

8601

No. _____

Supreme Court of Illinois

J. Jack

vs.

People

71641  7

State of Illinois }
Massac County }

Pleas held before the Hon.
William R. Parish Presiding Judge of the
third Judicial Circuit Court of the State
of Illinois of which said Circuit the
County of Massac Composes a part.

"The People of the State of Illinois }

vs } Serificias
"Asher Lane, Jacob Musselman } on forfeit
"S. M. Casey Sam. Gurin & } Recognizance
"Bedidiak Pack }

Be it remembered
that on the 4th day of June A. D. 1855
was filed in the Clerk's Office of the
Massac Circuit Court, in the above entitled
Cause the Serificias which is in the
Words and figures following to wit:

State of Illinois } Of the Term Term A. D.
Massac County } 1853 of the Massac Circuit Court

"The People of the State of
"Illinois To the Sheriff of said County
"Greeting: Whereas on the 12th day of
"January A. D. 1852, at the County of Mas-
"sac in the State of Illinois, one Asher
"Lane late of the County aforesaid
"was taken before Robert J. Super a
"Justice of the Peace, in and for
"said County, by Virtue of a States
"Warrant, upon a Charge of Larceny,
"and was by said Justice, in default
"of Bail, committed to the Common
"Prail of said County, and afterwards

" To Wit, on the 14th day of July Anno a d o
 " 1852 Saide Lane executed and delivered
 " to Samuel H. Pfrimmer, and Cornelius
 " Martin two Justices of the Peace in and
 " for Saide County, the Recognizance Bond
 " in words and figures following to wit,
 " Be it remembered that on the 14th
 " day of June 1852 personally appeared be-
 " fore the undersigned Two Justices of the
 " Peace, in and for the County of Massac
 " and State of Illinois, Athur Lane, Jacob
 " Moultonson S. M. Casey, Isaac Quisen
 " and Jedidiah Jack, and jointly and
 " severally acknowledged themselves to owe
 " and be indebted to the People of the
 " State of Illinois, in the sum of Five
 " hundred Dollars, for the payment of
 " which Well and truly to be made, we
 " bind ourselves, our heirs, Executors and
 " Administrators, jointly and severally, firm-
 " ly by these presents and also to be seized
 " of their goods and Chattels Lands and
 " Tenements,

" The Condition of the above
 " obligation is such that whereas the Saide
 " Athur Lane was on the day of
 " committed to the Jail of Massac
 " County by Justice Seiper, in default
 " of Bonds, in the sum of \$500.00 upon
 " a charge of Carency. Now if the Saide
 " Athur Lane, shall be and personally ap-
 " pear before the Circuit Court for Saide
 " County of Massac, on the first day of the

" next Term thereof to be holden at the Court
 " House, in Metropolis City Ills. Commencing on
 " the Secunde Monday of in October next and
 " shall answer to what shall ^{be} there and there
 " preferred against him by the Grande jury
 " for Saide County, and shall not depart
 " therefrom, without leave of the Court, or
 " otherwise legally discharged then this obliga-
 " tion to be Saide Obe to remain in full
 " force and Effect.

" This 14th day of June 1852

" Asher Lane Seal
 " J. Moulton Seal
 " S. M. Cady Seal
 " Sam^l his Guinn Seal
 " J. J. Sidiiah Seal ^{mark}

" Taken & Acknowledged
 " before in this 14th day of
 " June A. D. 1852

" Joseph H. Pfirmers J.P.
 " Cornelius Martin J.P.

" Which Saide Recognizance was duly certi-
 " fied by Saide Justices Pfirmers and
 " Martin (they being fully Authorized and
 " empowered by Law to take Recognizances
 " of the kind in Vacation of Court)
 " to the Clerk of the Circuit Court of
 " Madax County, and by the Saide Clerk
 " filed as of Record in Saide Court.

" And whereas afterwards I wit at a
 " Circuit Court, began and held at the
 " Court house in Metropolis City Ills. on
 " the Secunde Monday of 11th day of October

" A de 1852. The Hon. William A. Winning
 " Presiding the Grande Jury Returned
 " into Court a True Bill of Indictment
 " against the Saide Asher Lane for the
 " Crime of Larceny, Saide Indictment are
 " in the words and figures following, to wit:
 " State of Illinois, "Of the October Term of
 " Massac County, the Massac Circuit
 " Court, in the year of
 " our Lords one thousand
 " Eight hundred and
 " fifty two
 " The Grande Jurors chosen selected and
 " sworn, in and for the County of Mas
 " sac, in the name and by the authority
 " of the people of the State of Illinois
 " upon their Oath's present that even Asher
 " Lane late of the County aforesaid on
 " the tenth day of February, in the year
 " of our Lords one thousand eight
 " hundred and fifty Two, at the County
 " of Massac and State of Illinois, one
 " bank Bill on the bank of Louisville
 " of the Value of Five dollars, and one
 " bank Bill, on the bank of Louisville
 " of the Value of Ten dollars, of the proper
 " goods and Chattels of one Robert Benton
 " then and then being found unlawfully
 " and feloniously, did Steal take and
 " carry away, Contrary to the form of the
 " Statute in such Case made and provided
 " and against the peace and dignity of the
 " People of the State of Illinois W. R. Parish State atty

Ande Whereas at the saide October Term 1852 of the Saide Court, on the Secunde Wednesday of Saide Term of Saide Court, that is to say on the 20th day of October A. D. 1852, the following Order was by the Court Ordered of Records, as among the Judicial proceedings of Saide Court.

"The People

vs

- " Asher Lane . Principal
- " J. Musselmon
- " S. M. Casey
- " Isaac Gurin & As Bail
- " Jeddiah Pack

"The Recognizance
 in this case was
 filed by the Clerk
 on the 21st of June
 A. D. 1855
 Recognizance of 500.00
 Certified by Justice
 Martin & Pfriimmer

" Ande now on this day Came the People by
 their States Attorney W. K. Parish, ande the
 defendant Asher Lane, though now three times
 solemnly callede Come not but made default there
 Whereupon on motion of Saide States Attorney
 a forfeiture of Saide Recognizance is herein
 taken ande entered according to the tenor ande
 effect of Saide Recognizance, which is in the
 sum of Five hundred dollars as aforesaid
 the Saide Lane having failede to appear at
 this Term of the Court according to the con-
 dition of his Saide Recognizance, ande it
 is further Ordered that a Capias do issue
 against the Saide Lane, ande also a Serifa-
 eas as to the Saide Jacob Musselmon
 S. M. Casey, Isaac Gurin, Jeddiah Pack
 ande Saide Lane, that they ande each one
 of them do appear before the Circuit Court

" for Saide Court, on the first day of the
 " next Term thereof to be holden at the Court
 " House in Metropolis Ills. on the first Monday
 " in the Month of June next to Show Cause
 " if any they have or Can, Why the Saide people
 " of the State of Illinois ought not to have
 " execution against them severally, for the
 " Saide Several Sums of Money for which they
 " are Respectively Bound, according to the
 " force and effect of their Saide
 " Recognizances. And in Obediance to the
 " foregoing order, the Clerk of the Saide
 " Circuit Court, did on the day of
 " October A^d 1852 Issue a Capias ad respon-
 " densum directed to the Sheriff of Massac
 " County Commanding him the Saide Sheriff
 " to arrest the body of him Saide Lane and
 " him safely keep, so as to have his Body before
 " the Saide Court, on the first day of the next
 " term thereof to answer the People of Saide
 " State of Illinois to the Charge preferred
 " against him as set forth in the indictment
 " hinc inde recited.

" We therefore commands
 " you that you summon the Saide As her
 " Lane, Jacob Musselman, J. M. Casey, Barn
 " Geism, and Jeddish Buck, if they shall
 " be found in your County, that they and
 " each one of them appear before the Circuit
 " Court for Saide County of Massac in the
 " State of Illinois, on the first day of the
 " next Term thereof to be holden at the
 " Court house in Metropolis City Ills. on the

7
" first Monday of June next, then and then to
" answer Show Cause if any they have or can why
" Saide forfeiture Should not Stand against them
" and the People of the State of Illinois have
" execution against their goods and Chattels
" Lands and Tenements in Satisfaction of their
" bonds, according to the force full and
" effect of the same.

" And have your Honor
" and then this Writ with an Endorsement
" thereon, as to how you execute the same
" Witness James Elliott Clerk of
" Saide Court and the Judicial
" Seal thereof this 30th day of
" March 1853

" James Elliott" Clk.

(Sheriff's Endorsement)

" As I am Commanded within I have this day
" Served the Writ upon Jacob Neusselmann
" Who acknowledged the same Served this the
" 2nd day of May A.D. 1853.

" G. M. Gray Sheriff

" As I am commanded within I have
" this day Served the Writ by Reading the
" same to Sam Guinn this 9th of May
" A.D. 1853

" G. M. Gray Sheriff m.e.

" As I am commanded within I have this
" day Served the Writ on Peardiah Jack
" by accepting the service of the same this 23rd
" of May A.D. 1853 -

" G. M. Gray Sheriff m.e.
" by John W. Thompson dep^y Shff
" of m.e.

Ande Be it further Remembred that after
wards To wit. on the 10th day of June 1853
was filed in bar in Saide Cause the following
plea To wit.

" The People
" " " " " " " " "
" Asher Lane et al } " Serificias

" Ande the Saide Jacob Mus-
" Selman, one of the defendants in the above
" styled Cause, doth for himself plead & say
" actio non, because he says that one Isidiah
" Jack, with whom he is impleaded was at the
" time the Saide Recognizance was entered into
" by him the Saide Jack as the security of
" him the [Saide] Lane, was an attorney
" & Councillor at Law of this State & in & of
" this Honorable Court ande this he sa defendant
" is ready to say &c wherefore he pray Judgment.
" &c

" Thomas G. Davis for
" deft. Musselman

" Ande the Saide pepps by Parish their atty comes
" & defends the wrong ande injury whome anse
" say the Saide plea is not sufficient in Law
" &c

" Parish Atty
" Jordan in Answer
" Davis for deft.

Ande Whereas afterwards To wit at a Term of
the Massac Circuit Court began ande held
at the Court House in Metropolis City Ill.
on the day of June 1853 in presence
of Law To wit on the day of June 1853 the
following Order was duly & regularly entered

Friday June 17th 1858

"The People	}	Seinfacias
"Asher Lane		
"Jacob Moustelman		
"S. M. Casey		
"Isaac Quinn & "Jedidiak Jack		

"Ande now on this day come
 "the parties by their attorneys, ande Jedidiak
 "Jack one of the defendants, names Service
 "of Oroust, ande Entus his appearance. Ande
 "a Plea having been interposed by Mouselman
 "which Saide plea was demurred to, which
 "Saide demurrer was by the Court after being
 "fully advised in the premises, sustained.
 "Therefore it is Considered by the Court
 "that the Plaintiffs Recover against
 "Saide Moustelman, the Sum of \$ 500.⁰⁰
 "the debt in Saide Seinfacias mentioned
 "and Costs of Suit.

Ande afterwards I. mit on the 17th dy of June
Ade 1850 was filed in this cause the following
1st 2nd + 3rd pleas I. mit

"The People

vs

"Asher Lane et al

} "Seri facias

"Ande the Saide defendants

" Jedidiah Jack, Adam Guinn, and

" Jacob Musselman come ande defende the

" wrong + Injury wher +c. ande say actio non

" because they say that one of the ^{saide} defendants

" Jedidiah Jack Levy in Saide Recognizance

" in the Saide Serifacias mentioned is +

" was at the Saide time of Executing Saide

" recognizance, an attorney ande Counciller at

" Law of the State of Illinois, ande this they

" are ready to avy. Wherfore they pray saye

" must +c.

" Ande the Saide defendants Jack

" + Guinn, for a further plea in this behalf

" say actio non because they say that

" the Saide Jack was, at the time of the

" Execution of Saide Recognizance ande

" Still is an attorney ande Counciller at Law

" of the State of Illinois, ande this they

" are Ready to avy. Wherfore they pray

" Judgment &c

" Ande for a further plea in

" this behalf the Saide Jedidiah Jack

" for himself especially says actio non

" because he says that at the time of the

" Execution ande signatur by him of the

Said Recognizance in the Saide Serificas
mentioned he was and still is an attorney
at Law, and this he is ready to verify
wherefore he prays Judgment.

"Now for defts

Whereupon was filed the following Answer
to the foregoing 1st 2nd & 3rd pleas, To wit;

"The People

"vs

"John Lane et al

} Recognizance

"Ande the Saide plaintiffs
learned by Logan their atty, ande say that
the first, seconde, ande thirde pleas by the
Saide defendants above Pleaded are
not Sufficient in Law. Wherefore

"John A Logan

"atty for People

"Answer in demurr

"J. G. C. Davis

"atty defts.

Ande Whereas afterwards To wit at a
Circuit Court begun ande held at
the Court house in Metropolis City Mo. in
& for Madair County in pursuance of Law
passed the 11th day of June 1854

The Honorable William H. Parrish presiding
the following Order was duly ande
regularly Entered among the Records
proceedings of Saide Court, To wit;

Ande afterwards To wit on the 20th day of June
1854 the following Order was duly Entered of Record

"later by June 17th 1854"
"The People"
"Now given of Serificas"
"J. J. Jack"

"Tuesday June 20th 1854

"The People

"Asher Lane & al^y

} Jurificans

"On Petition and do affidavit
 "of J. Jack one of the defendants it is
 "Ordered by the Court that this Cause Stand
 "Continued until the next Term of this
 "Court, at the Costs of the defendants,
 "It is therefore considered by the Court
 "that the Jeff Return against the depts.
 "their Costs by them in and do about
 "their Suit in this behalf expended.

And be it Remembered that afterwards to
 wit at a Circuit Court begun and held
 at the Court House in Metropolitan City
 Mo. in and for the County of Massac in
 pursuance of Law on the 16th day of
 October A. D. 1854. Present the Honorable
 William K. Parish Presiding Judge of
 Said Court. The following Plea was
 interposed by J. Jack and Isaac Guinn
 the Defendants being to wit
 "Isaac Guinn & J. Jack impleaded with
 "Asher Lane and Jacob Mussilman
 do } Jurificans
 "The People of the State of Illinois }
 "And the said de-
 "fendants by T. G. Davis their Attorney
 "for plea in this Case say a. c. i. n. n.
 "because they say that the said Asher

"By the Court that the people of the State
 of Illinois recover against the defendants
 Isaac Guinn and Frederick Pack sum
 the sum of Five hundred dollars, and
 that the People have Execution for the
 Saide sum of Five hundred dollars
 according to the force form and Effect of
 their Saide Recognizance, and also their
 Costs, in and about this behalf by them
 expended.

State of Illinois,
 Meigs County $\frac{2}{3}$ Set
 I James

Elliott Clerk of the Circuit Court in and
 for the County of Meigs afore said do
 hereby Certify that this and the thirteen
 foregoing written pages contain a full
 and complete Transcript of the Records
 and proceedings in the Cause therein
 entitled as fully and completely as
 the same appear of Records in my Of
 fice.

In Testimony of which I have
 hereunto set my hand and
 affixed the Seal of said
 Court at my Office in
 Metropolis City this 15th day
 of November A D 1855

James Elliott CLK m e e

Circuit Clerk's fee for Transcript \$3.00

Arguments of Errors &

1st The Court erred in its judgment in awarding judgment of execution against J. J. White & Co. in error -

2^d General Errors

Finders in error

J. S. Robinson

District Attorney

Fedichato Jact
Puff in evoc
as

The People byts
in evoc

Evoc to Massae

Filed 21. Nov. 1855

A. Schuster att.
"

Opposed

Witness - W. C. M. for for [unclear] 1855

Supreme Court 1st Grand Division -
New York Term AD 1837 -
Siddons Jack
vs. 3 Em to Massac -
The People

What is special Bail -
See 1st Bacon's Abridgement page 538.
Chittys Blackstone vol 2. page 219 -
Yidds Practice vol 1. pages 165-172 -
- 3-4- & 244 margin -

If the Statute does refer to a
recognizance in a criminal case,
is it not simply directory to the Sheriff
or the officer taking the Bail?

J E Robinson
State Atty.

1st Grand Jurors

Room June 1857

Federalist Society
vs. ^{Ex parte} $\frac{2}{3}$ ^{Majority}
The People

Brief of-

J. S. Robinson

for the People

N^o 6-

Filed Nov. 1857.

N. Johnston Clerk

SUPREME COURT, STATE OF ILLINOIS, FIRST GRAND DIVISION.

November Term, 1857.

J. JACK,
vs.
THE PEOPLE } Error to Massac.

In this cause pl'ff in error together with others entered into a joint and several Bond of Recognizance for the appearance of Lane to answer a criminal charge, which Recognizance was executed as Record shows, on 14th day of June, 1852.

On the 11th Oct., 1852, Indictment was preferred by the G. Jury vs: s'd Lane, and on the 20th Oct., 1852, the Record shows that a forfeiture of said Recognizance was taken, and that capias and sci. fa. issue, &c.

On the 20th of Oct., 1852, the record shows that said Recognizance was forfeited.

On the 17th June, 1853, Pl'ff in Error waived service of process, and appeared to the cause in the C. C., and afterwards on the same day the s'd court rendered judgm't vs Jacob Mussulman alone, one of the assignors.

The Pl'ff in Error on the 17th June, 1853, pleaded for himself specially, the following plea, to wit:

And for a further plea, in this behalf the s'd J. Jack for himself specially prays actio non, because he says that at the time of the execution and signature by him of the s'd Recognizance in s'd sci. fa. mentioned, he was and still is an Att'y and Counsellor at Law, and this he is ready to verify wherefore he prays judg't.

DAVIS for Def't.

Demurrer filed to above plea and joinder in the same—which was by the Court sustained.

At the Oct. T., 1854, the pl'ff in error pleaded as follows:

That principal, A. Lane, had before that time departed this life, which was traversed, and issue joined.

And afterwards at the Oct. T. of s'd Court on the 24th day of said month the Court ordered execution against said Pl'ff in Error, for the sum of five hundred dollars, which order of judg't. to Pl'ff. in Error is assigned by the Pl'ff. in Error as an Error in the Court, for which Error he prays that the s'd order and judgm't. may be reversed.

J. JACK, PRO SEL.

J. Gault
by
People

Abstract
of
Affirmed

Filed 19. May 1857

N. Johnston clk

Page 83 Bail

The People of the State of Ills

vs

Asher Lane Jacob Musselman
S. M. Casey Likens Guinn
& Jeddiah Jack,

This was a proceeding
by *se i fa* per
jaint & several
Recognizance
or Bond Condition
ed for the appearance

of Asher Lane to answer to an indictment
upon this *se i fa*. The Court awarded
judgment of execution against each one
of the Cognizors severally and Jeddiah
Jack one of the depts prosecuted a
mistake of error,

Jeddiah Jack's Mistake
of error vs

The People & depts
in error,

The Clerk of the
S. C. will show
ipse se i fa in
error in favor of

Jeddiah Jack's Mistake
in error against the People depts in error
Returnable & J. Jack Pro se

Jacob Johnson Esq. Ills

Judicial Sack
plaintiff in error

vs

The People,
defendants in error.

error to Missouri

Filed 21. Nov. 1855

A. Johnston Clerk

SUPREME COURT, STATE OF ILLINOIS, FIRST GRAND DIVISION.

November Term, 1857.

J. JACK,
vs.
THE PEOPLE } Error to Massac.

In this cause pl'ff in error together with others entered into a joint and several Bond of Recognizance for the appearance of Lane to answer a criminal charge, which Recognizance was executed as Record shows, on 14th day of June, 1852.

On the 11th Oct., 1852, Indictment was preferred by the G. Jury vs. s'd Lane, and on the 20th Oct., 1852, the Record shows that a forfeiture of said Recognizance was taken, and that capias and sci. fa. issue, &c.

On the 20th of Oct., 1852, the record shows that said Recognizance was forfeited.

On the 17th June, 1853, Pl'ff in Error waived service of process, and appeared to the cause in the C. C., and afterwards on the same day the s'd court rendered judgm't vs Jacob Mussulman alone, one of the assignors.

The Pl'ff in Error on the 17th June, 1853, pleaded for himself specially, the following plea, to wit:

And for a further plea in this behalf the s'd J. Jack for himself specially says actio non. because he says that at the time of the execution and signature by him of the s'd Recognizance in s'd sci. fa. mentioned, he was and still is an Att'y and Counsellor at Law, and this he is ready to verify wherefore he prays judg't.

DAVIS for Def't.

Demurrer filed to above plea and joinder in the same—which was by the Court sustained.

At the Oct. T., 1854, the pl'ff in error pleaded as follows:

That principal, A. Lane, had before that time departed this life, which was traverseed, and issue joined.

And afterwards at the Oct. T. of s'd Court on the 24th day of said month the Court ordered execution against said Pl'ff in Error, for the sum of five hundred dollars, which order of judg't. to Pl'ff in Error is assigned by the Pl'ff in Error as an Error in the Court, for which Error he prays that the s'd order and judgm't. may be reversed.

J. JACK, PRO SEL.

J. Jack
in
People

Abstract

8601

Filed 19. May 1857

A. Johnston Clk

Jacob } S. Court Feb V. No. 2 J. 1856.
" }
The People } Error to Marjoe -

Page 2+3 In this cause Pleff in Error together with others entered into a joint and several Bond or Recognizance for the appearance of Lane to answer a criminal charge, which Recognizance was executed as Record shows on 14th day of Jan 1852

Page 5 On the 11 Oct. 1852 indictment was preferred by the G. Jury vs. P. Lane & on the 20 Oct 1852 The record shows that a forfeiture of 2^d Recognizance was taken - & that Copias & Sci Fa issue in

" 5 On the 20 of Oct 1852 the record shows that said Recognizance was forfeited.

" 9 On the 17 June 1853 Pleff in Error waived service of process & appeared to the cause in the C. C. and afterwards on the same day the 2^d Court rendered judgment vs Jacob Musselman alone one of the Copys & Sci Fa -

The Pleff in Error on the 17 June 1853 Pleaded for himself specially the following Plea to wit

(Over)

10 & 11

And for a further Plea in this behalf the
S^r J. Jack for himself specially
says actio non, because he says
that at the time of the Execution & Sig-
nature by him of the, 2^d Recognizance
in 2^d Sec^o fa^o mentioned he was & still
is an atty. and Counsellor at Law &
this he is ready to verify Wherefore he
prays Judgment. Davis for Def^t

11

Memorandum filed to above Plea & joined
in the same - which was by the Court sustained -

12

At the Acte J. 1554. the Plea in Error Pleaded
as follows,

That Municipal A. Lane had before that
time departed this life - which was traversed
& open joined -

And afterwards at the Acte J. of 2^d Court on
the 24th day of said Month, the Court ordered
Execution against said Plea in Error
for the sum of five hundred Dollars
which order of Judge B. Plea in Error is
assigned by the Plea in Error as an Error
in the Court, for which Error he prays
that the 2^d order & Judgment may be
reversed - I Jack Pro^o

No 21

J. Jackson
vs
People }

Abstract

Filed 17. Nov. 1856

N. Schmitt Clerk

Paid by Mr. Jackson
\$1.25

J. Jackson Pro se

No 6

Nov. 1857

J. Lusk

ms

The People

8601

Given to Massac

Affirmed