No. 8589

Supreme Court of Illinois

Lucinda Stringer et al

vs.

James Fackney

71641 7

At a Circuit Court begun and holden at the Court House in the town of Carmi, in and for the County of White and State of Illinois on the fifth day of April in the year of our Lord one thousand eight hundred and fifty eight, for the Chancery side thereof, sitting:

Present the Honorable Edwin Beecher Sole Judge presiding

It is remembered that heretofore to wit, on the Twentieth day of March in the year of our Lord one thousand eight hundred and fifty eight, James Hackney, by John E. Whiteside his Solicitor, filed in the Clerks Office of our said Court his Bill in Chancery to foreclose a Mortgage &c against Lucinda Slinger and others, in the words and figures following to wit:

Bill.

State of Illinois } White Circuit Court
White County } April Term 1858

To the Honorable Edwin Beecher Sole Judge of the Circuit Court for the County of White under State of Illinois in Chancery sitting:

The Petition of James Hackney of said County humbly complaining would respectfully represent unto your Honor that heretofore to wit, on the 9th day of December in the year of our Lord one thousand eight hundred and fifty six, one Solomon Varies being justly indebted to your Petitioner in the sum of Fourteen hundred and fifty dollars the same being a part of the consideration of purchase money for Lot number Ninety Seven, in the town of Carmi Illinois, before that time bought by the said

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Solomon Vories from your Petitioner which said Lot No. Ninety Seven is situate in the town of Carmi County of White and State of Illinois, that heretofore to wit, on the 18th day of July in the year of our Lord one thousand eight hundred and fifty six, your Petitioner being indebted to one Andrew Smith in the sum of one thousand dollars gave to the said Smith his promissory note for the sum sum of One thousand dollars bearing date on the said 18th day of July 1856, and made due and payable twelve months after the date thereof, and drawing interest at the rate of ten per cent per annum, that in order to fully secure the said Andrew Smith in the payment of the said promissory note, your Petitioner heretofore to wit; on the said 18th day of July in the year 1856 made executed and delivered to the said Smith a Mortgage deed on the said above described lot No 97 and also upon Lot No 104 in the said town of Carmi in the County of White and State of Illinois, that in said Mortgage deed, your Petitioner stipulated and agreed among other things that he would pay off satisfy and discharge said promissory note on or before the same should become due and payable and in default of making such payment then and in that case the said Mortgage deed was to become absolute, which said Mortgage was duly acknowledged by your said Petitioner and Recorded in the office of the Recorder of White County in Record Book O. Pages 335 & 336.

Your Petitioner would further represent unto your Honor that the said Solomon Vories as a part of the

Consideration of said lot undertook and promised your Petitioner to pay off satisfy and discharge said note and Mortgage by your Petitioner to the said Andrew Smith on or before the same became due and payable, and for the balance of said sum of Fourteen hundred and fifty dollars he the said Solomon Vories gave to your Petitioner his promissory note for the sum of Four hundred and fifty dollars bearing date on the 9th day of December 1856 and made due and payable twelve months after the date thereof with ten per cent interest

Your Petitioner would further represent unto your Honor that the said Solomon Vories being desirous of fully securing to your Petitioner payment of the said sum of Four hundred and fifty dollars in said promissory note specified, and the said sum of One thousand dollars due from your Petitioner to the said Andrew Smith, and being desirous of saving your Petitioner harmless from the payment of said sum of one thousand dollars or any part thereof, he the said Solomon Vories together with Lucinda his wife made executed and delivered to your Petitioner a Mortgage on the following described real estate situate in said County of White, to wit; Lot number Twenty Seven and its appurtenances in the town of Carmi in the County and State aforesaid which said Mortgage from Solomon Vories and Lucinda Vories bears date on the third day of January in the year 1857 and in which said Mortgage they the said Solomon Vories and Lucinda his wife among other things stipulate and agree to fully pay off satisfy and discharge

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the said sum of One thousand dollars owing by your Petitioner to the said Andrew Smith, and all interest accruing after the 6th day of December 1856 on or before the same became due and payable, and to save your Petitioner harmless from the payment of said promissory note or the interest thereon or any part thereof, and that in case any part thereof should be paid by your Petitioner then and in that case they the said Solomon Vorier and Lucinda stipulated and agreed to repay to your Petitioner all such sum of money as he might have to pay to the said Andrew Smith on the note or Mortgage aforesaid, and they the said Solomon & Lucinda further stipulated and agreed in said Mortgage, that they would pay off satisfy and discharge the said promissory note given by the said Solomon to your Petitioner for the said sum of Four hundred and fifty dollars on or before the said promissory note became due and payable, and in default of payment being made according to the tenor and effect of said note and Mortgage, then and in that case the said Mortgage was to become absolute.

Your Petitioner would further represent unto your Honor that the said Solomon Vorier wrote the Mortgage from himself and wife to your Petitioner, and not at the time having the note of the said Smith before him left a blank in the said Mortgage from himself and wife to your Petitioner as to the time when the said note from your Petitioner to the said Andrew Smith became due and that said blank by omission on the part of said Vorier never was filled up, but that said note became due

and payable on the 18th day of July 1857. That the said promissory note given by the said Solomon Voice to your Petitioner for the said sum of four hundred and fifty dollars became due and payable on the 9th day of December 1857

Your petitioner would further represent unto your Honor that heretofore to wit, on the day of 18 your Petitioner filed a Bill in the White Circuit Court praying a foreclosure of the said Mortgage on account of the non payment of the said sum of One thousand Dollars (by the said Solomon Voice) to the said Andrew Smith, and on account of the non payment of the interest thereon the said one thousand dollars having before that time (i e) before the filing of said bill became due and payable and the said sum of four hundred and fifty dollars not at that time having become due – that the said Bill heretofore filed as aforesaid is still remaining in said Circuit Court undisposed of.

Your Petitioner would further represent unto your Honor that although the time stipulated for the payment of said sum of One thousand dollars to the said Andrew Smith and the time stipulated for the payment of the said sum of four hundred and fifty dollars to your Petitioner have long since elapsed, yet neither the said Solomon Voice nor any one for him have ever paid either the said sum of one thousand dollars or any interest thereon, or any part thereof or the said sum of four hundred and fifty dollars or any interest thereon or any part thereof but that the same and

every part thereof remains due and unpaid.

Your Petitioner would further represent unto your Honor that the said Solomon Vorier heretofore to wit, on or about the day of 18 departed this life intestate leaving at the time of his death a widow to wit Lucinda who has since intermarried with one Thomas Slinger and one child to wit, Lucinda who intermarried with one James P Boyd all of whom are prayed to be made defendants hereto. That no administration has ever been granted upon the estate of the said Solomon Vorier deceased

Your Petitioner would further represent unto your Honor, that heretofore to wit, on the 17th day of August in the year 1837 your Petitioner fully paid off and ~~discharged~~ satisfied the said sum of One thousand dollars to the said Andrew Smith together with all interest which had accrued thereon which said promissory note and Mortgage were duly endorsed satisfied by the said Andrew Smith, and surrendered up to your Petitioner which said note and Mortgage are herewith filed marked respectively (A) and (B) and prayed to be taken as part of this Petition of which payment and satisfaction the said defendants have been duly notified

That although your Petitioner paid off and satisfied said note and Mortgage to the said Andrew Smith, and although due notice thereof has been given to the said defendants yet neither the said Solomon Vorier, nor the said defendants, nor any, nor either of them, nor any one for them has ever refunded to your Petitioner the said sum of money so paid by him nor any part thereof

Therefore in consideration of the premises and in as much as your Petitioner can have no relief at law and can alone be relieved in a Court of Equity where matters of this kind are properly cognizable and relievable, your Petitioner would humbly pray your Honor to allow him to dismiss his first mentioned bill heretofore filed, that your Honor may take an account of the amount now due and owing to your Petitioner as well for the amount paid by him to the said Andrew Smith in satisfaction of said Note and Mortgage given by your Petitioner to the said Smith, as also the said Note given by the said Solomon Vorier to your Petitioner for the said sum of four hundred and fifty dollars, and interest thereon according to the tenor of said promissory note, and also for the costs ~~and~~ expended by your Petitioner in his first mentioned Bill to foreclose — that your Honor may order and decree that the said defendants pay the amount so found due to your Petitioner within a short day to be fixed by this Honorable Court, and in default of such payment being made within the time so limited then and in that case that your Honor may further order and decree a Sale of the said Mortgaged premises in satisfaction of the amount so found due as aforesaid, that your Honor may appoint some discreet person to act as Commissioner herein, investing said Commissioner with full power and competent authority to make Sale and Conveyance of the said Mortgaged premises in satisfaction of the decree to be rendered in favor of the said defendants as aforesaid, that out of the proceeds of such sale, your Honor may order the said Commissioner to first pay the

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amount so found due your Petitioner as aforesaid, and the costs of this suit, and the balance if any to the said defendants — that your Honor may require said Commissioner to report his proceedings herein to this Honorable Court. That your Honor may grant such other and further relief in the premises as may be just and right and in accordance with equity and good conscience always.

May it please the Court to grant to your Petitioner the Proper Writ of Summons so Commanding them to directed to the said defendants so and your Petitioner as in duty bound will ever pray &c

James Hackney

J E Whiting Atty

The following is Exhibit Marked (B.) referred to in said petition, prayed to be made part of same and filed herein being the Mortgage from James Hackney to Andrew Smith, to wit

J Hackney to A Smith Exhibit B.

"This Indenture made and entered into this 18th day of July 1856 between James Hackney of the County of White and State of Illinois of the first part, and Andrew Smith of the same County and State aforesaid of the second part Witnesseth that the said party of the first part for and in consideration of the sum of One Thousand Dollars in hand paid the receipt whereof is hereby acknowledged has bargained granted and sold and does hereby give grant bargain sell alien release convey and confirm unto the said party of the second part his heirs and assigns forever, viz, those two

Lots of ground situated in the town of Carmi County of White and State aforesaid and numbered and described on plat of said town as lots No. Ninety Seven (97) and No. One hundred and four (104) together with the buildings thereon and all appurtenances thereunto belonging or in any wise appertaining. To have and to hold the above lots of ground and buildings thereon to the only proper use benefit and behoof of him the said party of the second part his heirs and assigns forever. This deed is made nevertheless subject to the following Condition, that whereas the said James Hackney has this day executed to the said Andrew Smith his certain promissory note bearing even date with this deed and for the sum of One thousand dollars made payable on the 18th day of July 1887 Now therefore if the said James Hackney shall well and truly pay or cause to be paid said note when the same shall become due then and in that case these presents and every part thereof to be null and void, otherwise to remain in full force and virtue

(Condition)

In testimony whereof the said James Hackney has hereunto set his hand and affixed his seal the day and year first above written

Witness Solomon Vorin — James Hackney (Seal)

State of Illinois
White County ss. Before the undersigned Clerk of the Circuit Court in and for said County, this day personally appeared James Hackney who is personally known to me to be the identical person whose signature appears to the within

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and foregoing deed as having executed the same and who then and there before me acknowledged the execution thereof to be his free and voluntary act and deed for the uses and purposes therein contained

In testimony whereof I have hereunto set my hand and affixed my seal of Office at Cairo this 18th day of July A.D. 1856

Johnson Vonier Clerk

Upon which said Mortgage and exhibit the following indorsements appear to wit,

(Filing) "Filed July 18th 1856 and Recorded in my office in Book O. Pages 335 & 336" J. Vonier R.W.C

(Satisfaction) The within Mortgage is duly satisfied in full August 17th 1857
Andrew Smith

The following is Exhibit (H) referred to in said petition, so marked, prayed to be made part of the same and filed herein, being the note from James Hackney to Andrew Smith

(Hackney to Andrew Smith Exhibit H.) "$1000.00/00 Cairo 18th July 1856

Twelve months after date I promise to pay to the order of Andrew Smith the sum of One Thousand dollars 0/100 for value received, with ten per cent ~~xxxxxx~~ per annum interest

James Hackney

Upon which said note indorsements were made in the words and figures following to wit;

Receipt 1st 1857 July 20. Received on the within interest to date $100.00
also premium on N. B. of Exchange — — — 7.50

Rect 2nd August 17th 1857 Received payment on the within Note
by James Hackney

Andrew Smith

The following is the Mortgage referred to in said petition
from Solomon Vorier and Lucinda his wife to James
Hackney, and filed herein, to wit;

S Vorier Dux to J Mort. J Hackney

This deed made this third day of January in the year 1857
between Solomon Vorier and Lucinda his wife parties of the
first part and James Hackney party of the second part all
of the County of White and State of Illinois, Witnesseth;
That the said parties of the first part for and in consideration
of the sum of Fourteen hundred and fifty dollars lawful
money of the United States to them in hand paid by the said
party of the second part and the receipt whereof is hereby
acknowledged have granted bargained and sold aliened
released conveyed and confirmed and by these presents do
grant bargain and sell alien release convey and confirm
unto him the said party of the second part all that certain
tract of land & parcel of ground or Town Lot situated lying
and being in the town of Carmi, County and State
aforesaid, and known numbered and described in the
plan or plat of said Town as Lot Number Ninety seven
(97) Together with all and singular the rights privileges
and appurtenances thereunto belonging or in any wise

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appertaining to have and to hold the above described town lot and appurtenances to the only proper use benefit and behoof of him the said party of the second part his heirs and assigns forever.

Condition) This deed is nevertheless made subject to the following condition, that is to say, Whereas the said James Tackney heretofore, to wit, on the 6th day of December 1856 bargained and sold and by Deed of that date conveyed the above described town lot to the said Solomon Voris and Lucinda Pumroy, (now Lucinda Voris, having since that time intermarried with the said Solomon Voris) as tenants in common for the consideration or price of $2000.00 and whereas the said Tackney heretofore to wit, on the day of 1856 in consideration of the sum of $1000.00 loaned to him by one Andrew Smith of the County and State aforesaid, made executed and delivered his certain promissory note to said Smith for that sum made due and payable after date with interest thereon from date until paid at the rate of 10 per cent per annum, and to secure the payment of said note, the said Tackney executed and delivered to said Smith a Deed of Mortgage (among other real estate) on the said above described town lot No 97, And whereas also the said Solomon Voris for a part of the purchase money for said town lot so sold and conveyed to him and the said Lucinda Pumroy as tenants in common as aforesaid, on the said sixth day of December 1856 executed and delivered to the said Tackney his certain promissory note for $450.00 due twelve months after date with ten per cent per annum interest thereon from

date until paid, and the said Solomon Yorie having agreed to pay the said Note to the said Andrew Smith for the said sum of One thousand dollars with said rate of interest from said 6th day of December 1856 until paid.

(Consideration) Now therefore if the said Solomon Yories shall well and truly pay satisfy and discharge said note to said Smith above described, and shall save and keep the said Hackney safe and harmless from the payment of any part of the principal of said note note, or any interest accruing after the said 6th day of December 1856 and shall well and truly repay to said Hackney all or any part of said note or interest accruing as aforesaid, which he may have to pay in consequence of his have executed and delivered said note to said Smith, And also shall well and truly pay satisfy and discharge said note to said Hackney for said sum of $450.00 together with all interest accruing or to accrue thereon agreeable to the true intent tenor and effect of said note, and at the time the same shall become due. Then this Deed and every part thereof is to be ~~[illegible]~~ utterly null and void to all intents and purposes as if the same had never been made or executed

In testimony whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written

Solomon Yorie (Seal)
Lucinda Yorie (Seal)

(Acknowledgment.) State of Illinois White County, ss

Before the undersigned Clerk of the County Court

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in and for said County this day personally appeared Solomon Vories and Lucinda ~~Vories~~ his wife who are both personally known to me to be the real persons whose signatures appear to the above and foregoing deed as having executed the same and who then and there before me severally acknowledged the ~~same~~ execution thereof to be their free and voluntary act and deed for the uses and purposes therein mentioned, and the said Lucinda wife of the said Solomon Vories after having first had the contents of said deed made known to her fully explained to her, and being by me examined separate and apart from her said husband, she then and there before me acknowledged the execution of said deed on her part to be her free and voluntary act and deed, and that she thereby relinquished all her right whether as dower or otherwise, in and to the Real in and by said deed conveyed without any force compulsion or undue influence of her said husband for the uses and purposes in said deed expressed, and does not wish to retract

Given under my hand and seal of Office at Carmi this 10th day of January A D 1857

R S Graham Clerk

(Release)

Upon which said Mortgage the following endorsement is made to wit;

"Filed April 15th 1858, and Recorded in Book. II. Pages 525. 6 & 7

J B Hinds R.W.C.

The following is the note, filed herein, and referred to in said petition, from Solomon Voris to James Hackney to wit,

S. Voris to J. Note J. Hackney

" $450.00 Carmi 9th December AD 1856

Twelve months after date, I promise to pay James Hackney or order Four hundred and fifty dollars with interest thereon at the rate of 10 pr. ct. pr. annum from date until paid, being for a ballance of my purchase money due him on Lot No 97 in the Town of Carmi, sold and conveyed to me by him by deed dated on the 6th Decr. 1856

Solomon Voris

Then afterwards to wit, on the 17th day of March in the year of our Lord 1858 the following Summons in Chancery was issued, in the words and figures following, to wit,

Summons " State of Illinois

White County ss The People of the State of Illinois to the Sheriff of said County Greeting:

We command you to summon Lucinda Slinger Thomas Slinger Lucinda Boyd and James P Boyd if to be found in your County ~~on the first day of the next term thereof~~ to appear before the Circuit Court of White County on the first day of the next term thereof to be holden at the Court House in Carmi on the first monday in the month of April next to answer a Bill in Chancery to foreclose a Mortgage to file in the Office of the Clerk of the Circuit Court of White County against them by

James Packney, and hereof make return to our said Court as the law directs

Witness James S Wade Clerk of said Court and the Seal thereof at Carmi this 17th day of March AD 1858

J S Wade Clerk

Upon which said Summons the Sheriff, made his return endorsed thereon in the words, and figures following, to wit;

Shff Return) "Executed by giving a true copy of the within Summons to each of the within named Defendants March 26th 1858

J G Powell Shff W C Co

And afterwards to wit, at the April term ~~aforesaid~~ of the Court aforesaid, to wit on the fifth day of April 1858 the following proceedings were had in said Cause, to wit

Rule) James Packney vs Lucinda Slinger et al } Bill to foreclose Mort &c

And now at this day comes the said Complainant by J E Whiting his Solicitor, and on his motion, it is ordered that a Rule be entered herein requiring the said Defendants to answer said Complainants bill by Thursday morning next.

And afterwards to wit at the term of the Court aforesaid to wit on the 7th day of April 1858 comes the said Defendants Lucy Slinger by Robinson & Crabtree their Solicitors, and file herein their Demurrer to the said Complainants bill in the words and figures following, to wit;

Demurrer) "White County & Co Court 5th April Term 1858

(Demurrer)

James Packney
vs
Lucinda Slinger et al

Bill to foreclose

This Defendant Lucinda Slinger by protestation not confessing or acknowledging all or any of the matters of Complt. in said Bill contained to be true in such manner and form as the same are therein and thereby set forth and alledged, doth demur in law to said Bill, and for cause of demurrer sheweth that the said Complt. hath not by his said Bill made such a case as entitles him in a Court of Equity to any relief from or against this defendant touching the matters contained in said Bill or any of said matters. Wherefore and for divers other good causes of demurrer in said Bill of Complt. this deft. doth demur to the said Bill and to all matters and things therein contained, and prays the judgment of this Honorable Court, whether she shall be compelled to make any other or further answer to said Bill, and she humbly prays to be hence dismissed with her reasonable costs in this behalf sustained

And for special cause of demurrer sheweth, that according to the showing of said Bill Complt. fully satisfied and discharged the debt of Smith without notifying this Defendant that the same was due and payable.

It does not appear from said Bill that this Deft. had notice that the debt from the said Smith was due and payable, and owing to the uncertainty of the Mortgage in that respect, Deft. claims that owing to

the death of her husband she was entitled to notice.
It appears from said Bill that the payment of said sum to Smith was voluntary upon the part of Complt. without the solicitation of any one
Said Bill is further defective in attempting to claim the costs occasioned by the dismissal of his former bill

Lucinda Slinger

Robinson & Crebs

And afterwards to wit at the April Term of the Court aforesaid, to wit, on the 8th day of April AD 1858 the following further proceedings were had in said Cause, to wit;

James Pockney
vs
Lucinda Slinger et al

Bill to foreclose Mort &c

Order overruling Demurrer

And now at this day again comes the said Complainant by S. S. Whiting his Solicitor as well as the said defendant Lucinda Slinger by Robinson & Crebs her Solicitors, ~~and the Court having heard the argument of Counsel~~ and this Cause coming on to be heard upon the demurrer filed herein; the Court having heard the arguments of Counsel upon said demurrer to said Complainants bill, and being now here fully advised in the premises. It is ordered adjudged and decreed by the Court that said demurrer be and the same is hereby overruled, and for naught to be esteemed, and that said defendants be required to answer said Complainants

Bill by tomorrow morning.

And afterwards, to wit, at the April Term of the Court aforesaid, to wit, on the 10th day of April A D 1858, the following further proceedings were had in said Cause to wit;

(Decree)

James Hackney
vs
Lucinda Slinger Thomas Slinger
Lucinda Boyd & James S Boyd
} Bill to foreclose Mort &c

And now at this day again comes the the said Complainant by John E Whiting his Solicitor and the said defendants though duly served with process and having failed to answer under the rule entered herein against them, being three times severally solemnly called come not but wholly make default; it is therefore ordered by the Court that the said Complainants bill be taken for confessed as against them, and it appearing to the satisfaction of the Court that the prayer of said bill is just and equitable, and ought to be granted, but the Court not being advised of the amount justly due the said Complainant, it is ordered that the Master compute and report the same, and the said Master now here having taken an account and reported that there is now due and owing the said Complainant the sum of $1643.68 for principal and interest on said

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Notes, and Mortgage, and the Court having approved the same,

It is therefore further ordered adjudged and decreed by the Court that the said defendants pay to the said Complainant the said sum of Sixteen hundred and forty three dollars and sixty three cents so found due as aforesaid, within thirty days from this date, together with the costs of this suit by the Clerk to be taxed, and thereupon said Complainant shall enter satisfaction of said Mortgage according to law; but in default of the payment aforesaid, within the time limited and appointed as aforesaid, then the said defendants and each and every of them are to stand and be debarred and forever foreclosed of and from all right and equity of redemption of in and to the said Mortgaged premises, and every part and parcel thereof; And in that event it is further ordered adjudged and decreed that said Mortgaged premises be sold, - that John M Crebs be and he is hereby appointed Special Commissioner to sell and convey the same, - being that tract of land or town lot situate in and known and designated on the Map or plan of the town of Carmi as Lot Number Ninety Seven (97) in White County, State of Illinois, together with all and singular the privileges and appurtenances thereunto belonging or in any wise appertaining; that said Commissioner after giving four weeks public notice of the time and place of sale by posting up written or printed notices thereof in four

public places in said County, proceed at the door of the Court House in Carmi to sell said Mortgaged premises to the highest bidder therefor, for Cash in hand; that he convey the same in due course of law to the purchaser or purchasers thereof, by good and sufficient deed in fee simple; that out of the proceeds of such sale he first pay the costs of this suit, retaining a reasonable fee for his services herein, next that he pay the said Complainant the amount so decreed him as aforesaid, with interest thereon from this date, and then pay over the balance, if any there be, to said defendants according to their interest in the same, and that he report his proceedings herein to this Court.

It is further ordered that after the execution of the deed aforesaid, said defendants surrender to the purchaser or purchasers the peaceable possession of said premises and that this Cause be continued &c

State of Illinois
White County ss I James B Hinds Clerk of the Circuit Court in and for said County, do hereby Certify that the foregoing is a True Transcript of the Record and proceedings in the Case of James Tackney vs Lucinda Shinger & others, on Bill to foreclose Mortgage &c, in said Court.

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court at Carmi this 17th day of May A D 1858

J B Hinds Clk

[8584-10]

Clerks Hinds Jun

Recd 5460 Wood	9.00
Certificate Seal	.50
Postage	.15
	$10.15

Lucind Shipp
Thomas Shipp
Lucinda Boyd
Thos B Boyd } plffs in error
Error to White

vs

Moses Hackney deft in Error

Supreme Court of Illinois At Mt Vernon Nov term AD 1858

Came this day the plffs by Nelson Hutchison their attorney & say that in the rendition of the Judgment & decree aforesaid & in the record & proceedings aforesaid in the White Circuit Court there is manifest error and that the said Circuit Court of White County in the rendition of the said Judgment & decree erred in this that the Judgment & Decree aforesaid was by the said Court rendered in favor of the deft in error whereas by the law of the land the said Judgment ought to have been rendered in favor of the plffs.

And for assigning errors specially on the record aforesaid the plffs aver that the said Circuit Court erred in not sustaining the Demurrer filed by plffs to the Bill of deft, in error by leave of Court

[8587-11]

in the Circuit Court & in rendering the decree
therein in favor of Defendant for foreclosure
of the Mortgage in the Bill referred to. &
does they are ready to verify. Wherefore
they pray that the Judgment & decree of
the Circuit Court may be reversed

Nelson L Robinson
Lucinda Morgan,
by her guardian
Thomas Morgan,
Lucinda Bryan &
Thomas B. Bryan
Plffs in Error
by
Thomas Hackney
their Atty.

Filed Oct. 1858.
A. Schwartzer Clk

Recd 9 Feb 1860 Mds — 9.50
Ent & Scan 10.00

10

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 White 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 White county, before the Judge thereof, between

James Fackney — — — — — —

plaintiff, and Lucinda Slinger, Thomas Slinger, Lucinda Boyd and Thomas B. Boyd —

defendants it is said manifest error hath intervened, to the injury of the aforesaid Lucinda ~~Boyd~~, Slinger, Thomas Slinger, Lucinda Boyd and Thomas B. Boyd — 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 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:

John D. Caton

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

Noah Johnston
Clerk Supreme Court.

10 ~~42~~

Lucinda Slinger,
Thomas Slinger,
Lucinda Boyd and
Thomas B. Boyd
Plffs in Error

vs } Writ of Error

James Hackney
Deft in Error

Issued and filed
26th October 1858.
N. Johnston Clk

James Mackey Petition in Court below

vs

Lucinda Shiegn
Thomas Shiegn
Lucinda Boyd
& Thomas B. Boyd

} defendants in the Court below

Petition ~~Bill~~ to foreclose Mortgage in the Circuit Court

Lucinda Shiegn
Thomas Shiegn
Lucinda Boyd
& Thomas B. Boyd

} plfs in e

vs

James Mackey

Deft in error

Error to white

[2587-13]

10 ~~42~~

Slipe
3
Thanking
proceeds

Yuchuchi Agency Feb 26
Received Board of Trade Sec
for Yuchis six cows for the
Yuchis

Tila Oct. 26. 1858
N. Johnston Capt

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 White county, before the Judge thereof between James Hackney plaintiff and Lucinda Slinger, Thomas Slinger, Lucinda Boyd and Thomas B. Boyd defendants it is said that manifest error hath intervened to the injury of said Lucinda Slinger, Thomas Slinger, Lucinda Boyd & Thomas B. Boyd 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 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 James Hackney

that he 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 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 James Hackney 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 twenty sixth day of October in the year of our Lord one thousand eight hundred and fifty eight

Noah Johnston
Clerk of the Supreme Court.

[8589-14]

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SUPREME COURT.

First Grand Division.

Lucinda Slinger & others

Plaintiffs in Error,

VS.

James Hackney

Defendant in Error.

SCIRE FACIAS.

FILED.

Serving	.50
Rat	.10
Postage	.3
	.63

A. G. Powell, Clk of White Co Ills

Notice given James Hackney by reading the within to him on the 6th day of November AD 1855.
Abner G. Powell Shff
by Thos Cummings Dep

No. 10.

1859.

Lucinda Stringer et al
Lucinda Stinger et al

vs

James Hackney
James Hackney

Error to White

8589

Remanded for nonjoinder
in Error & Remanded —

See Minute Book "B" - Page 77.
for final order —

Continued on Page 364 —

Ex Officio Suit dismissed
Oct 30. 1859 —