

8797

No. _____

Supreme Court of Illinois

Thomas F. Casey

vs.

Elijah B. Harvey

71641  7

I was held before the Honorable Samuel B. Marshall
Presiding Judge of the twelfth Judicial Circuit, including
Among others, the County of Jefferson, &c. in a certain
Cause then pending, in the Jefferson Circuit Court
wherein, Thomas P. Casey is Plff and Elijah B. Harvey
is defendant;

Be it remembered that on the 14th day of
August A.D. 1852; the ^{above named} writ, filed in the Clerk's
Office of the Jefferson Circuit Court, the following
summons, transcript of Judgment Appeal Bond
&c. viz;

State of Illinois
Jefferson County

The People of the State of Illinois, to
any constable of said County - Greeting -
You are hereby commanded to summon Elijah B.
Harvey, to appear before me on the _____ of this instant
at 12 o'clock M. to answer the Complaint of Thomas
P. Casey for levying an Attachment on Personal Property
of said Thomas P. Casey; and levying of it, as against
to law. And hereof make due return as the law
directs. Given under my hand and seal this
20th day of July 1852

John Grant J. P. Seal

"Filed August 14th 1852"

John Wilbanks Clerk

By T. B. Cannon D. C.

The parties appeared on the day set for trial, and
after the witnesses being duly sworn, ~~and examined~~
it was therefor considered, that the defendant
should pay \$45.50 damages, and seven dollars and
18³/₄ Cents, Cash, therefor Judgment, was given against
the defendant on the 29th day of July 1852 for \$45.50 &c.

and #7. 18³/₄ East

John Trout J P

I do hereby certify, that the above transcript and papers, contain a full & perfect statement of all the proceedings before me.

Given under my hand & seal, this the 13th day of August 1852

John Trout J P Seal
on the bench of said transcript are the following files marked (to wit)

"Filed August 14th 1852

John Wilbanks Clerk

By J. B. Lanner D. O.

Know all men by these presents, that We Elijah B. Harvey and Zachariah Harvey are held firmly bound unto Thomas P. Casey in the penal sum of \$91. Dollars and 3/4 cts East 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 & firmly by these presents. Witness our hands and seals, this 6th day of August 1852

Filed August 14th 1852
John Wilbanks Clerk
By J. B. Lanner D. O.

The Condition of the above obligation is such that whereas, the said Thomas P. Casey, did on the 27th day of July AD 1852, before John Trout a Justice of the Peace for the County of Effusion recover a Judgment against the above bounden Elijah B. Harvey, for the sum of \$45.50 from which Judgment the said Elijah Harvey, has taken an Appeal to the Circuit ^{Court} of the County of Effusion aforesaid and State of Missouri, Now if the Elijah Harvey shall prosecute his Appeal, with Effect & shall pay whatever Judgment may be rendered by the Court, upon dismissal or trial of said Appeal, then the above obligation otherwise to remain in full force and effect

Elijah B. Harvey Seal

Zachariah Harvey Seal

Thomas F. Casey }
 vs }
 Elijah B. Harvey }
 Property Constable by virtue of an Attachment
 from said Plff - that was Exempt from
 Execution Attachment, or distress

Set out and

3 feather Beds, all worth Ten Dollars.	\$10.00
3 Pillows. 33 1/3 cents Each	\$ 1.00
12 quilted Quilted 150. each	18.00
2 Hand made Blankets 1 each	2.00
1 Sheet	50
4 Chair 37 1/2 each	150.00
Amounting in all to	
	\$33.00

And he claims damaged under the Statute
 for three times the Amount. - making in all \$99.00
 S. G. Hicks for Plff

John Croft Esq., will please on the above, and
 if convenient please set the trial on Tuesday the 27th
 at 12 a clock No. of that day. And issue a Subpoena
 for Nathan S. Casey for Plff - + Isaac Casey
 Nathan W. Cameron, + Erasmus Soliff
 July 20th 1852 S. G. Hicks Atty
 for Plff

File marked &c
 cc Filed August 14 - 1852

John Wilbourn Clerk
 By P. W. Cannon 1852

September term - Jefferson Circuit Court 1852

Wednesday 30th 1852

Thomas G. Leary
vs
Elijah B. Harvey
Appeal -
Juspassu et amicus

And now on this day comes, the plaintiff, by Wickes Nelson & Mudgett, his Attorneys, as also; the Defendants by Montgomery and Raugh his Attorneys - And by Consent of parties, this cause is submitted to the Court upon Evidence - The Court having heard and considered the Evidence and being well advised in the Premises - Considered and ordered that this cause be, and the same, is hereby dismissed for the want of Jurisdiction in the Justice of the Peace, who took cognizance of the Cause - It is further considered by the Court that the sd Def^t recover of the sd Plff his Costs and Charges, Expended and laid out by him, in & about this suit. It is also, considered by the Court, that, by agreement of the parties, a bill of exceptions may be filed herein by the 1st day of Nov^r 20th 1852

State of Illinois
County of Jefferson

I John Wilbanks Clerk of the Circuit Court in & for the County & State aforesaid, do hereby certify, that the foregoing record, is a true & perfect copy of the record, in the Cause wherein Thos G. Leary is Plaintiff and Elijah B. Harvey is Defendant, as appears of file in the Clerk's Office of the Court aforesaid

Witness John Wilbanks Clerk of the Court aforesaid & the Judicial Seal thereof at Mt Vernon, this, the 16th day of November 1852

John Wilbanks Clerk
By W. Lanner D.C.

Thomas J. Cary

Plff in error

Olijah Harvey

Def in error

The Circuit Court
dismissing this cause in the Court
before for want of Jurisdiction in
the Justice of the Peace who took
cognizance of the Cause
is the Court was in Quipping Cause
for want of Jurisdiction

found in error
D. J. Cary
for def

Harvey submitted
for plff in error

[8797-4]

Thomas F. Casey

vs

Elyah B. Harvey

Filed the 20th Nov.
1852. J. D. Pustan, clerk

Prepared

8797

Thomas F. Casey 2 No term of the Supreme
v 2 Court at Mt Vernon
Elijah B. Kearney 3 A D 1852

This is a cause which was instituted before a justice of the Peace, against said defendant as a constable for levying upon & taking away ^{of the} ~~the~~ property, which was exempt under the statute, to recover three times the value of such property.

The ~~plaintiff~~ ^{plaintiff} recovered a judgment before the justice, and the deft. prosecuted ~~an~~ ^{an} appeal to the Circuit Court of Jefferson County, where the cause was submitted to the Court, and the Court assumed the suit for the want of jurisdiction in the Magistrate, to which the ~~plaintiff~~ ^{plaintiff} & Capt. and prosecuted a writ of error to this Court, and assigns for error that the Court erred in assuming said suit for the want of jurisdiction in the Magistrate

Alvan Wright
for ~~plaintiff~~ ^{plaintiff}

1852

8797