No. 8450

Supreme Court of Illinois

Curtis & Curtis

vs.

Williams & Spring

71641 7

Know all men by these presents, that we, John Curtis, William Curtis and Mark E. Thompson of the County of Edwards and State of Illinois, are held and firmly bound unto Jonathan B. Williams and Lebbeus E. Spring trading and doing business under the name, firm and style of Williams and Spring — who sue for the use of Christian Kratz and William Hickman, in the penal sum of Six 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 20th day of August A.D. 1860.

The condition of the above obligation is such, that whereas, the said Jonathan B. Williams & Lebbeus E. Spring — trading and doing business under the name, firm and style of Williams and Spring — who sue for the use of Christian Kratz and William Hickman, did, at the April Term A.D. 1860, of the Circuit Court of the County of Edwards, in the State of Illinois, recover a Judgment against the above bounden John Curtis and William Curtis for the sum of Three Hundred and fifty seven dollars damages — and also for the costs of suit; from which said Judgment, they, the said John Curtis and William Curtis, have sued out their writ of error to the Supreme Court, and the same, by order of one of the Justices of said Court, has been directed to be made a Supersedeas. Now if the said John Curtis and William Curtis shall duly prosecute their said writ of error with effect, and shall moreover pay the amount of the Judgment, costs, interest and damages rendered and to be rendered against them, in case the said Judgment shall be affirmed in the said Supreme Court, then the above obligation to be void, otherwise

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to remain in full force and virtue.

Wm Curtis
John Curtis
A L Mansfield

Signed, sealed and delivered
this 20th day of August
A.D. 1865, in presence of
W. A. Montgomery
Alan Edmundson

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John Curtis and
William Curtis
Pltffs in error
vs
Jonathan B. Williams &
Charles E. Spring-
~~taking~~ under the
firm and style of
Williams & Spring - who
sue for the use of
Christian Kratz &
William Hilman.
Defts in error

Supersedeas bond —

Filed August 23. 1860
N. Johnston Cl

At a Circuit Court begun and held at Albion in and for the County of Edwards and State of Illinois on Monday the 16th day of April in the year 1860

Present

Hon Ebenezer Beecher, Judge

Be it remembered that heretofore to wit on the 23d day of March 1860 Jonathan B Williams and Charles E Spring trading by Style and firm of Williams & Spring who sue for the use of Christian Kratz and William Heilman by their Attorney filed in the Clerks office of said Circuit Court their Cert. bond precipe and declaration in words and figures following to wit.

(Cert Bond and Precipe)

" Edwards County & Circuit Court
April Term 1860

Jonathan B Williams &
Charles E Spring who sue for
the use of Christian Kratz &
William Heilman
vs
John Lewis and
William Lewis

Trespass on the Case on
promises
Damages $400-00

I hereby enter myself security for all cost that may accrue in the above Styled Cause either to the opposite parties or any of the Officers of this Court and I hereby bind myself to pay or cause to be paid the same in pursuance of the laws of this State, Dated March 21st 1860

John M Crebs

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The Clerk will please issue summons in the above Styled Cause returnable according to law. and Oblige

John M Crebs
Atty for Plffs,

(Copy of Declaration)

" Edwards County Circuit Court
April Term 1860

Jonathan B Williams and Charles E Spring trading by Style and firm of Williams and Spring who sue for the use of Christian Kratz & William Weilman the Plaintiffs in this suit complain of John Lewis and William Lewis the Defendants being summoned &c. of a plea of trespass on the case on promises. For that the said Defendants heretofore to wit. on the 12th day of July 1859 to wit at the County of Edwards and State of Illinois by Style and name of John Lewis and William Lewis made their certain promissory Note in writing the date whereof is the day and year last aforesaid, and there and there delivered the same to said Jonathan B Williams and Charles E Spring whereby they or either of them promised on or before the 25th day of December next to pay to the order of said Plaintiffs by Style and name of Williams and Spring the sum of Three hundred and fifty Dollars for value received. By means whereof and by force of the Statute in such case made and provided.

said Defendants then and there became and were liable to pay said Plaintiff the said sum of money in said promissory note specified according to the true intent tenor & effect thereof. And being so liable they the said Defendants in consideration thereof afterwards to wit on the day & year last aforesaid to wit at the County & Licinit aforesaid, undertook & then and there faithfully promised said Plaintiff to pay them the said sum of money in said promissory note specified according to the true intent tenor and effect thereof. Nevertheless the said Defendants not regarding their said promises and undertakings but contriving and intending to deceive and defraud the said Plaintiff in this behalf hath not as yet paid the said sum of money in said promissory note specified or any part thereof to said Plaintiff or to said Christian Kratz & William Heilman for whose use the said Plaintiff sue or to any one for them or either of them Although said Defendants have been often requested so to do, But to pay the same or any part thereof said Defendants hath hitherto wholly neglected and refused & still doth neglect and refuse. to the Damage of said Plaintiff Four Hundred Dollars they sue &c.

John M Coleto Atty

"Copy of Note Sued on"

"Gravillo July 12th 1859

On or before the 25th day of December next we or either of us promise to pay to the order of

Williams & Spring Three Hundred & fifty Dollars for Value rec'd,

John Coutes
Wm " Coutes "

And afterwards to wit on the 23d day of March 1860 a Summons issued out of the Clerks Office of the Circuit Court of said Edwards County in the State of Illinois in the words and figures following to wit.

" State of Illinois
Edwards County } ss
The People of the State of Illinois.
To the Sheriff of Edwards County Greeting:

We Command you to Summon John Coutes & William Coutes if to be found in your County, to appear before the Circuit Court of Edwards County, on the first day of the next term thereof, to be holden at the Court House in Albion on the third Monday in the month of April next, to answer Jonathan B Williams and Charles E Spring who sue for the use of Christian Kratz & William Heilman of a plea of trespass on the case on promises Damages Four hundred Dollars as they say and hereof make due return to our said Court as the law directs,

Witness Walter L Mayo, Clerk of our said Court and the seal thereof at Albion this 23d day of March AD, 1860

Walter L Mayo, Clerk "

And upon which said Summons the Sheriff of the said County of Edwards in the State of Illinois made the following return endorsed thereon Viz:

"The within Served according to law March 31st 1860 by reading Same to him

W. A. Montgomery. Shff
E. C. Ills"

And afterwards to wit on the 17th day of April 1860 being the second day of the April term 1860 of the said Edwards County Circuit Court in the State of Illinois the following Judgment was rendered by the said Court in said Cause Viz.

"Jonathan B Williams and Charles E Spring, trading by Style and firm of Williams and Spring who sue for the use of Christian Kratz and William Heilman

vs

John Curtis and William Curtis

Assumpsit

At this day come the plaintiffs by their Counsel, and the Defendants being three times Severally, Solemnly called came not but made default, It is therefore Considered that the plaintiffs recover of the said

Defendants their damages sustained by reason of the non performance of their said premises. And it is further Ordered that as this suit is brought on an instrument of writing for the payment of money only the Clerk compute the interest and report the damages to the Court, and the Clerk having reported the damages to be $357-00

Whereupon it is considered and adjudged by the Court that the said plaintiffs recover of the said Defendants the said sum of Three hundred and Fifty Seven Dollars being their damages aforesaid, together with their costs about their suit in this behalf expended. And thereof have Execution &c"

State of Illinois }
Edwards County } ss I, Walter L. Mayo, Clerk of the Circuit Court of said Edwards County in the State of Illinois, do hereby certify that the foregoing six pages contain a full, complete and entire transcript of the record and papers as the same appear in my Office in the Cause entitled "Jonathan B. Williams and Charles E. Spring, trading by Style & firm of Williams and Spring, who sue for the use of Christian Kratz and William Keilman against John Curtis and William Curtis in an action of Assumpsit"

Given under my hand and seal of Office at Albion this 16th day of May 1860

Walter L. Mayo, Clerk

Transcript –

Williams & Spencer who sue &c

vs

John Curtis & Wm Curtis

[3-9548]

The Defendants here assign the following Errors upon this Record;

First – The Sheriffs return on the Summons below was insufficient.

Second – The Court below erred in rendering judgement for Plaintiffs below.

Elliott & Beecher Attys
for Defts below

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State of Illinois

Supreme Court

First Grand Division s.s.

At the November Term thereof A. D. 1860.

John Curtis & William Curtis
Plaintiffs in Error

vs

Williams & Spring who sue &c
Defendants in Error

This was an action of Assumpsit commenced by the Defendants in Error against the Plaintiffs in Error in the Edwards Circuit Court at the April Term A.D 1860.

Summons issued in the usual form on the 23d day of March A. D. 1860, against Plaintiffs in Error in favor of Defendants in Error.

Declaration filed in the usual form on the 23d of March A. D. 1860.

On the back of the aforesaid summons the Sheriff made the following return.

"The within served according to Law, March 31st 1860 by reading same to him

W. A. Montgomery Shff
Edo Ills."

At the April Term 1860 of said Court judgement by default was rendered against Plfs in Error in favor of

Defendants in Error.

These were all the proceedings had in said cause.

Plaintiffs in Error rely upon the following point for the reversal of said judgement.

The return on said summons does not show a sufficient service on the defendants in the Court below.

C. A. Beecher & Geo. R. Fitch
for Plaintiffs in Error —

State of Illinois
Supreme Court
First Grand division S.S.
At the November Term thereof held at Mount Vernon
A.D. 1860.

John Curtis & William Curtis
Plaintiffs in Error

als

Williams & Spring who sue &c
Defendants in Error.

George R Fitch being duly sworn deposes and says that Moses L. Thompson whose name is presented on the ~~above~~ Cost Bond in the above entitled cause is amply good for all cost, debt and damages that may accrue in said cause.

George R. Fitch

Subscribed and sworn to before me this 3d July 1860

Witness my hand and seal of office at Albion this day and year above written

Walter L Mayo, Clk
Cir. Court Edwards Co, Ills

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State of Illinois

Supreme Court

First Grand Division ss.

At the November Term thereof A. D. 1860,

John Curtis & William Curtis
Plfs in Error

als

Williams & Spring who sue &c
Defts in Error

The Plaintiffs in Error present the name of Moses L. Thompson as security for all cost debt and damage that may accrue in the above entitled cause.

John Curtis & William Curtis - Plffs in error -
vs
Jonathan B. Williams & Charles E. Spring - Trading under the name & style of Williams & Spring - who sue for use of Christian Hratz & William Williams
Defts in error -

Error to Edwards -

Filed August 23. 1860 -
N. Sylvester Cl

Reversed & c. &c

Clerks fees

Add a dispatch fee on fees & costs
Receipts with Moses L. Thompson security
in the penalty of twenty dollars security
& costs &c

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Know all men by these presents, that We John Curtis, William Curtis and Moses L Thompson of the County of Edwards and State of Illinois, are held and firmly bound unto Jonathan B Williams and Charles E Spring trading by Style and firm of Williams and Spring, who sue for the use of Christian Kratz & William Heilman in the penal sum of Six Hundred Dollars, Current 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, severally, and firmly by these presents. Witness our hands and seals this 4th day of August A.D. 1860

The Condition of the above Obligation is such that whereas, the said Jonathan B Williams and Charles E Spring trading by Style and firm of Williams & Spring who sue for the use of Christian Kratz and William Heilman did at the April Term A.D. 1860 of the Circuit Court of Edwards County and State of Illinois, recover a judgment against the above bounden John Curtis & William Curtis for the sum of Three Hundred and fifty Seven dollars and Cost from which said judgment of the said Circuit Court the said John Curtis and William Curtis has prayed for and obtained an appeal to the Supreme Court of said State, Now if the said John Curtis and William Curtis shall duly prosecute their said Appeal with Effect and shall moreover pay the amount of the judgment, costs, interest and Damages, rendered and to be rendered against them, in case the said judgment shall be affirmed in the said Supreme Court then the above Obligation to be void, otherwise to remain in full force and virtue.

John Curtis (Seal)
Wm Curtis (Seal)
Moses L. Thompson (Seal)

(8450-10)

Know all men by these presents, that We John Lewis,
William Lewis and Thomas Lewis of the County of
Monroe and State of Illinois, are held and firmly bound unto
Abraham Ib Williams and Charles I Spencer trading in style
and firm of Williams and Spencer, in the just and lawful sum
of Three Hundred and Twenty Dollars, to the payment of which
well and truly to be made, we bind ourselves, our heirs, executors and
administrators firmly by these presents. Witness our
hands and seals this 4th day of August A.D. 1836.

The condition of the above obligation is such
that whereas, the said Abraham Ib Williams and Charles
I Spencer trading in said firm of Williams + Spencer
obtained judgment at the June term A.D. Eighteen Hundred and
forty three of the Monroe County and State of Illinois, against
defendants and said John Lewis and William
Lewis for the sum of Three Hundred and fifty
dollars and cost from which said judgment
appeal was taken and the said John Lewis and William
Lewis has prayed for an Appeal to the
Supreme Court of said State, now if the said John Lewis
and William Lewis shall duly prosecute their said
appeal with effect and shall answer for the amount
of the judgment, cost, and interest and damages, including
such as be awarded against them, in case the said
judgment shall be affirmed in the said Supreme Court
then the above obligation to be void, otherwise to remain in
full force and virtue.

John Lewis (seal)
William Lewis (seal)
Thomas L. Lewis (seal)

Mansfield Ills June 6th

N Johnson Esq

Dear Sir

I send you the enclosed record at the request of a friend, I am not well enough posted to know whether the record should be sent to you on one of the judges for a supersedeas. The defendants in error reside in Lewis Co. If you notice anything wrong in the papers, I wish you would inform me at once, I send you $5

Yours truly

C A Beecher

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Albion Ills Aug 21st 1860

Dear Sir -

Enclosed please find Bond for costs in the case of Curtis & Curtis vs Williams & Spring &c, sent to me by your same days mail - I trust this may be right

Very Respectfully

Geo. R. Fitch

[8450-12]

State of Illinois,
SUPREME COURT,
First Grand Division. } SS

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Edwards 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* Edwards *county, before the Judge thereof between* Jonathan B. Williams & Charles E. Spring by firm, name & style of Williams & Spring who sue for the use of Christian Kratz & William Hilbrun *plaintiffs and* John Curtis & William Curtis *defendants it is said manifest error hath intervened to the injury of the aforesaid* John Curtis and William Curtis - - - - - - - - - - *as we are informed by* their *complaint, and we being willing that error, if any there be, should be corrected 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 our Supreme Court 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 Tuesday 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.*

WITNESS, *the Hon.* John D. Caton *Chief Justice of the Supreme Court and the seal thereof, at* MOUNT VERNON, *this* 23d *day of* August *in the year of our Lord one thousand eight hundred and* Sixty.

Noah Johnston
Clerk of the Supreme Court.

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SUPREME COURT.

First Grand Division.

John Curtis and
William Curtis -

Plaintiffs in Error,

VS.

Williams & Spring - who
sue for use &c /

Defendants in Error.

WRIT OF ERROR.

Issued and made
a Supersedeas
and FILED 23 Aug.
1865 -
N. Johnston Clk
//

This cause is made a Supersedeas and
is to be disposed accordingly.
Noah Johnston Clk
//

State of Illinois Edwards County ss

Edwards County Circuit Court

April Term 1860.

Jonathan B Williams &
Charles E Spring who sue for
the use of Christian Kraly &
William Hillman

vs

John Curtis and William Curtis

Trespass on the common premises.

Damages $400.00.

I hereby enter myself Security for all costs that may accrue in the above entitled cause either to the opposite parties or any of the Officers of this Court and I hereby bind myself to pay or cause to be paid the same in pursuance of the laws of this State, Dated June 6th 1860.

Geo. R. Fitch,

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Cost Bond

State of Illinois

Supreme Court, November Term 1860

William Curtis et al

v. } Ezra D. Edwards

I do hereby enter myself security for costs in this cause and acknowledge myself bound to pay or cause to be paid all costs which may accrue in this cause either to the opposite party or to the Officer of this Court in pursuance of the Statutes of this State, dated this 11 June A.D. 1860

L. A. Beecher Esq.

[3450-15]

Albion Edwards Co Ills
August 6th 1860.

Noah Johnson Esq
Mount Vernon Ills

Dear Sir,

Enclosed I send you Bond in the case of Barnett & Curtis vs Williams & Spring, taken up from this County on which a Supersedeas has been granted by Judge Breese. You will observe the Bond is drawn in the same form as if taken up on Appeal.

I presume if not properly drawn it could be amended. If otherwise you will confer a great favor by correcting the same and returning to me or by sending me the form of a Bond properly drawn to suit case in point. I am inexperienced in

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matters of this kind and this is my apology for asking such a favor at your hands.

Hoping in case the enclosed Bond should be insufficient, to hear from you soon. I am

Yours Very Respectfully
George R. Fitch

State of Illinois

Supreme Court. November Term 1860

William Counts et al

v. } Error to Edwards

The Clerk will please docket the above entitled cause and issue summons to White County for County, to defendants in Error

Thos. J. Beecher

for Plaintiff in Error

June 15 1860.

[8450-17]

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Curtis & Curtis
Pltffs in error

vs

Williams & Spring - for
error to.
Deftts in error

Praecipe

Filed Aug. 23. 1860
A. Johnston Clk

State of Illinois,
SUPREME COURT,
First Grand Division. } SS

The People of the State of Illinois,

To the Sheriff of White 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 Edwards county, before the Judge thereof between Jonathan B. Williams & Charles E. Spring under the name, style & firm of Williams & Spring who sue for use of Christian Kretz & William Hillman plaintiffs and John Curtis & William Curtis defendants it is said that manifest error hath intervened to the injury of said John Curtis and William Curtis as we are informed by this 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 Mount 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 Jonathan B. Williams & Charles E. Spring by firm name and style of Williams & Spring who sue for use of Christian Kretz and William Hillman that they be and appear before the justices of our said Supreme Court; at the next term of said Court, to be holden at **Mount Vernon**, in said State, on the first Tuesday after the second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if they 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 Williams, Spring, ~~Kretz & Hillman~~ notice together with this writ.

WITNESS, the Hon. John D. Caton Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this 23d day of August in the year of our Lord one thousand eight hundred and Sixty.

Noah Johnston
Clerk of the Supreme Court.

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15

SUPREME COURT.

First Grand Division.

John Curtis and
William Curtis

Plaintiffs in Error,

vs.

Williams & Springer Dec'd

Defendants in Error.

Sheriff's F. & W. Stonebe
Serving on Two 100
Mileage on Two w mile 200
Returning 10
SCIRE FACIAS.
Postage — 3
3.13

FILED.

The writ of error herein has been issued and filed in this cause, is made a Supersedeas, and is hereby, is to be adjudged by all concerned.

Noah Schuyler Clk

I have served the annexed Scire Facias to a copy thereof on Williams & Thomas Defendants in Error by delivering to each of them personally at Springfield Sangamon Co on the 29th day of December A.D. 1860

W. H. Lamphier
Sheriff

The People of the State of Illinois, ss.

SUPREME COURT,
Second Grand Division.

Appeal from Sangamon County.

Court of Appeals, Second Division, at Mount Vernon, this _____ day of _____ A.D. 18_____

WITNESS, the Clerk of said Court and the seal thereof, at Mount Vernon, this _____ day of _____ A.D. 18_____

_____ Clerk.

No 15

Nov. Term 1860.

Curtis & Curtis

vs

Millerin & Spring

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Dismissed for want of prosecution

Cost bill on page 420