No. 11992

Supreme Court of Illinois

Shaffer.

vs.

Currier.

71641 7

Ogle County.

Solomon Shaffer

vs.

Daniel Currier

76

11992

1852

Prepaid

State of Illinois } June Term 1852
Supreme Court }

Solomon Shoppe }
vs }
Daniel Currier }

And now comes the said Solomon Shoppe plaintiff in error by C S Leland his attorney & says that in the records & proceedings in said cause there is manifest error in this to wit.

1st The Court erred in rendering a judgment for costs ~~in the Court below~~ against the defendant below upon the dismissal of the plaintiffs suit upon pltffs motion.

2d The Court erred in reversing the judgment of the justice of the peace upon a motion by the plaintiff below.

3d The Court erred in permitting the title of the cause to be changed by omitting name of certain qui use.

For the errors aforesaid & for other errors apparent in the said record & proceedings said plaintiff in error prays that said judgment of said circuit court may be reversed set aside & for naught esteemed.

C S Leland
& Geo H. Bishop
for pltff in error

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Solomon Skopp
vs
Daniel Curtis

Assignment of errors

Filed July 6th 1852.
L. Leland Clk.
By P. K. Leland Dep.

State of Illinois }
Ogle County } ss

Pleas in the Honorable the Circuit Court of said County of Ogle in the State of Illinois

Among the files and on the records of said Court, in a certain Cause wherein Daniel Carrier for the use of Albert J. Marshal, is Plaintiff and Solomon Shafer is Defendant, are the following files and entries in said Cause ~~to wit~~

On this 24th day of April 1850 – Came the said Daniel Carrier, and filed the Transcript and other papers in the above entitled Cause, which he appeals from the decision of Isaac S. Woolley, Esqr. a justice of the Peace of said County, as follows to wit

The Summons in the words and figures following to wit

State of Illinois – Ogle County ss

The People of the State of Illinois to any Constable of said County Greeting — You are hereby Commanded to summon Solomon Shafer, to appear before me at my Office in Mount Morris, on the 11th day of March A.D. 1850. at 12 o'clock M. to answer the Complaint of D. Carrier for the use of Albert J. Marshal, for a failure to pay him a certain sum not exceeding one hundred dollars, and thereof make due return as the law directs – Given under my hand, this 5th day of March A.D. 1850 — James M. Webb Justice of the Peace (Seal)

The same indorsed on the back — Demand $41.68
Justice fees 56

Served the eighth day of March by reading in the hearing of the Defendant
Cost 90 cts John W. Merman Const

The same Filed April 24, 1850 —
R. B. Light Clerk

On the same day was filed the following affidavit to wit

Daniel Carrier
vs } Coram J. M. Webb Esqr
Solomon Shafer

Said Defendant, first being duly sworn, on his

on the State, that he fears he will not have an impartial trial before Wm J. M. Webb ~~Webb~~ Esq. before whom the same suit is now pending —

Subscribed and sworn to before me, this 11th day of March 1850 James M Webb J. P. —

Solomon Shafer

the same — Filed April 24th 1850

R. B. Sight Clerk

Also also on the same day was filed the following Transcript to wit

Daniel Currier for the use of A. J. Marshall vs Solomon Shafer —

This suit brought on note of hand reads as follows

See Mt Jenn 25th 1849

For value received I promise to pay D. Currier or bearer the sum of forty dollars by the first day of Dec next, with use —

Solomon Shafer —

Damages $41,68

Summons issued 5 March 1850 made returnable March 11th AD 1850 at 12 O'clock in

Summons returned duly served, no defendant March 8th 1850 by John M. Armour Const —

On affidavit of Defendant that he could not have a fair and impartial trial, I hereby grant a change of venue & transfer the papers A. A. Woolly —

I hereby certify that the above is a true copy of proceedings in the above cause as my docket shows, this 11th day of March AD 1850

James M. Webb
Justice of the Peace

Same Filed April 24 1850 —

R. B. Sight Clerk

And on same day filed a transcript as follows —

Daniel Carrier for use
of A. J. Marshall
vs
Solomon Shaffer

The above suit was commenced before James McWatt a justice in Maidenhead precinct, brought before me by a change of venue on the 11th day of March 1850 - Plaintiff not appearing and defendant having appeared and after having proved that the note on which this suit was founded was given for a reaping machine, on which said defendant paid at the time of purchase forty dollars - and having proved a warranty and that said Machine did not answer the warranty, and further that said machine was not worth more than ten dollars, judgment is therefore rendered against said Daniel Carrier for the sum of thirty dollars debt and costs of suit - taxed at eight dollars and ten cents -

S. F. Woolly, P.P.

I do hereby certify that the above is a true transcript of my docket of the proceeding in the above entitled cause as entered therein

Oregon Ogle Co Ill April 24 1850 -

Wm. S. Woolly P.P.

Same evidence as process. Filed April 24, 1850

R. B. Light Clk

And before that time to wit on the 27th day of March 1850 came Daniel Carrier and filed an appeal bond herein, which is in the words and figures following to wit

Know all men by these presents, that we Daniel Carrier and John Austin of the County of Ogle, and State of Illinois, are held and firmly bound unto Solomon Shaffer in the penal sum of Eighty dollars lawful money of the United States - to which payment well and truly to be made we bind ourselves our heirs executors and adm

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ministrators jointly severally and firmly by these presents — Sealed with our seals and dated this 29th day of March A.D. 1850 — The condition

of this obligation is such that whereas the said Solomon Shafer did on the 11th day of March A.D. 1850 before Isaac S. Woolley Esq a Justice of the Peace for said County of Ogle, recover a judgment against the above bounden Daniel Curran for the sum of thirty dollars together with costs of suit from which judgment the said Daniel Curran has taken an appeal to the Circuit Court of the County of Ogle and State of Illinois Now if the said Daniel Curran shall prosecute his appeal with effect and shall pay whatever judgment may be rendered by the Court against him upon dismissal or trial of said appeal then the above obligation to be void otherwise to remain in full force and effect — —

Daniel Curran
John Austin

The same endorsed Filed March 29. 1850
R. B Sight Clerk

And afterwards to wit at the September Term of said Court AD 1850 is the following order to wit —

September Term AD 1850 Wednesday September 4.

Daniel Curran use of
Albert J. Marshal
vs
Soloman Shafer
Appeal

Now on this day comes the said Curran by Dutcher his Attorney and the Defendant by Mix his Attorney and the Defendant enters his motion to dismiss the appeal herein for want of sufficient bond whereupon the plaintiff enters his cross motion for leave to file a good and sufficient bond — Whereupon it is ordered by the Court that the cross motion be granted and the motion be overruled —

And afterwards to wit on the 5th day of September A.D. 1850 Comes the said Daniel Courier, and files a new appeal bond herein which bond is in the words and figures following to wit —

"Know all men by these presents, that we Daniel Courier & Daniel Wild, of the County of Ogle & State of Illinois, are held and firmly bound unto Solomon Shafer, in the penal sum of Eighty 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 fifth day of September A.D. 1850 — The Condition of the above obligation is such, that whereas the said Solomon Shafer did on the 11th day of March A.D. 1850, before S. Woolley Esq. a justice of the Peace in and for the County of Ogle, recover a judgment against the above bounden Daniel Courier for the sum of thirty dollars and Costs of Suit, from which said judgment, the said Daniel Courier has taken an appeal to the Circuit Court, of the County of Ogle aforesaid and state of Illinois — Now if the said Daniel Courier shall prosecute his appeal with effect and shall pay whatever judgement 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

In presence of } Daniel Courier {Seal
E. R. Light } Daniel Wild {seal

Same endorsed. "Filed September 5th AD 1850"
"W. B. Light Clerk"

Daniel Courier Plaintiff's Costs at Sept Term AD 1850 $14.32

Daniel Courier. Pltf Costs. Aug Term AD 1851 13.95
$28.27

And afterwards to wit: at the January Special Term AD 1852 and on the 13th day of said January is the following order on the records of said Court in said Cause —

Daniel Courier use of A. J. Marshall }
vs } Appeal
Solomon Shaffer }

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Now on this day came the said Courier by Holland, Wight & Dutcher his Attorneys and the Defendant by Mr his Attorney. And on motion of Defendant it is ordered by the Court that an attachment be issued for Charles Magill a witness herein. Whereupon were called a jury of good and lawful men to wit = Jacob Peper, Charles Newcomer, William Wallace, Norman Hitchcock, Samuel W. Coffman, Ogden B. Youngs, Peter Funk, John Van Horn, F. G. Petrie, Henry Housaker, Erastus Wadsworth, & E. P. Snow, who were duly elected, tried and sworn well and truly to try the issue in the said said Cause. After hearing evidence on the part ~~of the part~~ of the Defendant, the jury were given in charge of an Officer = And the Court adjourned until 8½ O'clock tomorrow morning — A.

And afterwards to wit on the 11th day of January A.D. 1852. of the said January Special Term is the following order on the records of said Court —

Daniel Courier use of
A. J. Marshall
vs
Solomon Shaffer } Appeal

Now on this day came the said parties and the jury heretofore empanneled herein, being called and having answered to their names, the trial of the said Cause proceeded. After hearing the evidence and the arguments of Counsel, and being fully advised and instructed by the Court in the premises the jury retired to consider their verdict. And afterwards came into Court and delivered the following verdict to wit = We the jury in this Cause empanneled find the issue for the defendant and assess his damages at the sum of five cents. Whereupon the Plaintiff moves the Court for an apportionment of Cost = And the defendant enters a motion for a new trial = And afterwards to wit, on the 15th day of said January at same Term A.D. 1852 on the records of said Court is the following order to wit

Daniel Courier use of
Albert J. Marshall } Appeal
vs
Solomon Shaffer

Now again on this day come the said Daniel Courier by his Attorneys and ~~on~~ enters his motion ~~it is ordered~~ that his Cause be docketed Daniel Courier vs. Solomon Shaffer which motion is granted, and it is ordered that this cause be docketed Daniel Courier vs. Solomon Shaffer.

And afterwards on the day last aforesaid (to wit 15th of January A D 1852) is the following order on the records of said Court.

Daniel Courier
vs } Appeal
Solomon Shaffer

Now again on this day came the said Courier by Holland, Wright & Dulcher his Attorneys and the said Shaffer by Mr. Higgins his Attorney, and the motion herein made by the said Courier for the apportionment of costs herein came on to be heard, and being duly considered by the Court is overruled — And then came on to be heard the motion of the Defendant for a new Trial herein — which motion being heard and considered by the Court is granted, and it is ordered that a new trial of this cause be had without the payment of any costs by the said Defendant —

And afterwards to wit (on the day and year last aforesaid (the 15th day of January A D 1852) at said January Special Term is the following order on the records of said Court to wit —

Daniel Courier
vs } Appeal
Solomon Shaffer

Now on this day comes the said Courier by Holland, Wright & Dulcher his attorneys, and enters his motion to reverse the judgement in the Court below, and to dismiss this cause

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which motion being heard and duly considered by the Court is granted
And it is ordered that the cause be dismissed at the costs of the said
Solomon Shaffer. And that the judgement in the Court below be reversed
at the costs of the said Shaffer — and that the said Daniel Courrier
have and recover of the said Solomon Shaffer his costs and charges in this
behalf expended. and that he have execution therefor. To which decision
the defendant Solomon Shaffer excepts

Daniel Courrier The Plffs Costs a fany Spe Dem $9.15

State of Illinois } I, Robert B. Light Clerk of the Circuit Court
Cole County } in and for said County and State do hereby
Certify that the foregoing is a full true complete
and perfect record of all the papers and proceeding in the above entitled
Cause.
In Testimony whereof I have hereunto set
my hand. and affixed the seal of said Court
this 28th day of April AD 1852
R. B. Light Clerk

No 4

Cole County.
Daniel Courrier
— vs —
Solomon Shaffer —
— Record —

Filed May 24th 1852.
R. Leland Clerk
By W. Leland Dep.

Solomon Shaffer
vs
Daniel Currier } Abstract of Record

Appeal from a Justice of the peace
Appeal taken March 29th 1850. Judgement for Pltff $30
Action commenced in the name of Daniel Currier
for the use of
Trial in the Circuit Court January 13th & 14th
1852 verdict for Pltff five cents

Pltff moves for an apportionment of
cost. Motion overruled

Pltff moves for a new trial - trial granted
without costs
Daniel Currier enters a motion Jan 15th 52
to docket the suit Daniel Currier vs
Solomon Shaffer, which is granted

Jan 15th 1852 Daniel Currier by his attys.
enters a motion to reverse the judgement
below & to dismiss the cause which motion
being heard and duly considered is granted
Cause dismissed at the costs of Shaffer &
judgement in favor of Currier vs Shaffer
for costs. Shaffer takes exceptions to this
decision

[11992-b]

Ogle

Solomon Shoffer

vs

Daniel Curtner

Abstract of Record

(Copy)

Filed July 6th 1852

Higgins for Deft. in Error,

1 Doucet. 376.

Mark for Deft. in Error.

STATE OF ILLINOIS, } The People of the State of Illinois,
Supreme Court.

To the Sheriff of the County of Ogle Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of Ogle county, before the Judge thereof, between Daniel Curier plaintiff, and Solomon Shaffer

defendant, it is said that manifest error hath intervened, to the injury of the said Solomon Shaffer 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 Ottawa, 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 Daniel Curier

that he be and appear before the justices of our said supreme court, at the next term of said court, to be holden at Ottawa, in said state, on the Second Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if he shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said Daniel Curier notice, together with this writ.

Witness, the Hon. **SAMUEL H. TREAT,** Chief Justice of our said Court, and the seal thereof, at Ottawa, this 24th day of May in the year of our Lord one thousand eight hundred and fifty two.

S. Leland Clerk of the Supreme Court.
By P. K. Leland Dep'y Clerk.

Ogle

Solomon Shaffer
vs.
Daniel Currier

Sci. Fa.
Filed June 26th 1852.
L. Leland Clk.
By P K Leland
Depy.

Entered the within this 2nd day of June A.D. 1852
by reading the Judgment to the defendant
having first warned the within defendant
Alfred Robin Plaintiff's Atty.

Per Bills, to Credit of Plaintiff

Sheriff's fees Service $0.50
Bills hand 0.30
Return — 0.10
$0.90

State of Illinois, sct.

WRIT OF ERROR—FREE TRADER PRINT.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Ogle **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 Ogle county, before the Judge thereof, between

Daniel Curier plaintiff, and Solomon Shaffer

defendant it is said manifest error hath intervened, to the injury of the aforesaid Solomon Shaffer 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 distintly 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 Ottawa, in the county of La Salle, on the Second Monday in June 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. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this twenty fourth day of May in the year of our Lord one thousand eight hundred and fifty two.

L. Leland *Clerk of the Supreme Court.*

By P. H. Leland Dep. Clk

[1992-7]

Ogle County.

Solomon Shaffer
vs.
Daniel Cirier

Writ of error.

15090

Filed May 24th 1852.
R. Leland Clerk.
By P. W. Leland Dep.