

8479

No. _____

Supreme Court of Illinois

Wm. Lynch

vs.

Leonard D. Cullom

71641  7

Be it remembered that on the 16th day of February
A.D. 1857, there was filed in the circuit court, of Crawford
county, State of Illinois, the following transcript which
is in the words & figures following to wit;

State of Illinois } Leonard O Cullom } Action of account
Crawford county } W } -pct. Account
William Lynch. } Demand \$37,50

December 30th 1856 summons issued and
handed to W^m. H. Bradberry, C. the 10th day of
January A.D. 1857 at one O'clock P.M. set for
trial; January 10th 1857, summons returned
served by reaching to said defendant, and it
being the time set for trial & the Plaintiff
not appearing by consent of the defendant the cause
was continued; to the 17th day of January
at one O'clock P.M.;

January 17th 1857 The defend-
-ant not appearing by consent of Plaintiff the
cause was continued to the 24th (inst) at one
O'clock P.M., Jan'y 24th 1857 it being the time
set for trial & the Parties being Present, went
into trial; Whereupon, after hearing testimony
of the Parties it is considered that the Plaintiff is entitled to a judg-
-ment for thirty two dollars & fifty cents: judgement is therefore
rendered against the defendant & in favor of the Plaintiff for
thirty two dollars & fifty cents & costs of suit, Erastus Logan J.
Whereupon the defendant filed his bond with security & took
an appeal to circuit court Erastus Logan J. P. (seal)

State of Illinois }
Crawford county } I Certify that the above is a true & correct
copy from my docket; in the above entitl-
-ed cause; Erastus Logan J. P.

And afterwards (to wit) at a regular term of the court
(to wit) at the May term of the circuit court; in & for the coun-
ty of Crawford & state of Illinois. The following order was
made, in said cause, which is in the words & figures
following, (to wit)

Leonard O Cullom }
vs } Appeal
William Lynch }

This day come the said Plaintiff by
Allen & Rabele his Attorneys & the defendant by W H Sterrett
his attorney, and on motion of Plaintiffs attorneys, &
his affidavit being filed, for continuance, It is therefore
ordered, by the court, that this cause ^{& is hereby} be continued until
the next term of this court, at the costs of the said Plain-
tiff Leonard O Cullom;

And afterwards (to wit) at a regular
term of the court, (to wit) at the October term of the circuit
court, in & for the county of Crawford, & state of Illinois
The following order was made in said cause which is
in the words & figures following (to wit)

Leonard O Cullom }
vs } Appeal from the judgement of a
William Lynch } Justice of the Peace

And now at
this day comes the said Plaintiff by Allen & Rabele
his attorneys as also the said defendant, by William
H Sterrett his attorney, & issue being joined in this
cause, the said Parties waiving a jury, & submit said
cause to the court, for trial, & the court having heard the
proofs, & allegations of the Parties do find for the Plaintiff
& assess the damages at thirty two dollars & fifty cents
It is therefore considered, by the court that the said Plaintiff
recover of the said defendant, the said sum of thirty two
dollars & fifty cents, his said damages, together with

his costs & charges by him in & about this suit in his behalf laid out & expended, thereupon the defendant move the court, for a new trial, which was refused by the court. To which finding & judgement of the court, the said defendant, by his said Attorney, at the time of rendering the same, Excepts & tenders his bill of Exceptions, which is allowed; & signed & sealed by the court, & the said defendant, Prays an appeal, from said judgement, of this court, to the supreme court of the state of Illinois, which said appeal is allowed; upon the said defendant, filing with the clerk of this court an appeal Bond, with David H. Logow as his security in the penal sum of two hundred dollars, to be filed within thirty days, from the rising of this court, at its present term thereof. And it is further ordered, that said bill of Exceptions, be filed by the clerk of this court & be considered a part of the record in this cause

Which said bill of Exceptions, so signed & sealed by the court, is in the words & figures following to wit Leonard O Cellom

William Lynch } suit pending in the Crawford circuit
Court, & State of Illinois of the
October term A D 1857

Be it remembered that on the trial of of the above entitled cause the following testimony, was adduced to the court & first Plaintiff produced, his son Thomas Cellom a witness who testified, that Plaintiff was to furnish and deliver the running gear or wood work of a wagon at depts shop, in the town of Palestine this County and defendant, was to furnish Iron & iron & complete the same, by the following or ensuing summer; The

Plaintiff was also to furnish & deliver Deft a lot of coal, for the Payment, at thirteen cents Per bushel that Plaintiff delivered, Ten loads of the coal & it was understood between the Parties, that twenty five bushels of coal to the load, the wood work of the wagon was taken to the shop on the 14th July,

Asa Black was also Produced as a witness for the Plaintiff, who testified that the wagon or running gear was taken to the shop & that he brought it away by order of the Plaintiff on the 14th September next after the contract was made, in the same condition as when taken there & here the Plaintiff rested his cause.

James Goodwin was Produced, a witness, for defendant who stated that a contract was made at the time indicated by the witness for Plaintiff which contract was to this effect, Plaintiff agreed to furnish & deliver defendant at his shop in the town of Palestine in this County, a lot of coal, which Plaintiff said was then dug and on the coal bank some distance from Palestine. The Price agreed for the coal, was to be thirteen cents per bushel, and the Price agreed for ironing the wagon was to be fifty five dollars, and the coal to be delivered ^{was to the amount which was to be delivered,} to defendant, at his shop, in Palestine during the fall, the contract was made. The Plaintiff was also to furnish Deft at his shop in Palestine the wood work or running gear of a wagon & Deft, agreed, to furnish iron and complete the ironing or work thereon by the next fall, after the contract was made. The Plaintiff delivered nine loads of coal, here the defendant closed his case, and the Plaintiff recalled Thomas Cullam, who stated a load of the coal was delivered & neither Deft or James Goodwin was Present, but one Dougherty was there and here

the testimony closed, no other testimony was adduced on the trial, by either Plaintiff or Deft, & therefore the court rendered a judgement for the Plaintiff in the sum \$32,50. & costs of suit and thereupon the defendant moved the court for new trial which was refused, by the court, the Deft then, Presented this his bill of Exceptions, and pray the court an appeal and that the testimony herein be made Part of the record, all which is granted accordingly, in open court,

And afterwards, to wit, on the 13th day of November A D 1857 a lien was filed in the office of the clerk of said Crawford circuit court, a true copy thereof, is in the words & figures, following to wit,

Know all men by these Presents that we William Lynch and David H. Sagow, are held and firmly bound, unto Leonard D. Cullam in the Penal sum of, two hundred dollars, current money of the United States of America, for the Payment of which, we jointly & severally bind ourselves our heirs, Executors, & Administrators signed & sealed by us, this 11th day of November A D 1857

The condition of the above obligation is such whereas the above bounden William Lynch, has prayed an appeal from the judgement & decision of the circuit court, of Crawford county and state of Illinois at its October term A D 1857, To the supreme Court of the state of Illinois, in a cause wherein; the said Leonard D. Cullam was Plaintiff and the above bounden William Lynch defendant; Now if the said, William Lynch shall pay the judgement, costs, interest and damages in case the said judgement shall be affirmed and

and also for the due Prosecution of said appeal then
this leave shall cease & be void, otherwise to be
and remain in full force & effect in law;

W^m Lynch *seal*

David H. Lagow *seal*

State of Illinois }
Crawford County } p

I Hiram Johnson Clerk of the circuit
court, within & for the County & State of aforesaid do hereby
certify, that the above & foregoing is a true & correct
copy of the Proceedings as had in the above entitled cause
at the October Term A D 1857 of the Crawford circuit
court; as appears from the records & files of my office.
Given under my hand and official
seal at Robinson this 25th day of
October A D 1857.

Hiram Johnson clk
of Crawford circuit Court
Illinois

William Lynch
Appellant
vs } Appeal from
Crawford Co }
Ronald D. Bullom
Appellee

Filed 28 October 1858

A. Jefferson clk

Paid by Judge Becker
on Receipt — \$5.00

By P. H. Kelly - Attorney

on Abstracts — \$2.00

Robinson Bradford Cassey
Illinois October 25th 1858

My dear Sir

After my best respects - would
state that the enclosed papers should have
been forwarded to you some time since
but owing to indisposition which compelled
me to journey on the Salt Water during
the most of last summer, was necessarily
obliged to leave my business in hands of
another - with directions to have the
papers forwarded to some competent atty
visiting your Court to attend to the
blank of our Court supposing the
original papers all that was necessary
forwarded them to E. Beecher Esq. with
whom he was acquainted - I returned
from the East a short time ago. & on
Yesterday the papers was returned desiring
a complete Record thereof - Our Clerk
although the Circuit Court now commencing
has made out the same. \$5. was sent
Mr. Beecher, as Deputat fee. which no
doubt he will hand you, also \$2. for
or printers fee - enclosed - ~~or~~ should it re-
quire anything more - please inform me
I will remit immediately - ~~if~~ not to much
trouble please have the same in such shape
as will take its place on the packet in
its order, your attention will confer a
favor - and unimpeded by me. when an
opportunity offers.

Yours & truly
Jas H. Stearns

9 Nov. 58-

Palestine Illinois
Oct. 25th 1858

Wm Johnson Esq
Syracuse

The record ~~is~~ the writ of
Habeas Corpus against Lynch will be forwarded
with this letter Mr Sterrett the attorney for Lynch
is entirely unacquainted with the attorney who
practices in your Court and is anxious you
should select one competent who will give
his case the proper attention - Mr Lynch
is a reliable good man and will pay
any reasonable fee for the services rendered
and it will be only necessary for you
or the attorney to correspond with Mr
Wm Sterrett, who will give you
such information in the premises and
who will see that the fees are promptly
paid -

P.S.

The point is I ~~concern~~ ^{concern}; Release - but
not delinquent the Col. in \$55. with which
is bound to the completion of the
warrant.

see am. of Rome. -

Ellen Roberts

Respectfully

Yours &c

Eq. Ryan

IN THE SUPREME COURT—STATE OF ILLINOIS—FIRST GRAND
DIVISION—TO NOVEMBER TERM, A. D. 1858.

WILLIAM LYNCH, Appellant,
vs.
LEONARD D. CULLOM, Appellee. } Appeal from Lawrance County.

This was an action of assumpsit, instituted by the appellee against the appellant before a Justice of the Peace, of Lawrance County, where the appellee recovered a judgement for \$32 50 cts., and the cost of suit. The appellant appealed from said judgement to the Circuit Court, and at the October term thereof A. D. 1857, the cause was submitted to the court, and the judgment of the Justice of the Peace affirmed.

Upon the trial in the Circuit Court the, plaintiff introduced his son, Thomas Cullom, who testified that plaintiff was to furnish and deliver the running gear, or woodwork of a wagon at defendant's shop in the town of Palestine, this county, and defendant was to furnish iron, and iron and complete the same, by the following or ensuing summer. The plaintiff was also to furnish and deliver to defendant a lot of coal for the payment, at thirteen cents per bushel—that plaintiff delivered ten loads of the coal, and it was agreed between the parties, that twenty-five bushels of coal to the load. The woodwork of the wagon was taken to the shop on the 14th of July.

Plaintiff also introduced as a witness, Asa Black, who testified that the wagon and running gear was taken to the shop, and that he brought it away by order of the plaintiff on the 14th of September next after the contract was made, in the same condition as when taken there. Here the plaintiff rested his cause.

The defendant then introduced James Goodwin as a witness, who stated that a contract was made at the time indicated by the witness for the plaintiff, which contract was to this effect: Plaintiff agreed to furnish and deliver to defendant, at his shop in the town of Palestine, in this county, a lot of coal, which plaintiff said was then dug, and on the coal-bank some distance from Palestine. The price agreed for the coal was to be thirteen cents per bushel, and the price agreed for ironing the wagon was to be fifty-five dollars, and the coal to be delivered to defendant at his shop in Palestine, during the fall, the contract was made. The Plaintiff was also to furnish to defendant at his shop in Palestine, the woodwork or running gear of a wagon, and defendant agreed to furnish iron and complete the ironing or work thereon by the next fall after the contract was made, the plaintiff delivered nine loads of coal. Here the defendant rested his cause.

Plaintiff then recalled Thomas Cullom, who stated that a load of the coal was delivered and neither Defendant or James Goodwin was present, but one Dougherty was there; and here his testimony closed, and no other testimony was adduced either by plaintiff or defendant. And thereupon the Court rendered judgment for the plaintiff and against the defendant for \$32 50 cents and costs of suit. Whereupon the defendant moved the Court for a new trial, which was refused by the Court, and the defendant excepted, and now brings the cause to this Court and assigns the following causes of error :

- 1st. That the verdict was against the evidence.
- 2d. That the judgment was against the law.
- 3d. That the judgment was against the law and the evidence.
- 4th. That the Court erred in refusing to grant a new trial, and in rendering judgment.

TANNER & CASEY, Attorneys for Appellant.

judgment.

TANKER & CASBY, Attorneys for Appellant.

4th. That the Court erred in refusing to grant a new trial, and in rendering judgment as against the law and the evidence.

5th. That the judgment was against the law.

1st. That the verdict was against the evidence.
The cause to this Court and assigns the following causes of error:
which was refused by the Court, and the defendant excepted, and now brings and costs of suit. Whereupon the defendant moved the Court for a new trial,

dated judgment for the plaintiff and against the defendant for \$83 50 cents was ordered entered by plaintiff or defendant. And thereupon the Court rendered judgment as above, and here his testimony closed, and no other testimony was delivered and neither Defendant or James Goodwin was present, but one Plaintiff then recalled Thomas Callison, who stated that a load of the coal here the defendant tested his cause.
next full after the contract was made, the plaintiff delivered nine loads of coal.

defendant agreed to furnish iron and complete the ironing or work thereon by the fall, the contract was made. The Plaintiff was also to furnish to defendant and the coal to be delivered to defendant at his shop in Palestine, during the summer, and the price agreed for ironing the wagon was to be fifty-five dollars from Palestine. The price agreed for the coal was to be sixteen cents per bushel, which plaintiff said was then dug, and on the coal-bank some distance to defendant, at his shop in the town of Palestine, in this county, a lot of the which contract was to this effect: Plaintiff agreed to furnish and deliver that a contract was made at the time indicated by the witness for the plaintiff.

The defendant then introduced James Goodwin as a witness, who stated made, in the same condition as when taken first. Here the plaintiff rested order of the plaintiff on the 14th of September next under the contract was

1858
Plaintiff also introduced as a witness, Van Hook, who testified that a wagon was taken to the shop on the 14th of September, and the contract was made, that there were five bushels of coal to the iron. The defendant of the first to defendant a lot of coal for the summer, at which time he was to be the following in coming summer.
contract, and defendant was to furnish iron and iron for the summer or woodwork of a wagon at defendant's shop in the town of Palestine, this Callison, who testified that plaintiff was to furnish and deliver the ironing gear of the 1st of the year in the Circuit Court the plaintiff introduced Thomas Charles A. D. 1857, the cause was submitted to the court, and the judgment was rendered a judgment for \$83 50 cents, and the cost of suit. The appellant brought before a grant of a new trial, and the cost of suit.

8479

44

Synch
or
Callison

Tested D. Curran, Appellee. } appealed from Lawrence County.

WILLIAM LITTON, Appellant. }
DAVISON—TO NOVEMBER TERM, A. D. 1858.
IN THE SUPREME COURT—STATE OF ILLINOIS—FIRST GRAND

Supreme Court of the State of Illinois
First Grand Division Nov. Term A.D. 1858

William Lynch, Appellant

vs

Leonard D. Cullow, Appellee

3
3
3 Appeal from
3 Lawrence County

This was an action of Assumpsit, instituted by the Appellee against the Appellant before a Justice of the Peace of Lawrence County, where the Appellee recovered a judgment for \$32⁵⁰/₁₀₀, and the costs of suit. The Appellant appealed from said judgment to the Circuit Court. ~~And at the October term thereof A.D. 1857, the judgment of the Justice of the Peace was affirmed; ~~and the Appellant appealed to this Court.~~~~

When the trial in the Circuit Court the Plaintiff introduced ^{his son} Thomas Cullow, who testified that Plaintiff was to furnish and deliver the running gear or woodwork of a wagon at Deft's shop in ~~Palatine~~ the town of Palestine this County, and Deft was to furnish iron and iron and complete the same by the following or ensuing summer. The Pff. was also to furnish and deliver to Deft a lot of Coal, for the payment, at thirteen cents per bushel - that Pff. delivered ten loads of the Coal, and it was agreed between the parties, that twenty five bushels of Coal to the load. The woodwork of

The wagon was taken to the shop on the 14th of July

Plff. also introduced, as a witness, a Black, who testified that the wagon or running gear was taken to the shop, and that he brought it away by order of the Plff. on the 14th of September next after the contract was made, in the same condition as when taken there; ~~and~~ here the Plff. rested his case -

The Deft. then introduced James Goodwin as a witness, who stated that a contract was made at the time indicated by the witness for the Plaintiff, which contract was to this effect - Plff. agreed to furnish and deliver to Deft. at his shop in the town of Palestine in this County, a lot of coal, which Plff. said was then dug and on the coal bank some distance from Palestine. The price agreed for the coal, was to be thirteen cents per bushel; and the price agreed for ironing the wagons, was to be fifty five dollars, and the coal to be delivered to Deft. at his shop in Palestine during the fall, the contract was made - The Plff. was also to furnish the Deft. at his shop in Palestine the woodwork or running gear of a wagon, and Deft. agreed to furnish iron and complete the ironing or work thereon by the next fall after the contract was made; the Plff. delivered nine loads of coal. Here the Deft. rested his case.

Plff then recalled Thomas Scullow, who stated that a load of the Coal was delivered and neither Deft or James Goodwin was present, but one Sloughby was there, and here the ~~Plff~~ testimony closed; and no other testimony was adduced either by Plff or Deft; and thereupon the Court rendered judgment for the Plff for \$32⁵⁰/₁₀₀ and costs of suit; ~~and thereupon~~ whereupon the Deft moved the Court for a new trial, which was refused by the Court; and the Deft excepted; and now brings the case to this Court and assigns the following Causes of Error.

- 1st That the ~~judge~~ verdict was against the ~~law~~ and the Evidence
 - 2^d That the judgment was against the law
 - 3^d That the judgment was against the Law and the Evidence
 - 4th That the Court Erred in refusing to grant a new trial and in rendering judgment
- Jasper Healey
Atty for Appellants

In the Supreme Court

November Term 1858

William Lynch

vs

Leonard D Cullom

Abstract

IN THE SUPREME COURT—STATE OF ILLINOIS—FIRST GRAND
DIVISION—TO NOVEMBER TERM, A. D. 1858.

WILLIAM LYNCH, Appellant,
vs.
LEONARD D. CULLOM, Appellee. } Appeal from Lawrance County.

This was an action of assumpsit, instituted by the appellee against the appellant before a Justice of the Peace, of Lawrance County, where the appellee recovered a judgement for \$32 50 cts., and the cost of suit. The appellant appealed from said judgement to the Circuit Court, and at the October term thereof A. D. 1857, the cause was submitted to the court, and the judgment of the Justice of the Peace affirmed.

Upon the trial in the Circuit Court the, plaintiff introduced his son, Thomas Cullom, who testified that plaintiff was to furnish and deliver the running gear, or woodwork of a wagon at defendant's shop in the town of Palestine, this county, and defendant was to furnish iron, and iron and complete the same, by the following or ensuing summer. The plaintiff was also to furnish and deliver to defendant a lot of coal for the payment, at thirteen cents per bushel—that plaintiff delivered ten loads of the coal, and it was agreed between the parties, that twenty-five bushels of coal to the load. The woodwork of the wagon was taken to the shop on the 14th of July.

Plaintiff also introduced as a witness, Asa Black, who testified that the wagon and running gear was taken to the shop, and that he brought it away by order of the plaintiff on the 14th of September next after the contract was made, in the same condition as when taken there. Here the plaintiff rested his cause.

The defendant then introduced James Goodwin as a witness, who stated that a contract was made at the time indicated by the witness for the plaintiff, which contract was to this effect: Plaintiff agreed to furnish and deliver to defendant, at his shop in the town of Palestine, in this county, a lot of coal, which plaintiff said was then dug, and on the coal-bank some distance from Palestine. The price agreed for the coal was to be thirteen cents per bushel, and the price agreed for ironing the wagon was to be fifty-five dollars, and the coal to be delivered to defendant at his shop in Palestine, during the fall, the contract was made. The Plaintiff was also to furnish to defendant at his shop in Palestine, the woodwork or running gear of a wagon, and defendant agreed to furnish iron and complete the ironing or work thereon by the next fall after the contract was made, the plaintiff delivered nine loads of coal. Here the defendant rested his cause.

Plaintiff then recalled Thomas Cullom, who stated that a load of the coal was delivered and niether Defendant or James Goodwin was present, but one Dougherty was there; and here his testimony closed, and no other testimony was adduced either by plaintiff or defendant. And thareupon the Court rendered judgment for the plaintiff and against the defendant for \$32 50 cents and costs of suit. Whereupon the defendant moved the Court for a new trial, which was refused by the Court, and the defendant excepted, and now brings the cause to this Court and assigns the following causes of error :

- 1st. That the verdict was against the evidence.
- 2d. That the judgment was against the law.
- 3d. That the judgment was against the law and the evidence.
- 4th. That the Court erred in refusing to grant a new trial, and in rendering judgment.

TANNER & CASEY, Attorneys for Appellant.

judgment.

AVANER & CASEY, Attorneys for Appellants.

24. That the Court erred in refusing to grant a new trial, and in rendering judgment against the law and the evidence.

25. That the judgment was against the law.

26. That the verdict was against the evidence.

The cause to this Court and assigns the following causes of error: which was refused by the Court, and the defendant excepted, and now prays that judgment be reversed, and the defendant moved the Court for a new trial, and costs of suit. Whereupon the defendant moved the Court for a new trial, and costs of suit. Whereupon the defendant moved the Court for a new trial, and costs of suit. Whereupon the defendant moved the Court for a new trial, and costs of suit.

Plaintiff then recalled Thomas Clifton, who stated that a load of the coal next fall after the contract was made, the plaintiff delivered nine loads of coal, and the defendant refused to furnish iron and complete the ironing or work thereon by the fall, the contract was made. The plaintiff was also to furnish to defendant a bushel, and the price agreed for ironing the wagon was to be fifty-five dollars, from Plaintiff. The price agreed for the coal was to be thirteen cents per bushel, which plaintiff said was then paid, and on the coal-bank some distance to defendant, at his shop in the town of Palestine, in this county, a lot of iron, which contract was to this effect: Plaintiff agreed to furnish and deliver that a contract was made at the time indicated by the witness for the purpose.

The defendant then introduced James Goodwin as a witness, who stated that he was in the same condition as when taken there. Here the plaintiff recited the order of the plaintiff on the 14th of September next after the contract was made, and running Gear was taken to the shop, and that he brought it away. Plaintiff also introduced as a witness, Vas Black, who testified that the wagon was taken to the shop on the 14th of July. Plaintiff, that twenty-five bushels of coal to the load. The woodwork of the plaintiff delivered ten loads of the coal, and it was agreed between the parties by the following or ensuing summer. The plaintiff was also to furnish to defendant a bushel, and defendant was to furnish iron, and iron and complete the woodwork of a wagon at defendant's shop in the town of Palestine, in this county, who testified that plaintiff was to furnish and deliver the ironing. Upon the trial in the Circuit Court the plaintiff introduced his son, Thomas Clifton, of the Justice of the Peace returned. The case was submitted to the court, and the judgment rendered from said judgment to the Circuit Court, and at the October term recovered a judgment for \$85 50 cts., and the cost of suit. The plaintiff's billant before a Justice of the Peace, of Lawrence County, where the plaintiff.

Filed Nov. 11. 1858.

A. Johnston Clk

Synch
m
Cullom

This was an action of assumpsit, instituted by the appellee against the ap-

PELLANT D. CULLOM, Appellee, }
as. } Appellants from Lawrence County.

DIVISION—TO NOVEMBER TERM, A. D. 1858.
IN THE SUPREME COURT—STATE OF ILLINOIS—FIRST DIVISION

No 44

Nov. A.D. 1858.

William Lynch
Appellant

vs

Samuel D. Cullum
Appellee

Appl. for Crawford

8479

Revised for
Major in the Army