

8702

No. _____

Supreme Court of Illinois

George W. Hill

vs.

R. S. Douglas

State of Illinois
Randolph County ³ County Court January term ¹⁸⁶³ A.D.

To the Hon Judge

Robert S. Douglas your
petitioner would show that on the _____ of
A.D. 1866 Thomas Hill died and
Your Petitioner obtained Letters as Executor
of the Estate of said deceased on the _____ of
A.D. 1866 that the Assets came
into his hands as such Executor and all
of which the said deceased died possessed of
Amounted to the sum of \$1095.⁰⁰ that the
liabilities of said Estate as shown by the
Probate allowance book are the sum of
\$1229.⁴⁵ that the expence of Administration
including Clerks fees Your petitioners percen-
tage &c Amount to \$100.⁰⁰ making the
sum of \$233.⁴⁵ of liabilities above & beyond
what the assets will pay, that Your petiti-
ner has duly applied all the said assets in
the payment of said liabilities, that said
deceased died seized & possessed of the following
Real Estate to wit, The North West
quarter of the North East quarter of section
Nine, The North West quarter and fifteen
Acres off the North side of the North East
quarter of the North West quarter, also
twelve Acres off the South side of the

(2)

North East quarter of the North West quarter
of Section Ten in Township Seven South
of Range Six West, in the County of Randolph
& State of Illinois, that said dec'd left as
his heirs at Law the following to wit.

Jannet Hill who is indowed with one
third of said Land during her life
Mary A. Fisher Elizabeth Hill, George
W. Hill & William D. Hill, the last two
of whom are Minors & without Guardians
that the said Jannet Hill resides on said
Land, Your petitioner would therefore ask
the aid of the Court that the said Jannet
Hill, Mary A. Fisher, Elizabeth Hill, George
W. Hill & William D. Hill, be made depts
hereto that they full answer make &c that
on a full hearing the Court Order & Decree
that so much of the said Real Estate be sold
as will be sufficient to pay all the debts
against said Estate as aforesaid, and
Your petitioner asks for general aid in
the premises &c

Robert S. Douglas Ex. c
by J. H. Watt

Filed Decr 29th 1862

Isaac H. Nelson

clerk

State of Illinois
 Randolph County, ss

The People of the State of
 Illinois, To the Sheriff of Randolph
 County Greeting;

We command You to Summon
 Jennett Hill Mary A. Fisher, Elizabeth
 Hill George W. Hill and William D. Hill
 if to be found in Your County, to be and
 appear before the County Court of said
 County, on the first day of the next term
 thereof, to be holden at the Court House
 in the City of Chester, on the third
 Monday in the month of January next,
 to answer Robert S. Douglass Executor
 of Thomas Hill deceased in a petition
 for an Order to sell Land to pay debts,
 and thereof make due return to Our said
 Court, as the Law directs.

Witness Isaac H. Nelson Clerk of
 Our said Court, and the Judicial
 Seal thereof, at his Office in Chester
 this 30th day of December 1862
 Isaac H. Nelson

Clerk

The following return was made on the above
 Summons

Executed this writ Dec 31st 1862
 by reading and delivering a true copy

(4)
to Jennett Hill Elizabeth Hill & W^m D.
Hill,

Mary A. Fisher and Geo W. Hill not
found

John Campbell
Sherriff Rud

State of Illinois }
Randolph County }^{SS}

The People of the State of
Illinois, To the Sheriff of Randolph County.
Greeting.

We command You as we have heretofore
done to Summon George W. Hill if to be
found in Your County, to be and appear
before the County Court of Randolph
County, on the first day of the next term
thereof, to be holden at the Court house in
the City of Chester, on the third Monday
in the month of February next, to answer
Robert S. Douglass Executor of the last
will and Testament of Thomas Hill dec^d
in Petition for Order to Sell ~~Said~~ Real Estate
to pay debts of said dec^d and thereof make
due Return to Our said Court, as the Law
directs

Witness Isaac S. Nelson Clerk of Our
said County Court, and the
Sealed Judicial Seal thereof, at his Office
in Chester, this 27th day of January
1863

Isaac S. Nelson
Clerk

The following return was made on the back
of the foregoing Summons

I have this day served the
within Summons by leaving a true Copy
hereof at the usual place of abode of the
within named George W. Hill the within
named defendant, said Copy was left
with Mrs Hill a member of the family
over the age of ten years, and I informed
the said Mrs Hill of the contents thereof
Feb 4th 1863

John Campbell, Sheriff Recd
by W. S. Campbell Deputy

State of Illinois ~~County~~ March term of the County
Randolph County, Court A. D. 1863

Robert S. Douglas Exr of
the Estate of Thomas Hill dec'd
vs

Elizabeth Hill Mary A. Fisher Et al
Petition to sell Land

Robert S. Douglas pref being
duly sworn says that after due inquiry &
Search by the Sheriff, Mary A. Fisher one of
the depts cannot be found & Service cannot
be had upon her, March 20th A. D. 1863.
Subscribed & sworn to before
me this 20th day of March 1863 } R. S. Douglas
Isaac H. Nelson }
clk

(6)

Administrators Notice
State of Illinois
Randolph County, ss

In the Randolph County Court,
April term A. D., 1863

Robert S. Douglas Executor of the Estate of
Thomas Hill dec'd,

versus

Jennet Hill, Mary A. Fisher, Elizabeth Hill,
George W. Hill and William D. Hill

Petitioners for Order to Sell Lands to pay debts

Whereas the plaintiff has filed
his petition and will apply to the County
Court of Randolph County, Illinois, at
the April term thereof A. D. 1863, for an Order
to sell the Lands belonging to the Estate of
said dec'd, and in said petition described,
and whereas he has filed his affidavit in the
Office of the Clerk of said County Court,
setting forth that after Summons had been duly
Issued from the Office of said Clerk, in the above
case, and delivered to the Sheriff of said
County, and said Sheriff had made due
inquiry and search, he could not find or
obtain service upon Mary A. Fisher, one of
the said defendants, Notice is therefore hereby
given to the said defendants, that unless
they appear at the next April term of said

Court, to be holden in the City of Chester
on the third Monday of said month, and
plead, answer or demur, to said petition,
the same will be taken as confessed, against
You, and an Order entered accordingly

Isaac H. Nelson Clerk
J. H. Watt, Atty.
March 21, 1863 - 4. C.

State of Illinois ~~====~~ Chester Illinois April
Randolph County, ~~3~~ ss 20th 1863

Copy of Advertisement

This is to certify that the
Annexed Advertisement of Administrator
Notice was published in the Randolph County
Democrat, a weekly Newspaper of general circu-
lation, published in the City of Chester, County
and State aforesaid, for four successive weeks,
the first publication appearing on the 21st
day of March A.D. 1863 and the last on the
11th day of April A.D. 1863

H. B. Nisbet
Publisher and Proprietor

Feb 20th 1863 Robert S. Douglas Executor of
Thomas Hill Deceased

vs. Petition for Order to sell Land to pay debts
Jennet Hill. Et al
And now comes the plaintiff by Watt

(8)

and files the petition and Summons served in part and proof of Notice by publication as to other Defendants, and asks for the appointment of a Guardian Adlitem for Minors.

Ordered that John Michaw be appointed Guardian for Minors, and he together with Adult Defendants be ruled to answer by Thursday of this term &c

State of Illinois
Randolph County 1863

In the County Court of
Randolph County doing Probate business at
the April term 1863

Robert S. Douglass Executor } Petition for Order
of the Estate of Thomas Hill dec'd } to sell Land to pay debts
vs

Jennett Hill Mary A. Fisher Et Al

To the Hon J. M. Ball County
Judge, the undersigned, being heretofore appointed
Guardian adlitem, for George W. Hill
& William D. Hill Minors defendants and
heirs of Thomas Hill dec'd, would report, that
he has Examined the papers in the above
entitled cause, and finds that Service has been
had on said Minors Defendants as required
by Law, and that upon proper proof being
made of all the Allegations contained in

the petition herein, he knows of no reason why the prayer of the petition should not be granted

John Michard
Guardian Ad Litem

Filed April 23^d 1863

Isaac S. Nelson Clerk

Randolph County Court January
term A.D. 1863

Jan 19th

Robert S. Douglas }
Executor of Thomas Hill } Petition for Order to
deceased } sell Land to pay
vs } debts

Jennett Hill Mary A. Fisher
Elizabeth Hill George W. Hill
and William D. Hill

And now on this day comes
the said Executor, by James S. Watt his
Attorney, and on his motion this cause is
continued until next term, and an Alias
Summons herein Ordered generally &c.

And now on ~~Wednesday~~ ^{Monday}, that being the
16th day of February A.D. 1863 again comes
the plaintiff by Watt his Attorney and on
his motion this cause is continued until
Friday of this term &c.

And now on Friday again comes the

Plaintiff by Watt his Attorney, and on his motion this cause is again continued till next term,



And now on this day that being Monday the 20th day of April A D. 1863 comes the plaintiff by Watt his Attorney and files the petition and Summons herein ordered, which was served in part and proof of Notice given by publication to two other Defendants, and asks for the Appointment of a Guardian Ad Litem for the above mentioned Minors heirs, It is therefore Ordered that John Meihan be appointed Guardian Ad Litem for said Minors, and he together with the Adult Defendants are ruled to answer by Thursday of this term, And now on Saturday that being the 25th day of April again comes the Plaintiff by Watt his Attorney, and also Meihan who was heretofore appointed Guardian Ad Litem and files his report, which is by the Court Examined and Approved, and this cause coming on for hearing, It is Ordered Adjudged and decreed by the Court that the said Robert S. Douglas Executor as aforesaid proceed to sell and convey at public Sale to the highest and best bidder, the Real Estate of which the said Thomas deceased died seized, or so much thereof as

will be sufficient to pay the debts due and owing by said Estate, said Real Estate being Situate and lying in the County of Randolph and State of Illinois, and designated in said petition on file herein as follows viz

The North west quarter of the North East quarter of Section Nine and the North west quarter and fifteen Acres off the North side of the North East quarter of the North west quarter also twelve Acres off the South side of the North East quarter of the North west quarter of Section Ten, in Township Seven South of Range Six West, by first giving Six weeks public Notice of the time terms and place of Sale by publication in some public Newspaper in said County and of general circulation, and by posting up like Notices thereof in at least four of the most public places in said County, Said Notices and publications to contain a proper description of the Lands to be sold &c Said Sale to be made on the premises aforesaid, and on terms of ten per cent of the purchase money to be paid down, and a credit of twelve months to be given on the balance, the purchaser or purchasers thereof Executing their Notes with approved personal Security together with a Mortgage on the

(12)

premises so sold to secure the balance of the purchase money, And it is further Ordered by this Court that the proceeds of Sale be applied by said Executor to the payment of the debts due and owing by said Estate of deceased, And it is further Ordered by the Court, that the said Robert S. Douglas Executor as aforesaid make Execute and deliver to the purchaser or purchasers thereof of said Real Estate a good and sufficient Deed or Deeds, conveying all the right title and interest in and to the said Real Estate, which the said Thomas Hill deceased had at the time of his death, It is further Ordered that said Executor report his proceedings herein to this Court in three months, and that this cause be continued for Sale report &c

State of Illinois  November term of the County
Randolph County,  ss Court A. D. 1863

To the Hon Judge

The undersigned Executor of the Estate of Thomas Hill dec'd would report that pursuant to an Order of this Court made at the January term A. D. 1863 having given notice of the time place & terms of Sale by

Publication in the Democrat a weekly newspaper published in Chester in said County for the space of Six weeks previous to the day of Sale & by giving like Notice thereof by putting up posters in four of the most public places in said County, Did on the 8th of Aug A D 1863 between the hours of ten A. M. & four P. M. on the premises Sell at public Sale the Lands set forth in said Order of Court, and John G. Meddendorf being the highest & best bidder therefor 27 Acres off of the W. side of the N. E. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ & 13 Acres off of the E. side of the N. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ in Sec 10 Town. 7. S. of R. 6. W. was Sold to him for the sum of \$300 ⁰⁰ and the said John G. Meddendorf having complied with the terms of Sale as set forth in said Order of Court, by paying 10 per cent Cash & Executing Notes Mortgage &c for the balance, I did Execute & deliver to him a Deed for the said 27. & 13 Acres tracts of Land, all of which is respectfully Submitted

this the 16th of Nov 1863

Robert S. Douglas ^{Seal}
Executor

Filed Nov 14th 1863

Isaac H. Nelson
Clerk

Randolph County Court January term
A. D. 1864

Jan 20th

Thomas Hill deceased

And now comes the Executor of
deceased and presents his report of Sale
of Real Estate made by an Order of this
Court, whereby it appears that he sold
certain Lands described in said Order
for \$300.00 which report is Examined
Approved and Ordered to be recorded &c

State of Illinois
Randolph County

I Joseph Schuepfer clerk
of the County Court within and for
the County aforesaid hereby certify that
the foregoing transcript contained and set forth
on the foregoing fourteen pages is a full and
complete copy of the entire record proceedings
in the cause Entitled, Robert S. Douglas
Executor of Thomas Hill deceased, vs.
Jennett Hill Mary A. Fisher Elizabeth Hill
George W. Hill and William D. Hill, of the
term &c as stated in the foregoing transcript
as appears of record and on file in my Office
In testimony whereof I have hereunto
set my hand and Official Seal at
Office in the County aforesaid this
twelfth day of August, A. D. 1865
Joseph Schuepfer clk



State of Illinois
First Grand Division, S. S.

George W. Hill) Supreme Court
Plaintiff in Error, (November Term 1868.
vs.

Robert S. Douglas,) Assignments
Executor of Thomas Hill,) of Error—
dec'd. Defendant in Error.

And now comes the
said George W. Hill, plaintiff in error,
by his attorney, and shews to the court
and jurors, that in the within and fore-
going record and proceedings of the
County Court of Randolph County,
in the case wherein Robert S. Douglas,
executor of the estate of Thomas Hill,
deceased is plaintiff and Jennet
Hill, Mary A. Fisher, Elizabeth Hill,
George W. Hill and William D. Hill
are named defendants there is man-
ifest error, to wit:

1. In this, that the County Court
erred in entertaining jurisdiction of
the cause and in making an order for the
sale of the land to pay debts when it affir-
matively appeared the defendants had not
been legally notified of the intended applica-
tion of the executor

2. Said court also erred in holding that there was proof of notice to two of the defendants when it was apparent that neither the summonses or published notice were in conformity with law.

3. It nowhere appears in the record or proceedings of the County court that the executor had made and filed an inventory, appraisement bill and sale bill as is required by law.

4. There is no averment in the petition, or proof in any part of the record, that the personal estate of Thomas Bell, the decedent, was insufficient to pay the just claims against the estate.

5. There is no evidence or any mention of proof in the record of any of the facts necessary to be proved in order to warrant the County court in ordering the sale of the land.

6. It appears by the record, the County court entered an order, at the January term 1858, of proceedings at the February and April terms following, when, by law, said court could not properly record the proceedings it may have anticipated would occur at a future term.

Plaintiff in error therefore
prays the order and proceedings of
said County court may be reversed.

Thos. Allen
atty for Plaintiff in Error

79-6

George W. Hill
Pltff in error -
vs

Robert S. Douglas -
Executor of
Thomas Hill, decd.
Def in error -

Filed Oct. 2^d - 1865.

N. Johnston Clk

Paid by Col. Allen \$5.50

Fees paid by plaintiffs
Atty. J. G. Allen
\$7.50

George W. Hill,
Plaintiff in Error

vs

Robert S. Douglas,
Executor of Thomas Hill
and Defendant in Error

State of Missouri
Supreme Court
1st Grand Division

November Term 1865.

Wm. Johnston, Esq.

Clerk of said Court.

Sir: I request
you to issue writ of error (in behalf of
George W. Hill, the above named plain-
tiff in error) and sci fa. on errors as-
signed, to Robert S. Douglas, Executor of
~~the estate~~ Thomas Hill, and defendant
in error, directed to the sheriff of Ran-
dolph county, returnable to the Novem-
ber term, 1865, in the cause begun in
the County court of Randolph county
of the January term 1863, wherein said
Robert S. Douglas, executor of Thomas Hill,
deceased was plaintiff and James
Hill, Mary A. Fisher, Elizabeth Hill, George
W. Hill and William S. Hill are named
as defendants, in a suit of petition
for the sale of land to pay debts, the record
of which, certified by the clerk of said County
court is herewith filed.

Respectfully yours, J. H. Allen

atty for George W. Hill

Plaintiff in Error

Sept. 28, 1865

137
Right Account
6 Novem. 1865

George W. Hill
Plt. in over
Co.

Douglas Ex. Co.
Capt. in over

Receipt for
unit of over. d

Julius Oct. 29 1865
St. Johnston City

State of Illinois,
SUPREME COURT,
First Grand Division.

} SS

County The People of the State of Illinois,
To the Clerk of the ~~Circuit~~ Court for the County of *Randolph* Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the *County* ~~Circuit~~ Court of *Randolph* county, before the Judge thereof between

Robert S. Douglas Executor of the estate of
Thomas Hill deceased plaintiff and *James*
Hill, Mary A. Fisher, Elizabeth Hill, George W.
Hill and William D. Hill

defendants it is said manifest error hath intervened to the injury of the aforesaid *George W. Hill* - *one of said defendants* as we are informed by *his* 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 *first Tuesday* *in 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. *P. H. Walker* Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this *second* day of *October* in the year of our Lord one thousand eight hundred and *sixty five*.

Noah Johnston

Clerk of the Supreme Court.

14 C
SUPREME COURT.

First Grand Division.

George M. Hill

Plaintiff in Error,

vs.

Robert S. Douglas -
Executor of estate
of Thomas Hill - *decd.*
Defendant in Error.

WRIT OF ERROR.

Issued & FILED, October
2^d - 1865

N. Johnston *Clk*
11

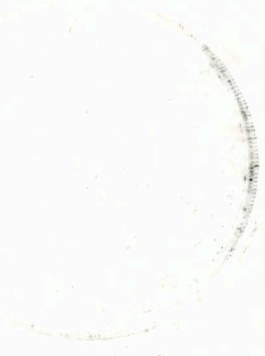
STATE OF ILLINOIS,
SUPREME COURT,
FIRST GRAND DIVISION.

The People of the State of Illinois,

vs. Robert S. Douglas, Executor of the estate of Thomas Hill, deceased.

Comes now the Plaintiff in Error, George M. Hill, and moves the Court for a writ of error to the Court of Appeals in the case of Hill vs. Douglas, and prays that the writ may be granted.

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page.]



George M. Hill
Plaintiff in Error
vs.
Robert S. Douglas
Executor of the estate
of Thomas Hill, deceased
Defendant in Error

Chester, Mo. Sept. 28, 1865.

Noah Johnston Esq.

Mt. Vernon, Mo.

Dear Sir: I inclose with this \$5.50 and the record of a cause and process for writ of error. In all of which will appear, I trust, sufficiently clear for a proper understanding.

When you acknowledge receipt, please let me know if there has been a return to the process in the case from Jackson County. I am anxious to have the cause decided at the next term.

In the case I send you with this, the depts. Lewis near Chester. I will direct the Sheriff as to his duty.

I would like a word of advice from you on two points of practice.

1. Does Rule 58, (adopted April 7, 1861) require levi-tenants to be notified by any particular person, and must the plaintiff himself make affidavit of the notice?

I think the intent of the rule is that ^{attorney} ~~any~~ ^{give the notice and} ~~may~~ make the affidavit.

2. When but one of several depts. prosecutes a writ of error, must all the parties be named entitling of the cause in the abstract? Your answer will much oblige your friend, Thos. G. Allen

There will be one certain, and perhaps three others from this county. The thing does are not get expired. I shall go to Court in Jackson County next week.

1865.
Evansville Rand. Co. Dec. 10th
Nash Johnson Esq.

Enclosed you will
find the summary, in the case of
Hill v. Douglas

Respt. yours

John M. Bride Sff.
per R. P. Champagne Dep.

State of Illinois,
SUPREME COURT,
First Grand Division.

} SS

The People of the State of Illinois,

To the Sheriff of Randolph County.

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the ~~Circuit~~ ^{County} Court of Randolph county, before the Judge thereof between Robert S. Douglas Executor of the estate

of Thomas Hill deceased plaintiff and James Hill, Mary A. Fisher, Elizabeth Hill, George W. Hill and William D. Hill

defendants it is said that manifest error hath intervened to the injury of said George W. Hill - one of said defendants as we are informed by his 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 Robert S. Douglas - Executor Quia Servant.

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 Robert S. Douglas notice together with this writ.

WITNESS, the Hon. P. H. Walker Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this second day of October in the year of our Lord one thousand eight hundred and sixty five.

Noah Johnston
Clerk of the Supreme Court.

SUPREME COURT.
First Grand Division.

George McMill

Plaintiff in Error,

vs.
Robert S. Douglas
executor of estate of
Thomas Hill deceased
Defendant in Error.

Shops fee
8 mls. travel — 1.40
Serv. & ret. 85
\$1.25

SCIRE FACIAS.

FILED.

Greened the within with, by reading the
names in the within named Acts & statutes
Acts, 9th 1865.

John S. McBrine
J. W. Hill, Jr.
J. W. Hill, Jr.

State of Virginia
SUPREME COURT
First Grand Division



RETURNED BY THE CLERK OF THE SUPREME COURT
TO THE CLERK OF THE DISTRICT COURT
AT THE CITY OF RICHMOND
ON THE 10th DAY OF DECEMBER 1865
AT RICHMOND, VA.

6.

George W. Hill -
Deft in error

vs

R. S. Douglas - Exr
of Thomas Hill -
Plt in error

Error to County Court of
Randolph Co.

Dismissed by Deft, tally -

Cost bill on Page 30
of Subbook "B"

~~8702~~

~~8702~~

8702