

No. 104

Supreme Court of Illinois

Randolph Co. Comm.

vs.

Michael Jones

(379)  7

Pleas held before the Honorable John Reynolds
one of the associate Justices of the Supreme Court at a
Circuit Court held at Kaskaskia in and for Randolph
County on Saturday the ninth day of November in the
year of our Lord one thousand eight hundred and twenty
two and of the Independence of the United States the
forty seventh.

Be it Remembered that heretofore to wit, on the twenty
eighth day of November in the year of our Lord one thousand
eight hundred and twenty one, the County Commissioners of
the County of Randolph by Thomas Reynolds their Attorney
filed in the Office of the Clerk of the Circuit Court for Ran-
-dolph County their declaration against Michael Jones in these
words and figures following to wit, "Randolph County
State of Illinois - Summer 1822. The County Commis-
-sioners of the County of Randolph aforesaid, Successors in
Office of the County Commissioners of said County for the
year 1819 Complain of Michael Jones of a Plea of Trespass
on the Case. For that whereas the said defendant on the
third day of September in the year 1819 at the County
aforesaid and within the Jurisdiction of this Court by his
certain agreement in writing, for and in consideration
that the Court House for the said County should be located
and erected upon a lot proposed to be granted to the said
County by Nathaniel Pope, promised to pay the County
Commissioners of the County aforesaid or their Successors in
Office the sum annexed to his name at such time and
in such proportion as the said County Commissioners should
require for the purpose of defraying in part the expense
of a Court House for the County aforesaid. And the

7
Plaintiffs aver that said Court House was erected in and upon
the lot proposed to be granted to said County by Nathaniel Pope
And the Plaintiffs further aver that the defendant did agree
and there is annexed to his name the sum of one hun-
dred and twenty five dollars. And the Plaintiffs further
aver that they did on the day of and before
the Commencement of this Suit did demand and require
payment of the defendant of the whole amount of the
said sum of one hundred and twenty five dollars - never-
theless the said defendant the Officer requested has not as
yet paid the aforesaid sum of money or any part thereof
22 to the Plaintiffs or their predecessors in Office. And also
for that whereas the said defendant on the day and year
aforesaid at the Circuit aforesaid for and in Consideration
that the Court House for ~~the~~ ^{the} County aforesaid should be
located and erected upon a lot proposed to be granted
by the Honorable Nathaniel Pope to the County aforesaid
which was situated adjacent, contiguous and near to the
lots and Houses of the said defendant and in that part
22 of the Town and on the same Street on which the said
defendant resides and has his dwelling and other and out
Houses, promised to pay the County Commissioners of the
County aforesaid or their successors in Office the sum of
one hundred and twenty five dollars to defray in part
the expence of the aforesaid Court House for the County
aforesaid, to be paid in such proportions and at such
times as the said County Commissioners should require
And the Plaintiffs aver that the said Court House
was in pursuance of and in Conformity with said agree-
ment erected upon the lot proposed to be granted by the
Honorable Nathaniel Pope to the County aforesaid
and which lot was contiguous adjacent and near

3
to the lotts and Houses of the said defendant and in that part of
the Town and on the same Street on which the said defendant
resides and has his dwelling and other and out Houses. And
the Plaintiff further avers that the said defendant was on the
day of _____ and before the bringing of this Suit demanded and
required to pay the whole of the sum aforesaid for the purpose aforesaid
by the said Plaintiff yet he

And also for that whereas the said defendant on the day
and year aforesaid at the Circuit aforesaid by his certain writing, pro-
mised to pay to the County Commissioners of the County aforesaid
or their Successors in Office the sum annexed to his name
for the purpose of defraying in part the expence of a Court House
for the County aforesaid at such time and in such proportion
as the said County Commissioners shall require, for and in
Consideration and upon Condition that said Court House should
be located and erected on a lot proposed to be granted to the
said County by the Honorable Nathaniel Pope and the
Plaintiff avers that there is annexed to the said defendant
name the sum of one hundred and twenty five dollars
and the Plaintiff further avers that the said Court House
was on account of and in pursuance of said agreement
of the said defendant located and erected upon the lot pro-
posed to be (and which was) granted by the Honorable
Nathaniel Pope to the County aforesaid, and the Plain-
tiff further avers that they did on the _____ day of _____
and before the emanation of the writ herein demanded
and require payment of the said defendant of the whole
of the said sum of money for the purpose aforesaid -
nevertheless the said defendant notwithstanding his said
promise has not paid &c.

And also for that whereas the said defendant
on the day and year aforesaid at the Circuit aforesaid
in Consideration that the Plaintiff had before that time

at the special instance and request of the said defendants
said said out and expended a sum of money to wit, the
sum of one hundred and twenty five dollars of lawful
money for the said defendants, he the said defendants under-
took and then and there faithfully promised to pay the
same to the said Plaintiff, when he should be thereunto
afterwards requested &c.

And also for that whereas the said def^t. heretofore
to wit on the day and year aforesaid at the Circuit & Genl.
in consideration that the said defendants had received or
certain sum of money to wit, the sum of one hundred
and twenty five dollars to and for the use of the said Plff^t.
he the said defendant then and there faithfully promised
the Plaintiff, to pay them the said sum of money when
he should be thereunto afterwards requested notwithstanding
the said def^t. at the aforesaid requested has not as yet paid
the aforesaid sum of money to the said Plff^t. or their pre-
decessors in Office or any part thereof but have altogether
wilfully refused and still do refuse to the damage of the
Plff^t. \$200 and therefore they sue &c. Reynolds Jd

Copy of writing sent on and account.

Kashaskia Sept 8. 1819

Be it the subscribers promise to pay to the County Com-
missioners of the County of Randolph or their Successors in
Office the sum annexed to each respective name at such
times and in such proportions as the said County Commis-
sioners shall require for the purpose of defraying in part the
expense of a Court House for the County of Randolph, pro-
vided the said Court House shall be located and erected
on a lot proposed to be granted to the said County by
the Hon^{ble}. Nathaniel Pope

Nick case, Lockwood and Starr one hundred dollars

P. Houke one hundred and twenty five dollars
 John McHarrow ~~\$100~~ for himself & Robert Casler 25 dollars = \$125
 Malcom & Fecmon fifty dollars
 John M. Gillis twenty five dollars
 George Starns Junr. twenty five dollars
 David Hoffmann fifty dollars
 Joseph Starns seventy five dollars
 Robert M. Graham two hundred dollars
 Mich^d. Jones one hundred & twenty five Dollars
 F. Cleward twenty five dollars.

Afterwardz to wit on the Eighth day of December
 in the year of our Lord one thousand Eight hundred and
 twenty one the said County Commissioners, Obtained from the
 Clerk's Office of the said Court a certain writ of Summons in
 the words and figures following to wit "State of Illinois Pen-
 : dloeph County, vs. The People of the State of Illinois. To the
 Sheriff of Randolph County Greeting. We command you
 that you summon Michael Jones if he be found in your
 bailiwick to be and appear before the Circuit Court of Ran-
 dolph County at the next term to be held at Kaskaskia
 on the first Monday in the month of June next to answer
 the County Commissioners of Randolph ^{the county of} County of a plea on
 the case, damage two hundred dollars and have you
 there there this writ. Witness Myself William C. Greerup Clerk of,
 the said Court at Kaskaskia this Eighth day of December
 in the year of our Lord one thousand Eight hundred
 and twenty one and of the Independence of the United
 States the forty sixth. Wm. C. Greerup.

On which said writ the Sheriff of Randolph certifies
 his return to the said Court in these words to wit "Presented

the 13th day of March 1822. S. K. Christy S. R. C.

And afterwards to wit at a heretofore Court begun and held in and for said County on the first Monday in June in the year of our Lord one thousand Eight hundred and twenty two Comes the defendant by Stern and Rime his Attorneys and defends the wrong and injury when I whue P.^o and says that as to the first and second Courts in the declaration contained are ~~in~~ in law to maintain the said action wherefore the ~~defendant~~ prays Judgment P.^o And as to the third and fourth Courts the defendant says he did not assume and promise in manner and form as the plaintiff have alleged and of this he puts himself upon the County P.^o And the said defendant comes and defends the wrong and injury when I whue P.^o and says he did not assume and promise in manner and form as the plaintiff have above declared against him and of this he puts himself upon the County and the plaintiff doth the like. Wherefore it is Commanded that the Sheriff of Randolph County cause a Jury to come here P.^o

Whereupon came the Jurors of a Jury to wit, Thomas Maltier, John Lacy, Henry House, Jacob Mann, Spencer Adkins, Henry Barban, Norton Adair, Jacob Fisher, George Day, James D. Osborn, Thomas Orr and James Slater, who being elected tried and sworn well and truly to try the issue joined upon their Oaths do say that the Jury find for the plaintiff one hundred and twenty five dollars in damages. It is therefore Considered by the Court that the plaintiff recover against the said defendant the sum of one hundred and twenty five dollars the damages aforesaid by the Jurors aforesaid in manner and form aforesaid aforesaid and also their costs about their suit in this behalf expended and the said defendant in money P.^o

And afterwards to wit, on Saturday the last day of the same term last aforesaid the defendant by his attorney

7
move the Court to set aside the judgment in this case and to award a new trial, but the Court not being sufficiently advised took time to consider until the next term until which time the case is continued.

And now on this day to wit, the day and year first herein above written. It is agreed by the parties in this suit that a transcript of the records in this cause be taken to the Supreme Court for a decision of the question whether the instrument in any Court of the declaration can be made the foundation of an action at law, taking all the statements and averments in said Courts to be true. If decided in the affirmative then judgments to be entered up in this Court at the next term for the amount of Jones's subscription and costs accordingly - If decided in the negative then the said suit is to be discontinued, and that the respective parties enter their appearance at the next term of the Supreme Court.

State of Illinois }
Randolph County } det.

I Melvin C. Speerup Clerk of the Circuit Court for Randolph County aforesaid do hereby certify the foregoing to be a true and full transcript of the records and proceedings had in the above cause on the same now remain in my Office

In witness whereof my hand and the seal of the said Court at Rushville this 27th day of November in the year of our Lord 1832 & of the Independence of the United States the forty seventh.

M. C. Speerup
Clerk



The County Court
of Washington County

by
Michael Jones
Recorder

Filed Dec 23. 1822

J. M. Swanwick

182

82

82

82