No. 8666

Supreme Court of Illinois

Benj. A. Williams

---

vs.

Franklin County

State of Illinois } ss.
Franklin County }

The People of the State of Illinois To the Sheriff of Franklin county greeting

We Commend you to Summon the County Court if he may be found in your county personally to be and appear before the Circuit Court of Franklin County on the first day of the term to be holden at Benton on the 2d Monday of March next then and there to prosecute a certain Suit brought in to our Said court by appeal from the Judgement of Walter S. Akin a Justice of the peace of Said County wherein Franklin County is plaintiff and Benjamin H. Williams is defendant in which Suit Judgement was rendered in favor of the Plaintiff for One hundred Dollars and — cents besides costs of Suit and have you there this writ

Witness John A. Coleman Clerk of our Said court at office in Benton this 25th day of February 1865. the Seal of Said Court being hereto affixed

John A. Coleman Clerk

Sheriffs return

Executed by reading to the county clerk of Franklin county This 27th day of February 1865

Isaac Ward
Sheriff F. C.

[8666-1]

State of Illinois Franklin County
At a regular Term of the Franklin county
Circuit Court begun and held at the Court-
house in the Town of Benton on monday
the 13th day of March A D 1865-

Present - Honorable

John A. Rodman, Circuit Clerk
Isaac Weisel, Sheriff
A. D. Duff, Presiding Judge
C. A. Dameron, States attorney

Among other causes that came on for
hearing at this Term was the following

Franklin County
Vs
Benjamin H. Williams
} Appeal

Motion to dismiss for want of appeal
bond Wednesday. Motion overruled by
the Court. Thursday. March 16th 1865-
And now on this day came this cause for
hearing both parties by their attorneys as
well twelve good and lawful Jurors to wit
Williams Langley Robert Sanderfer Thomas
E. Means Foster Rea Robert Summers Willis
Whittington B. L. Kearney James S. Moore
Isaac Little and the following Talesman
Noah Avery John R. Jones Elijah Ross
Who Submitted to the Jury who after being
Sworn according to law heard the evidence
in the cause as well as counsel both for

L8666-27

Plaintiff and defendant. Whereupon the Court gave the following instructions for the Plaintiff to wit The Court instructs the Jury that if they believe from the evidence that Benjamin H Williams the defendant brought from any other County in this State and left a pauper in Franklin County Illinois Knowing him to be a pauper at the time the Verdict should be for the plaintiff A pauper under our Statute is a poor person destitute of Pecuniary means unable to Earn a livelihood in consequence of any bodily infirmity, idiocy, lunacy or other unavoidable cause Given. also the following instructions for the defendant to wit The Court instructs the Jury that although they may believe from the evidence that defendant brought the person in question from the Coal Coast out of this County in to this County and at the time of bringing him into this County: he was diseased and unable to labor and had no means of Supporting or maintaining himself Yet unless the Jury believe from the evidence that defendant knew ~~he was~~ at the time he brought him, that he was without money or other means of Support the Verdict must be for the defendant and although the defendant in such case may have afterwards found out that he was without ~~money~~

[illegible]

means that would not make him liable.

(Given)

After wich the Jury retired for consultation and afterwards returned with the following verdict. We the Jury find the issue for the Plaintiff. Where upon the defendant by his attorney entered motion for new trial Thursday. Motion for new trial over ruled by the Court and Judgement per verdict for one hundred dollars ~~for~~ Debt and Costs from wich defendant prays appeal to the Supreme Court Appeal granted upon defendant filing bond within thirty days from the last day of this term with Walter S Akin or Mountreville Fits as his Surety. Friday

State of Illinois } Of the March term of
Franklin County } the Franklin County
Circuit Court AD 1865

Franklin County
Vs } Appeal
Benjamin H. Williams

Be It Remembered that on the 16th day of March 1865 being the 4th day of the term this cause came on to be tried being Submitted to a Jury the Plaintiff for the purpose of Establishing the liability of the defendant introduced

and examined the following witnesses to wit
James Whittington Moses Sampley Thomas
Mooneyham and George L Fields The
said James Whittington being first examined
Testifies as follows am acquainted with defendant
and Elsworth and also acquainted with Belshazer the person
4 said to be a pauper was at defendants last fall
in October, I Believe it was in the morning
and I was helping williams unload his wagon
He had been to Duquoin on the said roads with
his waggon while we were unloading the waggon
This man Belshazer came out of the house
when I Seen him Said Ben what in the name
of God are you doing with this man here
he Said he had brought him out from the
Road He looked very poor and bodily his skin
was rather Yellow of a greenish cast Looked
like he might be rotten Smelt bad was not
able to work his clothing was dirty Common
though not nasty that he Saw him next day
at his house he was looking for a place to stay
he next Seen him at Dell Mans Young about
a quarter witnesses house the next time
Seen him in the poor house and the next
time he Seen him he was a corps at the
poor house about one week after he first
Seen him it was Thursday or Friday when
I first Seen him at Williams Duquoin
is in Perry County There is no railroad

18666-ST

in this County" The Said Moses Lamply being next examined Testified as follows I am acquainted with defendant and was at his house at the same time Spoken of by Mr Whittington I heard the defendant Say he had brought Belshazer the person Said to be a pauper from the mouth of the Neelmouth or Dugwin I cant Say for certain wich Belshazer looked very low appeared to be Sick and was badly clothed and his clothes were dirty I was almost blind at the time and could not See a man more than twenty yards at that time but heard Whittington ask Williams what in the name of God was he doing with that man there" Thomas J. Mooneyham being next examined Testifies as follows I Saw the man at Mr Williams who was called Belshazer he looked like he was Sick his clothes were tolerable good I have Seen men with worse clothes on I did not hear Williams Say anything about him I dont know where Williams got the man at" George L. Hall being examined Testifies as follows Dr Green and I are the committe appointed by the County Court of this County to examine applicants for the poor house about the first of October last Mr. Williams the defendant came to me and Said there

[illegible]

was a man up in Town who he wanted
to have examined Sent to the poor house
Said that the man was Sick and that he thought
he would Soon be able to work if he was
properly taken care of and that that was the
most proper place for him That he had brought
the man with him from the railroad at
Duquoin I am not certain which.
Duquoin is in Perry County and there
is no rail Road in this County Dr Green
and I examined the man I think he said
his name was Beshezer or Something like
that the man was very feeble his clothes
were dirty and he Smelt So bad we
could hardly Stay in Dr Greens office
while we were examining him, he Seemed
about Rotten, We Sent him to the poor house
in this County I asked the man if he had
any money or means of Support and he
Said that he had none He Said that he
came from Hellena Ark, to Cairo
from Cairo to Duquoin and from
Duquoin here, I am well acquainted in
this County and dont think the man
Ever was a resident of this County I dont
know wether the man has any relation
in this County or not I was Satisfied from
my acquaintance in the County Knowing
most of the people in the County and from

what the man Said as to how he came here and the fact of Williams Bringing him here. were Satisfied that the man was a pauper judgeing from his appearance and the examination we made at the time we gave him a certificate with gave him admittance to the poor house where he died and his Burial expences Paid by the county I think it was thursday after he was Sent to the poor house on Saturday that he died

This was all the testimony in the case the jury therefore retired and in a short time afterwards returned in to court the following verdict viz we the jury find the issue for the Plaintiff. D. L Beaney

Whereupon the defendant moved the court for a new Trial with said motion was in writing Particularly Specifying the grounds of Said motion that is to Say

1st That the verdict was contrary to the evidence

2st That the verdict was contrary to law and to the instructions of the court

With motion for a new Trial the court overruled and entered a judgement upon Said verdict against defendant for the Sum of one hundred dollars to wich ruleing of the court the defendant then and there by his counsie Excepted and

[illegible]

Brings this his bill of Exceptions in to Court and prays that the Same may be Signed and Sealed and made a part of the record in this cause and it is accordingly done.

Andrew D Duff [Seal]

Judge 26th J C Dd

and afterwards to wit on the 29th day of March A D 1865 the following bond was filed in this office to wit

(Bond) File mark Filed March 29th 1865 John A Bodeman Clerk

Know all men by these presents that we Benjamin H Williams and Montreville Tilts of the County of Franklin and the State of Illinois are held and firmly bound unto Franklin County in the penal Sum of Three hundred Dollars lawful money of the united States for the payment of which well and truly to be made we bind ourselves our heirs executors and administrators jointly Severally and firmly by these presents witness our hands and Seals this 29th day of March A D 1865-

The condition of the above obligation is such that whereas the Said Franklin County Plaintiff did on the 17th day of March A D. 1865- in the Circuit of the County of Franklin in Said State of Illinois at the march Term A.D. 1865- thereof recover judgement against the above bounden Benjamin H Williams Defendant in a action of debt- on appeal from the decision of a Justice of the peace for the Sum

[illegible]

of one hundred dollars and Costs of Suit from with Said Judgement- the Said Benjamin H. Williams has taken an appeal to the Supreme Court of the State of Illinois now if the above bounden Benjamin H Williams Shall duly prosecute his appeal and Shall pay Said Judgement- Costs interest and damages in case the Said Judgement- Shall be affirmed then the above obligation to be void Otherwise to remain in full force and effect.

Benjamin H. Williams Seal
Montevillo Fitts Seal

Taken and approved by me this March the 29th A D 1865- John A. Rodman Clerk

State of Illinois } ss
Franklin County }

I John A Rodman Circuit Clerk in and For the County of Franklin and State aforesaid do hereby certify the foregoing is a true copied and perfect Copy of the record and files in my office of the proceedings in the above Styled cause.

In testimony whereof I have hereunto Set my hand and affixed the Seal of my office at Benton Franklin County this 25th day of May A D 1865-

John A. Rodman
Clerk

[8666-10]

25
Franklin County
vs
Benjamin H Williams
Appeal

Benjamin H Williams
Appellant
vs
Franklin County
Appellee -

Appeal from Franklin

Filed Oct. 19. 1865
N. Johnston Clk
Paid by Jarmer $5.00

And the Appellant by Thos J Layman and James Casey his Attys comes & for assignment of errors says that the Court erred.

1st. In giving instructions to the Jury on behalf of the Appellee -

2 The court erred in overruling appellants motion for a new trial

3d The Court erred in rendering Judgement for the ~~Pltff~~ Appellee on the verdict of the Jury. ~~& for the costs of suit~~

For these and other ~~for~~ manifest errors in the record in this Cause the Appellant asks that the Judgement of the Court may be reversed

Thos J Layman and
James Casey Attys for
Appellant

IN THE SUPREME COURT—FIRST GRAND DIVISION—STATE OF ILLINOIS—NOVEMBER TERM, A. D., 1865

DEFENDANT'S BRIEF.

Benjamin A. Williams, Appellant,
vs.
Franklin County, Appellee.
} Appeal from Franklin.

The 1st error assigned will not be considered, because it is not disclosed by the record that any exception was taken in the court below to the instructions given to the jury.

The evidence in this cause fully sustains the verdict, and a new trial should not have been granted.

It is only in cases where the verdict of the jury strikes the mind at first blush as palpably and manifestly contrary to evidence, that the court will for that reason interfere to set it aside. Dawson, vs. Robbins, 5 Gilm. 72.

The weight of testimony is a question to be decided by the jury, and the court will not disturb their verdict unless the case is a flagrant one. Johnson, vs. Moulton, 1 Scam. 532.

A new trial was asked below upon the merits of the case as disclosed by the evidence, and it was properly refused unless there were strong reasons for believing that the merits of the case had not been fully and fairly tried, and that injustice had been done.—1 Bos. & Pul., 339; 2 T. R. 4; 8 Heard., 672; 5 Johns., 138; 2 Caines, 90; 3 Johns., 532.

A verdict will not be set aside merely because the evidence might incline the court to a different result. Sullivan vs. Dollins, 13 Ill., R. 85. Courts will rarely disturb a verdict when there is anything in the record to support the finding of the jury. Young vs. Silkwood, 11 Ill. R. 36.

F. M. YOUNGBLOOD &
ALLEN & WEBB,
} Attorneys for Appellee.

25

B. H. Williamson
Appellant
vs
Franklin County
Defendants Brief

Filed Nov. 9. 1865
N. Johnston Clk

IN THE SUPREME COURT,

First Grand Division,---State of Illinois.

NOVEMBER TERM, A. D., 1865.

BENJAMIN H. WILLIAMS, *Appellant*,
vs.
FRANKLIN COUNTY, *Appellee.*
} Appeal from Franklin.

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This was an Appeal, heard at the March Term, 1865, of the Franklin Circuit Court, before the Hon. A. D. Duff, Judge, and a Jury. The Appellant was successfully prosecuted under the 16th sec. of chap. 80, R. S., entitled Paupers.

SUMMONS AND SERVICE.

1 2 3 March 13, 1865.—Motion by Appellee to dismiss appeal for want of appeal-bond. Motion overruled, and Jury impannelled and sworn. Caused heard, upon Evidence, and the following Instructions of the Court:

"The Court instructs the Jury: That if they believe from the Evidence that Benj. H. Williams, the def't, brought from any other county in this state and left a pauper in Franklin co., Ill., knowing him to be a pauper at the time, the verdict should be for the pl'ff. A pauper, under our Statute, is a poor person, destitute of pecuniary means, and unable to earn a livelihood in consequence of any bodily infirmity, idiocy, lunacy, or other unavoidable cause." "Given."

For the def't. "The Court instructs the Jury: That although they may believe from the evidence that def't brought the person in question from the railroad, out of this county, into this county, and at the time of bringing him into this county he was diseased and unable to labor, and had no means of supporting or maintaining himself, yet unless the Jury believe from the evidence def't knew at the time he brought him that he was without money, or other means of support, the verdict must be for the def't: and although the def't in such case may have afterwards found out that he was without means, that would not make him liable." "Given."

4 Jury returned affidavit in a verdict for the pl'ff. Def't moved for a new trial. Motion overruled, and Judgment upon the verdict for $100 debt and the costs due thereon, &c. Def't prays an appeal to the Supreme Court. Appeal allowed by filing appeal bond within thirty days from last day of Court, and giving Montreville Fitts or Walter S. Aikin as security.

5 James Whittington testified for pl'ff as follows: "Know def't; also Belshazer, the person said to be a pauper. Was at deft's last October, and helping def't unload his wagon. He had been at DuQuoin on the railroad with his wagon. Whilst unloading wagon this man Belshazer came out of the house. When I saw him I said, Ben, what in the name of God are you doing with this man here. He said he had brought him out from the road. He looked very poor and badly. His skin was rather yellow and of a greenish cast; looked like he might be rotten; smelt bad; was not able to work; his clothing was dirty—common though not ragged. I saw him

Page

next day at my house. He was looking for a place to stay. I next saw him at old man Young's, about a quarter from my house. Next saw him at poor house, and the next time I saw him he was a corps at the poor house, about one week after I first saw him. It was Thursday or Friday when I first saw him at Williams'. DuQuoin is in Perry co. There is no railroad in this co.

6 Moses Lamply: I am acquainted with the def't. Was at his house at the same time spoken of by Whittington, I heard def't say he had brought Belshazer, the person said to be a pauper, from the road, or the railroad, or DuQuoin, I can't say for certain which. Belshazer looked very bad and appeared to be sick, and was badly clothed, and his clothes were dirty. I was almost blind at the time, and could not see a man more than twenty yards at that time, but heard Whittington ask def't what in the name of God he was doing with that man there.

Thos. J. Mooneyham: I saw the man at deft's who was called Belshazer. He looked like he was sick. His clothes were tolerably good. I have seen men with worse clothes on. I did not hear def't say anything about him. I don't know where def't got the man at.

George L. Hall: Dr. Green and I are the Committee appointed by the
7 county to examine applicants for the poor house. About the first of October last the def't came to me and said there was a man up in town who he wanted to have examined and sent to the poor house. He said that the man was sick and he thought he would soon be able to work if he was properly taken care of, and that that was the most proper place for him. That he brought the man with him from the railroad or DuQuoin, I am not certain which. DuQuoin is in Perry co., and there is no railroad in this co. Dr. Green and I examined the man. I think he said his name was Belshazer, or something like that. He was very feeble, his clothes were dirty, and he smelt so bad we could hardly stay in Dr. Green's office whilst we were examining him. He seemed about rotten. We sent him to the poor house in this county. I asked the man if he had any money or means of support. He said that he had none; said that he came from Helena, Ark., to Cairo, from Cairo to DuQuoin, and from DuQuoin here. I am well acquainted in this county, and don't think the man ever was a resident of this county. I don't know whether the man has any relation in this county or not. I was satisfied from my acquaintance in the county, knowing most of the people in the county,
8 and from what the man said as to how he came here, and the fact of def't bringing here, that the man was a pauper. Judging from his appearance and the examination we made at the time, we gave him a certificate, which gave him admittance into the poor house, where he died and his burial expense paid by the county. I think it was Thursday after he was sent to the poor house that he died.

This was all the testimony in the case. After which the Jury returned and brought in a verdict in favor of the pl'ff. Def't moved for a new trial. 1st, Because the verdict was contrary to the evidence. 2d, That the verdict was contrary to law and to the instructions of the Court.

Motion overruled and Judgment rendered upon the verdict for $100, debt and costs, &c. To which ruling of the Court the def't then and there by his counsel excepted. Bill of Exceptions signed, sealed, and made a part
9 of the record.

(Signed) A. D. DUFF, [SEAL]
Judge 26th J. Ct. Ct.

Copy of appeal bond duly executed. Certificate as to records apropo

Page 2 2 3

ASSIGNMENT OF ERRORS.

And the said Appellant, by Thomas J. Layman and Tanner & Casey, his att'ys, comes and for assignment of errors says that

The Court erred in giving instructions to the Jury on behalf of the Appellee.

The Court erred in overruling Appellant's motion for a new trial.

The Court erred in rendering Judgment for Appellee upon the verdict of the Jury.

For this and other manifest errors in the record in this cause, the pl'ff in error asks that the Judgment of the Court may be reversed.

THOS. J. LAYMAN, and
TANNER & CASEY,
Att'ys for Appellant.

IN THE SUPREME COURT,

First Grand Division,---State of Illinois.

NOVEMBER TERM, A. D., 1865.

BENJAMIN H. WILLIAMS, *Appellant*,
vs.
FRANKLIN COUNTY, *Appellee*.
} *Appeal from Franklin.*

This was an action brought to recover the penalty provided in Sec. 16, Chap. 80, R S., entitled PAUPERS.

The section reads as follows:

"If any person shall bring and leave any pauper or paupers in any county in this State, wherein such pauper is not lawfully settled, *knowing* him or them to be paupers, he shall forfeit and pay the sum of one hundred dollars for every such offence to be sued," &c.

It is contended that the appellant is not liable under this Statute. To recover the penalty named, the appellee should have brought himself clearly within its provisions. Edwards vs. Hill, 11th Ills. p. 23.

To subject the appellant to the penalty in this case, it must clearly appear from the evidence that he knowingly and wilfully brought a pauper into the county of Franklin. Whitecraft vs. Van Doren, 12 Ills. 239. Bachelder vs. Kelly, 10 N. H. 436.

The evidence in this cause does not clearly and sufficiently show that the appellant knowingly and wilfully carried a pauper into Franklin county.

Hence the motion for a new trial should have been allowed. Higgins vs Lee, 16 Ills., 500. Gordon vs Crooks, 11 Ills., 142. Hammond vs Wadham, 5 Mass., 353.

The mere fact that the appellant brought into the county a person who was sick and had no money, is not sufficient evidence upon which to base a verdict. The person must have been without means and had some incurable disease or bodily infirmity by which he was permanently disabled from labor, and that this was known by the appellant at the time he brought him into county.

It is submitted in this case that the testimony must show before the plaintiff below was entitled to a judgment that the appellent with the intent to impose a pauper upon the pl'ff below, knowingly brought a pauper into the county.

The testimony in this case shows that the appellant supposed the person referred to would soon be able to work, precluding the idea that he was a pauper.

S. E. Flanny and TANNER & CASEY & Mack, Wallow Wheeler
Att'ys for Appellant.

Benjamin H Williams

Appellant

vs.

Franklin County

Abstract & Brief

Offen

IN THE SUPREME COURT—FIRST GRAND DIVISION—STATE OF ILLINOIS—NOVEMBER TERM, A. D., 1865

DEFENDANT'S BRIEF.

Benjamin A. Williams, Appellant,
vs.
Franklin County, Appellee.
} Appeal from Franklin.

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The weight of testimony is a question to be decided by the jury, and the court will not disturb their verdict unless the case is a flagrant one. Johnson, vs. Moulton, 1 Scam. 532.

A new trial was asked below upon the merits of the case as ~~declared~~ by the evidence, and it was properly refused unless there were strong reasons for believing that the merits of the case had not been fully and fairly tried, and that injustice had been done.—1 Bos. & Pul., 339; 2 T. R. 4; 8 Heard., 672; 5 Johns., 138; 2 Caines, 90; 3 Johns., 532.

A verdict will not be set aside merely because the evidence might incline the court to a different result. Sullivan vs. Dollins, 13 Ill., R. 85. Courts will rarely disturb a verdict when there is anything in the record to support the finding of the jury. Young vs. Silkwood, 11 Ill. R. 36.

F. M. YOUNGBLOOD &
ALLEN & WEBB,
} Attorneys for Appellee.

25

B. H. Williams
Appellant
vs
Franklin County
Defendants Brief

Filed Nov. 9 1865.
A. Johnston Clk

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Williams
vs
Franklin County

Appeal from
Franklin

Opinion Sheet
Abstract and brief
of Pltff & Brief of
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