. 2d. Transcript of proceedings before J. P. and note.
- P. 3d. Copy of J. P.'s summons and endorsement.
- P. 3 and 4. Copy of bond given by Hooper. P. E. HOSMER, Att'y pro Plt'ff's

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A. C. Hooper & A. D. Hoy

vs.

J. C. Smith.

Error to Washington.

P. E. Hosmer, Atty pro Plaintiff,

June 16. Nov 1857
A. C. Hooper & A. D. Hoy

A. C. Hooper & } In Supreme Court
A. S. Hay } Nov. Term a.s. 1857
vs. }
J. C. Smith }

A. S. Hay not having joined
in the appeal should have been summoned
before case was disposed of. Rev. Page 324
Sec. 64

Judgment should only have been entered
against Hooper the only appellant, 1 Leon,
Page 199.

Appellant could not be forced into
two 1st term Rev. S. Page 324 Sec
61 & 413, Sec. 5

A. C. Hooper et al

vs

J. C. Smith

Brief of facts,

SUPREME COURT OF ILLINOIS

FIRST GRAND DIVISION.

NOVEMBER TERM, A. D. 1857.

A. C. Hooper & A. D. Hoy,
vs.
J. C. Smith.

In Supreme Court, Nov. Term, 1857.

ABSTRACT.

P. 1st.

Defendant in error obtained judgement vs. Plaintiffs, on a note before J. P. Hooper appealed eight days before commencement of Circuit Court.

On 3d day of Term, Circuit Court, Defendant in error having entered his appearance by attorney on the 2d day, plaintiffs in error not answering, dismissed. Appeal awarded procedendo, and gave judgment vs. both plaintiffs, in error, for \$5.02 and costs of suit.

P. 2d.

Transcript of proceedings before J. P. and note.

P. 3d.

Copy of J. P.'s summons and endorsement.

P. 3 and 4.

Copy of bond given by Hooper.

P. E. HOSMER, Att'y pro Plt'ff's

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(51-8.5.96)

A. C. Hooper & A. D. Hoy
vs.
J. C. Smith.
Exor to Washington.
P. E. Hosmer, Atty pro Plaintiff's.

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Apr. 20

Filed 16. Apr. 1857
A. Johnston CLK