

8740

No. \_\_\_\_\_

# Supreme Court of Illinois

David Leach

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vs.

John W. Madden

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71641  7



Pleas held before the Hon. William A. Leav-  
ing Presiding Judge of the third Judi-  
cial Circuit of the State of Illinois  
the County of Massac being a part  
thereof.

It is Remembered that on the 4th  
Day of April A.D. 1853 was filed in  
the Office of the Clerk of the Massac  
Circuit Court, the following papers  
To wit

Copy of Warrants,

State of Illinois vs. Sit

Massac County 3/4

The People of the State  
of Illinois To the <sup>responsible</sup> ~~sheriff~~ of said County  
Greeting: you are hereby Commanded  
to summon David Lusk to appear  
before me at my Office on the  
25th Day of February 1853 at 12 O'clock  
A.M. to answer the Complaint of John  
H. Madden for a failure to pay him  
a certain Demand not Exceeding  
one hundred dollars, and hereof  
make due Return as the Law directs  
Witness my hand and seal



this 12<sup>th</sup> day of February 1853  
Wm Moseley J. P.  
Returned thereon by the constable  
"Served the Within by Reading the  
Same to the Defendant this 22<sup>d</sup>  
day of February 1853  
A. Gibbs C M C  
Copy of Transcript

John W. Madderly  
vs }  
David Lusk } Servant by  
} account \$50.00  
Process Served the 12<sup>th</sup>  
day of February 1853. set for trial  
the 25<sup>th</sup> of of the Same at the hour  
of 12 O'Clock A.M. of said day  
Wm Moseley J. P.

On the above appointed day the  
plaintiff in the above styled case  
appeared with his witness and  
appraisers and after the above  
appointed hour was post ce  
menced a trial which was  
gone into, and he the said  
plaintiff. introduced a witness



By - C. M. D. Humphrey which came  
forward and testified that he  
said defendant agreed to pay  
or satisfy the said plaintiff for  
a certain improvement then the  
said plaintiff introduced John  
Lawrence and William Russell  
as appraisers and testified that  
the said improvement was worth  
fifty dollars on which testimony  
I rendered judgment for  
fifty dollars debt and costs of suit  
against the defendant -

Given under my hand and  
seal this 25th day of February  
1853

Debt	\$50.00
constables cost	1.25 <sup>70</sup>
Juries Cost	<u>1.56<sup>14</sup></u>

I do certify this to be a true copy of the  
proceedings before me in the above  
case - Given under my hand this 9th  
day of March 1853

Wm. Moseley J. C.



Copy of the appeal Bond.

Know all men by these presents that  
 We David Leach and Simon Peave  
 and Thomas Scatter are held and  
 firmly bound unto John W. Mad-  
 den in the penal sum of one  
 hundred ~~dollars~~ and three 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. Wit-  
 ness our hands and seals this 9th  
 day of March 1853. The Condition  
 of the above obligation is such  
 that whereas the above said John  
 W. Madden did on the 25th day  
 of February 1853 before you Moseby  
 a Justice of the peace for the County  
 of Madrac recover a Judgment  
 against the above hundred ~~dollar~~  
 Leach for the sum of fifty dollars  
 debt and two dollars cost from



which Judgment the Said David Leach has taken an appeal to the Circuit Court of the County of said and a State of Illinois.

Now if the Said A. P. shall prosecute his appeal with Effect and shall pay whatever Judgment 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

David Leach (Seal)  
Simon R. Porce (Seal)  
Thos. A. Lester (Seal)  
+  
mark

Copy of Summons from the Circuit Court  
State of Illinois of  
Madison County, Ill

The People of the State of Illinois to the Sheriff of said County Greeting: We command you that you summon John W. Madden if to be found in your County that he do and appear before the Circuit Court



for said County on the first day  
of the next Term thereof to be holden  
at the Court House in Metropolis  
City Ills. on the first Monday of June  
next then and there to answer David  
Leach of an appeal pending in said  
Court and how you shall and  
there this writ with an endorsement  
thereon as to how you execute the  
same



Witness James Elliott  
Clerk of said Court and  
the Judicial Seal thereof  
this 3<sup>d</sup> day of May 1853  
James Elliott clk

Copy of Instrument sued on  
David Leach  
vs. John Madden Jr.  
To the Value of one Congess improvement \$50.00



and be it further Rememred  
 that at a circuit Court begun &  
 held at the Court House in Metropo-  
 lis City Ills. on the first Monday (6th  
 day) of June 1853 in and for the  
 County of Madison in the State of  
 Illinois, in pursuance of Law the  
 Hon. William A. Lawrence presiding  
 the following Order was duly ad-  
 justed of Record as among the Ju-  
 dicial proceedings of said Court  
 To Wit,

John Madden }  
 20 }  
 Louise Leach } Appeal

And now on  
 this day come the parties by their  
 attorneys, and having joined issue  
 let a day come therefore come a  
 Jury To Wit, Taken with 1 William  
 Nutty 2, Bradley Anderson 3 Nimrod  
 Thompson 4 Harvey Copenhaver 5  
 J.C. ~~Carson~~ <sup>Roberts</sup> 6 Job Davis 7 A. H. Pfin-  
 ner 8 John Briley 9 J.C. Carson  
 10 Abram Brewer 11 & Thomas Relye



Who being selected tried and sworn  
the truth to speak upon the Issue  
since as say, "We the Jury find  
for the plaintiff and assess his dam-  
ages at \$50.00. Whereupon the Defen-  
dant Moved the Court for a new  
trial -

And after words to wit, on  
Saturday the 18<sup>th</sup> day of June 1853  
and being the 12 day of the said  
June Term 1853 of the said Mas-  
sachusetts Circuit Court, the following  
Verdict was admitted of Record as  
among the Judicial proceedings  
of said Court. To wit

John Madden }  
vs } Appeal  
David Leach }

And now on this  
day came again the parties by their  
attorneys. and the motion pending  
for a new trial was by the Court  
overruled, the same being first  
fully advised in the premises.  
Therefore it is considered by the  
Court that the plaintiff Recover



against the Defendant the sum of fifty Dollars, the amount of his Damages alleged by the Jury, and Also his Costs by him in and about this behalf Expended.

Thereupon the Defendant prayed an appeal to the Supreme Court which is by the Court allowed in thirty days on Condition that the Defendant enter into Bond in the sum of Two hundred Dollars, Conditioned as the Law directs, With Reuben King and Harrison Leach as Securities, and It is further Ordered that the Bill of Exceptions be signed in Vacation

Copy of the Instructions given by the Court to the Jury

Madden }  
is } Appeal  
Leach }

The Court instructs the Jury that unless Madden has



proved by competent testimony  
that Leach entered the improvements  
in question, and promised to pay  
for the same their verdict should  
be for defendant

Given

That unless Madam has proved  
by competent testimony that  
the entry of land made by Leach  
included Madam's improvement  
they should find for defendant

Given

The Court further instructs the  
Jury that no evidence has been  
permitted to go to the Jury but  
such as the Court supposed to  
be competent, but how much  
or how little it proves is a  
question for the Jury to decide

Given



(Copy of appeal Bond)

"44

Know all men by these presents that I David Leach principal and William Harrison Leach and Reuben King, Securitiss are held and firmly bound unto John W. Madden in the penal sum of Two hundred Dollars good and 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 and severally firmly by these presents.

Signed with our hands and sealed with our seals and dated this fourth day of July in the year of our Lord one thousand Eight hundred and fifty three,

The Condition of the above bond is such that Whereas at the Term Term Ad. 1853 of the Massac Circuit Court, the above mentioned John W. Madden obtained against David Leach, Judgment for the sum of fifty Dollars besides Interest and Costs of Suit, and from which said Judgment of the said Circuit Court the said David Leach, at the time of the rendition of the said Judgment in



term time (June Term 1853) prayed an appeal to the Supreme Court of the State of Illinois, to be holden at Mount Vernon in the first Grand Division of the State of Illinois and having at the same time and place tendered to the said Court as his securities the said William Harrison Leach and Reuben King who were approved by the Court and the appeal granted accordingly - Now if the said David Leach shall pay the aforesaid ~~sum~~ amount of fifty Dollars and costs and Damages in case the same be affirmed in the said Supreme Court, and shall duly prosecute his said appeal, then and in that case this Bond to be null and Void, and for nothing Estimated Else to remain in full force and Effect,

Witness our hands and Seals this 4<sup>th</sup> day of July A.D. 1853

David Leach Secy  
 William H. Leach Secy  
 Reuben King Secy

Attest  
 James Elliott CLK No. 66



State of Illinois  
Maddac County } Set

I James Elliott Clerk  
of the Circuit Court in and for the  
County and State aforesaid, do hereby  
certify that the foregoing twelve written  
pages contains a true Transcript of  
the Record and proceeding of the  
Cause determined at the June Term  
1853 of the said Circuit Court, wherein  
John W. Maddam was Plaintiff and  
David Leach was defendant, of an  
appeal, as truly as the same appears of  
Record in any office, the Bill of Exceptions  
in the said Cause not being as yet filed  
in ~~my~~ Office.

Witness of which I hereto set  
my hand and the Seal of said  
Court this 10<sup>th</sup> Day of November 1853  
James Elliott CLK M. C. C.



David Leach  
vs.  
John W. Madhu

Appeal  
from Massae

Dismissed

Filed Nov 18<sup>th</sup> 1853  
F. D. P. to CA  
by D. P. [unclear]



November Term 1852

No 42

David Seach

v

John W. Madden

Appeal from Massac

Dismissed Nov. Term 1854, at

Cost of Appellants

Costs ——— \$3.65

For find fees bills to Staff of  
Massac, by Order to Care of  
W. H. Green Esq. 1. Dec. 1854

No 42

November 1854.

David Seach

v

John W. Madden.

Appeal from Massac.

Order by

The Court

Appeal Dismissed.

8740