

8435

No. _____

Supreme Court of Illinois

Williams, Stephen & Co.

vs.

Thomas Cross

71641  7

Williams Stephens & Co
 pless in the Court
 below against Thomas
 Cropp & Michael Brown
 defendants in the Court
 below

debt.
 appeal from
 Justice to Perry
 Circuit Court
 by Thos Cropp

Abraham Williams
 William J Stephens
 & William M. Williams
 late doing business under
 the name of Williams
 Stephens & Co

pleas in
 error

to

Thomas Cropp impleaded
 with Michael Brown

debt in
 error

error to Perry

The Clerk of Supreme
 Court 1st Grand Division will
 please issue said papers
 in the above cause to the
 of Perry returnable to next term of
 R. S. Williams
 in error

22

5

Williams, Stephens & Co

24

Thomas Cross-

impresario with

Richard Brown

Cairo Oct 18th 1860

John Oct. 23. 1860

A. Johnston M

R. S. Nelson Esqr

Dear Sir,

Your favour of 11th inst rec^d and reply that Abraham Williams William D Stephens & William W Williams composed the firm of Williams Stephens & Co.

Respectfully
A Williams

In the Perry Circuit Court Sept term 1838

Williams Stephens & Co plaintiffs
in the Court below

vs
Thomas Croft, Michael
Brown defendants in the
Court below

appeal

Now to Perry, Supreme Court
First Sanced Division
November term
1840

Williams Stephens & Co

plaintiffs in error

vs

Thomas Croft impland
with Michael Brown
defendant in error

The Clerk will please
open a new facias in the above cause
returnable to next term, directed
to the Sheriff of Perry Co

Attest per J. P. [unclear]
error

[9435-3]

Service on Thomas Croft

~~23~~ 5

Williams Stephens & Co
B^{rs} 4, corner to Perry
Thomas Cross implants
with Natural Brown
Dependants in even

Receipt

Filed 23. Oct. 1860
N. Johnston Clerk

State of Illinois,
SUPREME COURT,
First Grand Division.

} SS

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Perry 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 Perry county, before the Judge thereof between Abraham Williams, William J. Stephens & William A. Williams -
etc. doing business under the style of Williams, Stephens & Co.
plaintiff and Thomas
Cross and Richard Benson -

defendants it is said manifest error hath intervened to the injury of the aforesaid Williams, Stephens & Co. as we are informed by this complaint, and we being willing that error, if any there be, should be corrected 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 our 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 1st Sunday after the
2^d 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. John D. Catron Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twenty third day of October in the year of our Lord one thousand eight hundred and Sixty.

Noah Johnston

Clerk of the Supreme Court.

In the Supreme Court of the State of Illinois.
FIRST GRAND DIVISION, AT MOUNT VERNON.

NOVEMBER TERM, A. D., 1860.

WILLIAM STEPHENS & Co., *Plaintiffs in Error,*

VS

THOMAS CROSS IMPLEADED WITH RICHARD BROWN,

Defendant in Error.

} Error to Perry.

2 THE Plaintiff's in error commenced a suit before a Justice of the Peace in Perry county, on an account under \$100 against the Defendant in error and Richard Brown, his co-defendant in the suit before the Justice, which account was for goods sold by the plaintiffs to the said Cross and Brown as partners.

3 The defendant in error was regularly served with process in the suit so commenced before the Justice, but although both defendants were named in the summons, and the summons was regular in form, Brown was not served with process, nor did he appear or in anywise waive the service of process or confess judgment, but the Justice on the day of trial rendered judgment against the defendant in error and Brown.

4 The defendant appealed to the Circuit Court of Perry county, Brown not joining in the appeal, and on motion of defendant in error, the suit before the Justice was dismissed as to both the defendant in error and Brown his co-defendant before the Justice.

7
10 The plaintiffs in error have brought the case by writ of error into this Court, and seek to reverse the judgment of the Circuit Court of Perry county, because they say that the said Court erred in dismissing the suit before the Justice on the motion of the defendant in error.

R. S. NELSON, *For Plaintiffs in Error.*

Brief of Points and Authorities relied upon by the Plaintiffs.

1. The defendant in error cannot take advantage of the want of service on Brown, his co-defendant, on motion to dismiss, and no one can do so but Brown himself.

2. The court had jurisdiction over the person of Cross, and as to him the judgment was regular, and the Circuit erred in dismissing the suit as to both the defendants before the Justice, on motion of the defendant in error.

3. No one can take advantage of the error committed by the Justice of the Peace in rendering judgment against Brown, but Brown himself.

4. *No objection was made in the Superior Court to proceedings & it is too late to do so in this Court of appeal*

Russell & Wall, Printers, Guardian office, Mt. Vernon.

*R. S. Nelson for plffs
in error*

~~22~~ 5

Stephens Leo

my

Cross-

Abstract

Filed Nov. 13. 1860

N. Johnston Att

State of Illinois,
SUPREME COURT,
First Grand Division. } SS

The People of the State of Illinois,
To the Sheriff of Perry County.

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Perry county, before the Judge thereof between Abraham Williams, William J. Stephens & William W. Williams - etc. doing business under the style of Williams, Stephens & Co plaintiffs and

Thomas Cross and Richard Brown defendants it is said that manifest error hath intervened to the injury of said Williams, Stephens & Co as we are informed by this complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mount Vernon, before the justices thereof; to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Thomas Cross -
supplena with Richard Brown

that be and appear before the justices of our said Supreme Court; at the next term of said Court, to be holden at **Mount Vernon**, in said State, on the first Tuesday after the second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if he shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Thomas Cross & Co notice together with this writ.

WITNESS, the Hon. John D. Eaton Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this eighth day of October in the year of our Lord one thousand eight hundred and Sixty-one

Wm. Johnston
Clerk of the Supreme Court.

Executed the within writ by reading to the
within named Thomas Coats Oct. 15th 1861
A. Allyn Sheriff
Perry County Ill

Service \$50
Mileage 15 miles 75
Per 1/2
Postage \$140
A. Allyn Sheriff

SUPREME COURT.
First Grand Division.

McClain, Appellee

Plaintiff in Error,

VS.

Thomas Coats.

Defendant in Error.

SCIRE FACIAS.

FILED.

In the Supreme Court of the State of Illinois.

FIRST GRAND DIVISION, AT MOUNT VERNON.

NOVEMBER TERM, A. D., 1860.

WILLIAM STEPHENS & Co., Plaintiffs in Error,

VS

THOMAS CROSS IMPLEADED WITH RICHARD BROWN,
Defendant in Error.

} Error to Perry.

2 THE Plaintiffs in error commenced a suit before a Justice of the Peace in Perry county, on an account under \$100 against the Defendant in error and Richard Brown, his co-defendant in the suit before the Justice, which account was for goods sold by the plaintiffs to the said Cross and Brown as partners.

3 The defendant in error was regularly served with process in the suit so commenced before the Justice, but although both defendants were named in the summons, and the summons was regular in form, Brown was not served with process, nor did he appear or in anywise waive the service of process or confess judgment, but the Justice on the day of trial rendered judgment against the defendant in error and Brown.

4 The defendant appealed to the Circuit Court of Perry county, Brown not joining in the appeal, and on motion of defendant in error, the suit before the Justice was dismissed as to both the defendant in error and Brown his co-defendant before the Justice.

7 The plaintiffs in error have brought the case by writ of error into this Court, and seek to reverse the judgment of the Circuit Court of Perry county, because they say that the said Court erred in dismissing the suit before the Justice on the motion of the defendant in error.

R. S. NELSON, For Plaintiffs in Error.

Brief of Points and Authorities relied upon by the Plaintiffs.

1. The defendant in error cannot take advantage of the want of service on Brown, his co-defendant, on motion to dismiss, and no one can do so but Brown himself.

2. The court had jurisdiction over the person of Cross, and as to him the judgment was regular, and the Circuit erred in dismissing the suit as to both the defendants before the Justice, on motion of the defendant in error.

3. No one can take advantage of the error committed by the Justice of the Peace in rendering judgment against Brown, but Brown himself.

4. There was no motion to this purpose or objection to the proceeding on the part of Brown in the Circuit below. He cannot consequently take advantage of any defect in the proceeding before Justice in this Court, or appeal, or in this Court, even if any existed.

Russell & Wall, Printers, Guardian office, Mt. Vernon.

R. S. Nelson for plaintiffs
in error

State of Illinois,
SUPREME COURT,
First Grand Division.

} SS

The People of the State of Illinois,

To the Sheriff of Perry County.

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Perry county, before the Judge thereof between Abraham Williams, William J. Stephens & William W. Williams, etc. doing business under the style of Williams, Stephens & Co. plaintiffs and Thomas Cross and Richard Brown

defendants it is said that manifests error hath intervened to the injury of said Williams, Stephens & Co. as we are informed by this complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mount Vernon, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said Thomas Cross-impleaded with Richard Brown

that he be and appear before the justices of our said Supreme Court; at the next term of said Court, to be holden at **Mount Vernon**, in said State, on the first Tuesday after the second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if he shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Thomas Cross-impleaded with Richard Brown notice together with this writ.

WITNESS, the Hon. John D. Catton Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twenty third day of October in the year of our Lord one thousand eight hundred and seventy.

Noah Johnston
Clerk of the Supreme Court.

Not Served for the want of time Nov-14th
A.D. 1860 J. J. Hoge Shiff

SUPREME COURT.
First Grand Division.

Williams, Stephen & Co

Plaintiffs in Error,

VS.

Thomas Coats

Defendant in Error.

The within is

SCIRE FACIAS.

FILED.



In the Supreme Court of the State of Illinois.
FIRST GRAND DIVISION, AT MOUNT VERNON.

NOVEMBER TERM, A. D., 1860.

WILLIAM STEPHENS & Co., *Plaintiffs in Error,*

vs

THOMAS CROSS IMPEADED WITH RICHARD BROWN,

Defendant in Error.

} Error to Perry.

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3 The defendant in error was regularly served with process in the suit so commenced before the Justice, but although both defendants were named in the summons, and the summons was regular in form, Brown was not served with process, nor did he appear or in anywise waive the service of process or confess judgment, but the Justice on the day of trial rendered judgment against the defendant in error and Brown.

4 The defendant appealed to the Circuit Court of Perry county, Brown not joining in the appeal, and on motion of defendant in error, the suit before the Justice was dismissed as to both the defendant in error and Brown his co-defendant before the Justice.

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10 The plaintiffs in error have brought the case by writ of error into this Court, and seek to reverse the judgment of the Circuit Court of Perry county, because they say that the said Court erred in dismissing the suit before the Justice on the motion of the defendant in error.

R. S. NELSON, *For Plaintiffs in Error.*

Brief of Points and Authorities relied upon by the Plaintiffs.

1. The defendant in error cannot take advantage of the want of service on Brown, his co-defendant, on motion to dismiss, and no one can do so but Brown himself.

2. The court had jurisdiction over the person of Cross, and as to him the judgment was regular, and the Circuit erred in dismissing the suit as to both the defendants before the Justice, on motion of the defendant in error.

3. No one can take advantage of the error committed by the Justice of the Peace in rendering judgment against Brown, but Brown himself.

4 *No objection was taken to proceedings before Justice & it is too late to object in this Court of appeal or this Court*

Russell & Wall, Printers, Guardian office, Mt. Vernon.

*R. S. Nelson for
 plaintiffs in error*

~~225~~

W. H. Keen

by

Grants

Abstract

Filed Apr. 13. 1862

A. Johnston

In the Supreme Court of the State of Illinois.

FIRST GRAND DIVISION, AT MOUNT VERNON.

NOVEMBER TERM, A. D., 1860.

WILLIAM STEPHENS & Co., *Plaintiffs in Error,*

vs

THOMAS CROSS IMPEADED WITH RICHARD BROWN,

Defendant in Error.

} Error to Perry.

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3. No one can take advantage of the error committed by the Justice of the Peace in rendering judgment against Brown, but Brown himself.

4. No motion to dismiss was made upon Justice by Cross who appeared & he consented to the judgment in the appellate Court taken advantage of the want of service on Brown ~~in the appellate Court~~

Russell & Wall, Printers, Guardian office, Mt. Vernon.

*As Motion for
plea in error*

No ⁵⁻⁴ ~~2~~ ~~8~~

Williams, Stephens & Co

m

Thomas Cross

1860

8435

Account on page 1186.
Ex for Cost & Copy of
Order & specimen sent
London July 12. 62. by
Order of Atkinson

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