No. 8779

Supreme Court of Illinois

D. D. Pryor

vs.

N. D. Hyde

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State of Illinois }
Pope County } ss

At a term of the Circuit Court begun and held at the Court house in Golconda Pope County Illinois in and for said County on Monday the 27th day being the 4th Monday of May A. D. 1850. Present Hon. William H Denning Presiding Judge of the 3d Judicial circuit of said State

Daniel H Pryor
appellant
vs } Appeal
Dan'l H Hyde.

Be it remembered that heretofore to wit on the 5th day of January A D. 1850. the plaintiff, appellant in the above stated cause filed in the Clerks Office of said court among other papers a transcript from the docket of Philip Viney Esq. a Justice of the peace in and for said County which said transcript is in words and figures as follows to wit.

Daniel H Pryor
vs
Daniel H Hyde } This action was brought by the plaintiff for trover or trespass and conversion for fifty dollars.

Summons issued on the 12th December 1849 returnable on 17th and handed to R W Miller constable, the summons was returned served by reading, the parties both met at the hour appointed, the defendant called for a Jury, Venire issued and the constable returns the following named Jury to wit; John H Barr Alfred Smith, David Smith, H M Clanahan G W Sikes and

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and John Sim, the defendant appeared by his attorney Andrew Sisk, and the plaintiff by himself, and after going into the testimony of all the witnesses, and the case being argued the Jury returned the following Verdict to wit " We the Jury do find the right of the property in the defendant and that the plaintiff pay the costs this 17th day Dec. 1849.

John H Ban foreman

Therefore I Enter Judgment according to verdict given under my hand and seal this 17th day of Dec 1849.

P. Vineyard J. P. (Seal)

I Philip Vineyard an acting Justice of the peace in and for said County do certify that the above is a true transcript from my docket.

Given under my hand this 2d of Jan. 1850.

P. Vineyard J. P. (Seal)

And on the same day to wit the 5th January 1850. the said plaintiff filed the following appeal Bond to wit

Know all men by these presents that we Daniel Pryor and I N. Pryor of the County of Pope and state of Illinois are held and firmly bound unto Daniel N Hyde in the penal sum of Twenty seven dollars & fifty cents lawful money of the United States for the payment of which well and truly to be made we bind ourselves our heirs & administrators jointly severally and firmly by these presents Witness our hands & seals this 5th day of January A D 1850.

The condition of the above obligation is such that whereas the said Daniel N Hyde did on the 17th day of December A D 1849 before Philip Vineyard Esqr a Justice of the peace for the County of Pope recover a Judgment against the above bounden Daniel F Pryor for the sum of thirteen dollars and twenty five cents costs from which Judgment the said Daniel F Pryor

has taken an appeal to the circuit court of the county of Pope aforesaid and state of Illinois. Now if the said Daniel F Pryor shall prosecute his appeal with Effect and shall pay whatever Judgment may be rendered by the court upon the dismissal or trial of said appeal then the above obligation to be void otherwise to remain in full force and virtue.

D. F. Pryor (Seal)
J. N. Pryor (Seal)

Taken and approved
this the 5th day of
January A. D. 1850.
Jno Raum clk.

Whereupon on the 16th of January A. D. 1850 the following summons was issued out of the clerks office of said court to wit

State of Illinois } ss
Pope County

The People of the state of Illinois to the Shff of said County Greeting: We command you that you summon Daniel N Hyde if 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 holden at the court house in Golconda on the 4th Monday being the 27th day of May A D 1850. to answer Daniel F Pryor in an appeal and make due return hereof.

Witness John Raum Clerk of the circuit court of said County and the seal thereof at Golconda this 16th day January A D. 1850.

Jno Raum clk

Which said summons was returned by the Shff of said County with the following Endorsement thereon to wit: "I return the within summons served on the within named D N. Hyde

Hyde by reading the same in the hearing of the within named D Hyde this 12th May 1850

Wm M Henry Shff, P, by

And at a term of the Circuit Court held as aforesaid on Wednesday the third day of the term of said Court, being the 29th day May A.D. 1850. the following proceedings were had to wit,,

D. F. Fryer appellant
vs
D N. Hyde
} Appeal

On this day came the plaintiff appellant by Sloan his attorney and the said defendant by Davis his attorney. whereupon the issue being joined this cause is submitted to the court, the proofs being heard the defendant is found Guilty and the plaintiffs damages assessed at $30— whereupon the defendant moved the court for a new trial which Motion is overruled. It is therefore considered by the Court that the plaintiff recover of the said defendant the said sum of thirty dollars the damages assessed as aforesaid and also his costs and charges about his suit in this behalf expended and may have Execution therefor. ,,

Whereupon the said attorneys for plaintiff and defendant filed the following agreement, to wit

David N Hyde
vs
David F Fryer
} Trover

It is agreed in this case that the Evidence showed that an Estray horse came to the possession of Fryer where they remained more than a year without being posted and advertised that without having been posted and advertised they Escaped from Fryers possession into the lands of occupied by Hyde who knew that they had been and

were in the possession of Pryor at the time of their escape, and that Pryor had not posted and advertised them. That Pryor demanded them of Hyde, and Hyde refused to give them up because they were Estrays when they came to the possession of Pryor and Pryor had not posted and advertised them although they had been in his possession more than a year. Hyde posted and advertised the horse immediatly after it came into his possession though not before Pryor demanded it. The Circuit court gave Judgment (the case having been submitted to him) for Pryor. Was not this Judgment Erroneous.

Thos G C Davis atty for Hyde
Wesley Sloan atty for Pryor

State of Illinois
Pope County } ss

I John Raum Clerk of the Circuit Court of said County do hereby Certify that the foregoing 3 pages Contain a full and complete Copy of the Record and proceedings in the Case wherein Daniel H Pryor is plaintiff and David H Hyde defendant, as appears of record and on file in my Office.

In Testimony whereof I have hereunto set my hand and affixed the Seal of said Court at Golconda this 27th day of October A D 1851.

Jno Raum Clk

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Copy of Record

D. F. Pryor
vs
D. N. Hyde

Sept Current Term
May Term 1850.

Filed the 12th day
of November 1851
Henry D Preston
Clk

8779

Decided at November
Term, 1851
See f 2.