No. 8632

Supreme Court of Illinois

Henry S.Walbridgeet al

vs.

John Hodges

71641 7

State of Illinois } Set
Pulaski County }

Pleas in the Cir
cuit Court begun the Honorable Wesley
Brown Judge of the Seventeenth Judicial
Circuit and presiding Judge of the
Pulaski County Circuit Court.

Be it remembered that
heretofore to wit, At the Rules held
in the Clerks Office of said Circuit Court
on the 8th day of August Anno Domini
one thousand eight hundred and sixty
seven came John Hodges by
William F. Poor his attorney and
filed in Pulaski aforesaid against
Henry S. Wallridge and Egbert G.
Wallridge copartners in trade
by the name style and abbreviation of
H. S. & E. G. Wallridge a plea of Debt
which are in their hands and bequeath
State of Illinois } of the Sept Term A.D. 1867
Pulaski County } of the Pulaski Circuit Court
John Hodges
vs
Henry S. Wallridge and
Egbert G. Wallridge
copartners in trade
by the name style and
abbreviation of
H. S. & E. G. Wallridge
County pleas to issue Summons in the
above entitled Cause returnable as
above, and directed to the Sheriff of
Pulaski County to serve by reading the

Debt $1768.98
Damages $750.00

Writ issued
of the Circuit
Court of Pulaski

58632-J

and gentlemen obliged

W. J. Yost

July 7th AD 1857 — atty for plaintiff

upon the back of which said

praecipe is the following endorsements

John Dodges

vs

H. S. & E. G. Wallridge

Praecipe

Filed 8th August 1857

Jas McDowell Clerk

Declaration } State of Illinois }ss

to wit } Peoria County }

Of the September Term AD 1857 of the

Peoria County Circuit Court

John Dodges the plaintiff

in this suit by William J. Yost his attorney

complains of Henry S. Wallridge and

Egbert G. Wallridge copartners in trade

by the name style and abbreviation of H. S.

& E. G. Wallridge the defendants within suit

being summoned &c of a plea wherefore

the said defendants by the abbreviation

aforesaid render to the said John Dodges

the sum of Seventeen hundred and Sixty

eight dollars and ninety eight cents

of lawful money of the United States

which they the said defendants owe

to and unjustly detain from him

For that whereas the said defendants by

the name style and abbreviation aforesaid

heretofore to wit On the third day of August

in the year of our Lord One thousand

eight hundred and eighty seven
at the County of Pulaski and State of
Illinois and within the jurisdiction
of this Court by the name style and
abbreviation of B. S. & E. Wallbridge made
their certain promissory note in writing
bearing date a certain day and year
therein mentioned to wit, the day and
year aforesaid, and then and there deli-
vered the said note to the said plain-
tiff by which said note, they the
said defendants by the name style
and abbreviation aforesaid acknowledg-
ed that they were due the said plain-
tiff the sum of Seventeen hundred
and Sixty eight Dollars and Twenty
eight Cents for value received & him
with interest at the rate of ten
per Cent. By means whereof and
by force of the statute in such case
made and provided, they the
said defendants by the name
style and abbreviation aforesaid
then and there became liable to
pay to the said Plaintiff the said
sum of money in the said prom-
issory note specified according
to the tenor and effect of the said
promissory note and although the
said sum of money in the said
promissory note specified has
been long since due and payable
according to the tenor and
effect of the said note yet the said

[8432-2]

plaintiff, in fact saith that the said defendants (although often requested so to do) did not nor would pay the said sum of seventeen hundred and sixty eight Dollars and ninety eight cents in the said note specified or any part thereof to the said plaintiff in manner & means or otherwise howsoever, but hath hitherto wholly neglected and refused so to do whereby an action hath accrued to the said plaintiff to demand and have of and from the said defendants the said sum of seventeen hundred and sixty eight Dollars and ninety eight cents in the said note specified. Yet the said defendants (although often requested so to do) have not as yet paid the said sum of seventeen hundred and sixty eight Dollars and ninety eight cents above demanded or any part thereof to the said plaintiff. But they to do this have hitherto wholly neglected and refused and still doth and do refuse to the damage of the said plaintiff of Two hundred Dollars and therefore he brings his suit &c

W J Yost
Atty for plaintiff

The defendant in the above cause will take notice, that the following is a copy of the note sued on in this cause and the original will be offered in evidence on the trial of this cause to wit.

Copy

Due John Hodges Seventeen hundred and Sixty eight dollars and 98cts for value recd of him with interest at the rate of 10 per cent

August 5th 1857 H. S. & E. G. Wallridge

Upon the back of said Declaration is the following endorsement

No 22.

Sept 8th A.D. 1857.

Peoria Cir Court

John Hodges

vs

Henry S. Wallridge and Egbert G. Wallridge Co partners in trade by the association of H. S. & E. G. Wallridge

Decl. in Debt $1768 98

Damages 200 00

Filed August 8th 1857

Jas M Dodge Clerk

And thereupon, afterwards to wit on the 10th day of August A.D. 1857 there issued from Clerk's Office of said Circuit Court in the County & State aforesaid a Summons Of which the following is a true Copy viz

Summons } State of Illinois } ss
to wit } Peoria County }

The People of the

State of Illinois, To the Sheriff of said County Greeting. We command you that you summons Henry S. Wallridge and Cyrus E. Wallridge Copartners in trade by the name style and abreviation of H. S. & C. E. Wallridge - if they may be found in your County, to be and appear before the Circuit Court of Pulaski County the 1st day of the term thereof to be holden in the Courthouse at Mound City in and for the said County on the 1st Monday in the month of September next to answer John Hodges of a plea of Debt, to the amount of One thousand Seven hundred and Sixty eight dollars and ninety eight cents ($1768.98/100) to his damage as he alleges Two hundred Dollars Such have you then and there this writ

Seal of Court

Witness Jas M. Dooridge Clerk of our said Circuit Court and the seal thereof hereto affixed at office in Mound City on this 10th day of August A.D. 1857

Jas M. Dooridge Clerk

Which said summons has the following endorsement and return thereon made

Pulaski Circuit September Term 1857

No 212 appr summons

John Hodges

vs

Henry S. Wallridge
Cyrus E. Wallridge

Endorsement to wit

Sheriff's return

Served by reading to the within defendants on the 11th day of August 1857 by

W. E. Wales Deputy Sheriff

Sheriff's fees

For serving the summons on each of the defendants 50 making 1.00

Mileage 9 miles at 6¼ cents making 56

for returning the same 10

$1.66

Now at this day at a circuit court begun and held in the court house in Talladega County on Monday the 7th day of September in the year of our Lord one thousand eight hundred and fifty seven, Hon. Wesley Sloan presiding Judge on Tuesday the 2nd day of the term - it being the 8th day of said term 1857 -

The plaintiff on the trial of said cause introduced as evidence a Due Bill of which the following is a copy.

Copy

Due John Hodges Seventeen Dollars and Sixty eight Dollars and 98 cts for value rec'd of him with interest at the rate of 10 per cent August 3rd 1857

W. & C. C. Walker

[8622-4]

Whereupon the following proceedings
and judgment of the court was made
and entered as of record viz

John Hodges } Debt
vs
Henry S. Wallridge
& Albert E. Wallridge } On this day
came the plaintiffs and it appears
to the court that defendants have
been served with process, three days
thereupon three times solemnly called
and came not but made default
it is therefore ordered that judgment
be entered against the defendants
for the debt in the declaration mentioned
and damages for the detention
thereof, but in as much as
it is uncertain what the damages
are let the clerk assess and report
who assessed and reported the debt
to be $1768.98 for the damages $17.20
Therefore it is considered by the court
that the plaintiff recover of the
said defendants the sum of one
thousand seven hundred and
sixty eight Dollars and ninety
eight cents debt and seventeen
dollars and twenty cents damages
together with his costs and charges
by him about the prosecution of
this suit in that behalf expended
and may then be hence execution

The following is the costs Bill made up in the Cause

John Dodges vs Henry S Wallridge, Egbert E Wallridge } Debt, Judgment Bill

Clerks fees Writ Summons 10c	10
Fees atty + attys 15c bills Refusing 10	25
Summons fee 40c cap damages 20c	60
fees 25 f Lev fees 15c fee bill costs 30	70
Execution 40 f Docketed 25	65
	$2.30
Sheriff fees Sentence mileage 25	1.66
Docket fee	1.25
	$5.21

And thereupon attorneys to wit as the Rules held in the Clerks Office of Dun Lora Circuit Court on the 30 day of October 1859 there was an Execution issued upon said judgment directed to Commanding & and endorsed as follows viz

No 420 John Dodges

vs

Henry S Wallridge
Egbert E Wallridge

Debt $1768 98
Damages 17 20
Costs 5,21

which said Execution is now in the hands of the Sheriff of Franklin County

[K32-5]

State of Illinois }ss
Peoria County }

I, Jas M Davidge Clerk of the Circuit Court of the said County, hereby certify the foregoing pages to contain a true and complete transcript of the Precept and its endorsement, the Declaration and its endorsement, the Summons with its endorsement and sheriff's return thereon, "Copy of note sued on," the judgment order, Bill of pertaining to the foregoing written entitled cause as fully, wholly and completely as the same are now on file and remaining of record in the Clerks Office of the Circuit Court of the said County

In Testimony whereof I hereto subscribe my name and affix the seal of the said Circuit Court at office in Peoria this 16th day of Apr A.D. 1857

Jas M. Davidge
Clerk

State of Illinois – In the Supreme Court
1st Grand Division – To Nov. Term 1858

Henry S. Walbridge & Egbert E. Walbridge Plffs in Error vs. John Hodges deft. in Error	Error to Pulaski

And the said plaintiffs in Error come by Robert E. Yost, their attorney and say that there is manifest Error in the record and proceedings in this cause and assign for Error the following –

1st The judgment below is erroneous because the return of service upon the summons issued in the cause is signed W. H. Waters deputy sheriff, and is not signed in the name of the sheriff by the deputy as it should have been.

Ryan vs Eads, Breese, 118; Ditch vs Edwards, 1 Scam. 576.

2. The Court below should have found the amount of the debt, and ordered the Clerk only to assess the damages, whereas the Clerk assessed the debt and damages.

3 The said judgment & proceedings are irregular, insufficient & erroneous –

Wherefore the said plffs in Error pray that said judgment be reversed &c

Robert E. Yost atty
for plffs in Error

[PL32-4]

~~60~~ - Pulaski Co Circuit
12

Transcript

Henry S. Walbridge et al.
vs
John Hodges

~~Henry S. Walbridge~~
~~Ogden E. Walbridge~~

Action of Debt

#2200

Filed 28th Nov. 1857.
N. Johnston Clk
Prepaid $5.00 by N. L. Freeman -

Clerks Fee $2. 35/100
R. E. Byrd Atty

Know all men by these presents that we Henry S Wolbridge, and Egbert E Wolbridge, (who compose the firm of Wolbridge & Brother, and A. A. Perley & R. E. Hosman held and firmly bound, unto John Hodges in the sum of Twenty three hundred ——— dollars, 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 23d day of November A.D. 1857.

The condition of the above obligation is such, that whereas the above bounden Henry S Wolbridge and Egbert E Wolbridge, the firm of Wolbridge & Brother, having sued out this certain Writ of Error, and thereby removed a certain Cause wherein the said John Hodges, is plaintiff and they are defendants, lately pending in the Circuit Court of the County of Pulaski, and State of Illinois, to the Supreme Court of said State, and whereas also, in said Cause there has been a Supersedeas awarded by the said Supreme Court.

Now if the said Wolbridge & Brother shall prosecute this said writ of Error with effect, and in case the said judgement of the Circuit Court shall be affirmed, shall pay the same with, costs, & interest, according to the judgement of said Supreme Court, in the premises, then or in case the said judgement of the Circuit Court, shall be reversed by

the supreme Court. This obligation is to be void and of no effect.

Henry S. Walbridge (Seal)
Egbert E. Wallbridge (Seal)
A. A. Perley (Seal)
R E Yost (Seal)

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Walbridge & Brothers
vs
John Hodges
Bond

Filed 28th Nov. 1857.
A. Johnston Clk

STATE OF ILLINOIS
SUPREME COURT, } ss. 1st Grand Division WRIT OF ERROR.

THE PEOPLE OF THE STATE OF ILLINOIS;

To the Clerk of the Circuit Court for the county of Pulaski GREETING,

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Pulaski county, before the Judge thereof, between

John Hodges

plaintiff, and Henry S. Walbridge & Egbert E. Walbridge - the firm of Walbridge & Brother

defendants, it is said manifest error hath intervened, to the injury of the aforesaid Henry S Walbridge and Egbert E. Walbridge

as we are informed by this complaint, and we being willing that error, should be corrected if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay, send to our Justices of the Supreme Count, the record and proceedings of the plaint, aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Mount Vernon, in the county of jefferson, on the 1st Sunday after the 2d Monday of November next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law:

John D. Caton

Witness, the Hon. ~~WALTER B. SCATES~~ Chief Justice of our said court, and the seal thereof, at Mount Vernon this Eighteenth day of December in the year of Our Lord One Thousand Eight Hundred and Fifty-Seven.

Noah Johnston
Clerk Supreme Court.

[9:32-5]

12

Henry S. Walbridge &
Egbert E. Walbridge
vs } Writ of Error

John Hodges.

Issued Nov. 4th
Superseded, and filed
18. Dec. 1857.
N. Johnston Clk

Filed Dec. 5 1857 & Supersedeas issued
S. E. Lapham Clerk pro tem.
Walter Johnston Clk

STATE OF ILLINOIS, } ss. 1st Grand Division
SUPREME COURT. }

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of Alexander **County,**

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the Circuit Court of Pulaski County, before the judge thereof, between John Hodges - Plaintiff - and Henry S. Walbridge and Egbert E. Walbridge - under the firm of Walbridge & Brother — — — — — — — —

defendant, it is said that manifest error hath intervened to the injury of said Henry S. Walbridge and Egbert E. Walbridge as we are informed by their complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mt. Vernon, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said John Hodges

that he be and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the first Sunday after the Second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if he shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said John Hodges - notice, together with this writ.

Witness, the Hon. ~~Samuel H. Treat~~ John D. Caton, Chief Justice of our said Court, and the seal thereof, at Mount Vernon, this Eighteenth day of December in the year of our Lord, one thousand eight hundred and fifty- Seven.

Noah Johnston
Clerk of Supreme Court.

[P432-9]

Executed the within writ as commanded by reading and delivering a copy of the within to the within named John Hodges

C. C. Cole Sheriff
of Alexander County
Illinois

this December the 26th 1857

fees Serving 50
Returning 10/60

Henry S. Mitchell
C. C. Mitchell
vs
John Hodges

Filed 28th day 1858
Tho. Mitchell Clk

12

Illinois, Alexander County, ss.

I, John Mitchell, Clerk of the Circuit Court in and for said County, do hereby certify that the foregoing is a true and correct copy of the original on file in my office.

John Mitchell Clk

Pulaski County Circuit Court
October Term A.D. 1857.

John Hodges - Pltff
vs
Henry S Walbridge &
Egbert E Walbridge Defts

Judgment for Plaintiff and against said Defendants.

Supreme Court. 1st Grand Division
November Term A.D. 1858.

Henry S Walbridge &
Egbert E. Walbridge Pltff in Error
vs } Error to Pulaski
John Hodges Deft in Error

Clerk of said Supr. Court will issue and file Writ of Error - Cause Motion is a Supersedeas - as per Order of said Court. Also issue the usual notice thereof to Sheriff and Circuit Clerk of Pulaski County. And also issue Sci fa for John Hodges to Shff. Alexander County returnable to next term of said Court -

Walbridge & Brother

12

Wallace & Brother

vs

Hodges.

Trespass

Filed Dec 18 1857.

N. Johnston Clk

State of ILLINOIS, ss.

CLERK'S OFFICE OF THE SUPREME COURT. } 1st Grand Division

I hereby certify that a Writ of Error hath issued from this Office for the reveral of a Judgment obtained by John Hodges against Henry S. Walbridge & Egbert E. Walbridge in the Circuit Court of Peoria County, at the September Term, in the year of our Lord one thousand eight hundred and fifty-seven in a certain action of Debt ~~for~~ which Writ of Error is to operate as a Supersedeas, and as such is to be obeyed by all concerned.

Given under my hand, and the seal of the said Supreme Court, at Mount Vernon, this 22d day of December in the year of our Lord, one thousand eight hundred and fifty-seven

Noah Johnston

Clerk of the Supreme Court.

[1862-17]

H. S. & E. E. Wellman

vs

John Hodges

Office Copy

In the Supreme Court
of the State of Illinois

Henry S. & Egbert E.
Walbridge
vs
John Hodges

Error from Pulaski

It is agreed by and between the parties to this suit that the same be dismissed in the supreme Court, and the judgement remain in full force in the Pulaski Circuit Court. That the cause be sent back to Pulaski Circuit Court with stay of Execution in that Court until the first of May 1859. And it is further stipulated and agreed by the said John Hodges that all right or cause of action which may or might accrue to him upon the bond filed by the plaintiffs in this cause in the supreme court as well as against the security to said bond be and the same is hereby expressly released and waived.

Witness our hands and seals this 21st day of October 1858. Hy. S. & E. E. Walbridge (Ls)
John Hodges (Ls)

{8432-12}

Wolbridges
vs
Hodges

Error in the Supreme
Court from Pulaski

Agreeable to the foregoing agreement by and between the parties to this suit we the Attornies for said parties consent that the Writ of Error be dismissed in the Supreme Court, and the judgement below stand as the parties have stipulated

R. E. Yost Atty
for Wolbridges
William J. Yost
Atty for John Hodges

12

H. S. & E. E. Wallbridge
vs
John Hodges

Agreement to Dismiss on
Terms stated.

Filed October 29th 1858,
N. Johnston Clk

12

H. S & E. E. Walbridge

Pltffs in Error

vs

John Hodges

Deft in Error

Error to Pulaski

Dismissed Nov. 1858 - as per

agreement on file

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