

8651

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

# Supreme Court of Illinois

Noah Guyman, Impleaded,

---

vs.

Albert H. Burlingame

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71641  7

Record Proceedings in the Randolph County  
Circuit Court of the April term thereof A D 1861  
in the Case of Albert H. Burlingame vs Noah Guyman  
and Seaburn J Moore  
"The following is a copy of the Process"

State of Illinois Randolph County  
Albert H. Burlingame } In Randolph Circuit Court  
vs } April term A D 1861  
Noah Guyman and } Debt \$160.00  
Seaburn J Moore } Damages 100.00  
G. G. Train Clerk Circuit Court will please issue  
summons on the above Returnable 8c and Oblige  
April 25<sup>th</sup> 1861 John Michan  
Pltfs atty

Filed April 5<sup>th</sup> 1861  
G. G. Train Clk

"The following is the summons  
State of Illinois Randolph County,  
The People of the State of Illinois, to the Sheriff of said County:  
Greeting:  
We command you to summon Noah Guyman and  
Seaburn J Moore if to be found in your County, to be  
and appear before the Circuit Court of said County, on  
the first day of the next term thereof, to be holden at  
the Court House in the City of Chester, on the Fourth  
Monday in the month of April Instant to answer  
Albert H. Burlingame in an action of Debt \$160<sup>00</sup>  
Damages \$100<sup>00</sup>

and they shall due return to our said Court as the law directs  
Witness Samueel H. Vrain Clerk of our said Court  
and the Judicial Seal thereof, at his office in Chester  
this 5<sup>th</sup> day of April 1861

S. H. Vrain Clerk

"Upon which is the following return"

I hereby appoint R. H. Jenkins Special Bailiff to  
execute this writ April the 9 A.D. 1861

M. S. McCormack Sheriff R. C. Ill.

I have executed the within writ by rendering to the within  
named Noah Guyman & Seaborn Moore not in my County  
April the 12 A.D. 1861

M. S. McCormack

Sheriff of R. C. Ill.

By R. H. Jenkins Special Bailiff

The following is the Declaration

State of Illinois } In the Randolph County Circuit Court  
Randolph County } of the April term A.D. 1861

Albert H. Bowlingame, by his attorney, Complains of  
Noah Guyman and Seaborn J. Moore, Defendants in this  
suit of a plea, that they render to said Plaintiff the sum of  
One hundred and sixty dollars which they owe to and justly  
retain from the said Plaintiff. For that whereas, the said  
Defendants on the fifteenth day of October A.D. 1860 at Eden  
that is to say at the County of Randolph and State of Illinois  
made and Executed a Certain Instrument in writing and  
sealed with their seals, which said instrument is now

here shown to the Court bearing date as above, by which said Instrument, they, the said defendants agreed to pay to Albert H. Burlingame or Bearer thirty days after the date thereof, the sum of One Hundred and sixty dollars for value received, Provided Abraham Lincoln Received the Electoral votes of the State of Illinois, which said Instrument in writing was then and there delivered to the said Plaintiff

By means whereof and by force of the Statute in such case made and provided, the said defendants then and there became liable to pay to the said Plaintiff the said sum of Money in said Instrument mentioned, when the Electoral votes of the State of Illinois, should be given to Abraham Lincoln meaning the Electoral vote to be given on the first Wednesday in December A.D. 1860. by the Presidential Electors of the State of Illinois in pursuance of the Laws of the United States for President of the United States. And the said

Plaintiff avers that the Electoral vote of the said State of Illinois was given to Abraham Lincoln by the Electors of the State of Illinois, at the City of Springfield in the said State of Illinois, on the first Wednesday in December A.D. 1860. And that the time agreed upon for the payment of the aforesaid sum of Money in this Declaration mentioned has ~~been~~ long since elapsed. For that whereas also the said Defendants, afterwards to wit, on the fifteenth day of October A.D. 1860 at Eden that is to say at the County of Randolph and State of Illinois, made and executed their certain other Instrument in writing and sealed the same with their seals which said Instrument

is now here shown <sup>to</sup> the Court bearing date as above last  
written, by which said Instrument they the said Defendants,  
agreed to pay to Albert H Burlingame or bearer thirty  
days after <sup>the</sup> date thereof the sum of One hundred and sixty  
dollars for value Received Providing Abraham Lincoln  
Received the Electoral votes of the State of Illinois which  
said Instrument in writing was then and there delivered  
to the said Plaintiff, by means whereof and by force  
of the Statute in such case made and provided, the said  
Defendants then and there became liable to pay to the  
said Plaintiff the said sum of money in said Instrument  
mentioned when the Electoral votes of the State of Illinois  
should be given for Abraham Lincoln meaning  
thereby, the votes given on the first Tuesday in Novem-  
ber A.D. 1860 for Abraham Lincoln, that is to say  
that if the majority of the votes polled in the State  
of Illinois on the first Tuesday in November A.D. 1860  
would be cast or given for the Republican Electors  
then, and in that event the said Defendants, then and  
there became liable to pay to the said Plaintiff the  
said sum of money in said Instrument mentioned.

And the said Plaintiff avers, that the majority of  
the votes polled in the State of Illinois at the Election  
held in said State on the first Tuesday in November  
A.D. 1860 for Presidential Electors were cast or given  
for the Republican Electors and also that Abraham  
Lincoln did Receive the Electoral votes of the State of  
Illinois at the general Election for President of the

United States, held on the first Tuesday in November  
AD 1860, and that the time agreed upon for the  
payment of the aforesaid sum of money in this Court  
and in this declaration mentioned, has, long since  
elapsed.

Yet nevertheless, the said defendants although  
often requested so to do, have not as yet paid the  
said sum of money, to wit, the sum of One Hundred  
and sixty dollars \$160.00 above demanded, and in  
the foregoing Counts specified, to the said Plaintiff  
but that <sup>they</sup> have hitherto wholly refused and still do  
refuse, and that said sum of money remains unpaid  
to the damage of the said Plaintiff of One Hundred  
dollars \$100.00 and therefore he brings his suit &c

John Michan  
Plaintiff's attorney

Copy of the instrument sued on, and to be given in  
evidence under the Counts of the within and foregoing  
Declaration

" Shortly days after date we or either of us promise to  
" pay A H Burlingame or bearer One Hundred and sixty  
" dollars for value Received, providing Abraham  
" Lincoln Receives the Electoral Votes of the State of Ill  
Eden Oct. 15, 1860

{ Signed }

Noah Guyman  
S. J. More

Seal  
Seal

Filed April 12<sup>th</sup> 1861  
S. J. More Clerk

The following is the order of Court

Randolph Circuit Court April term April 23<sup>d</sup> AD 1861

Albert H. Burlingame

vs

Debt

Noah Guyman and Seaburn Mann

And now on this day Comes said Plaintiff  
 by Michan and it appearing that said Noah Guy-  
 man had been legally served by summons by the  
 Sheriff of said County and the Defendant Noah Guyman  
 having been three times solemnly called by the Sheriff of  
 said County Comes not, but makes default, It is therefore  
 ordered that his default be entered, and Judgment is  
 hereby entered against said defendant herein served for the  
 sum of One Hundred and sixty dollars debt the principal  
 in the note on file herein and it is further ordered that  
 said note be refered to the Clerk of this Court for Computation  
 whereupon on the same day Comes the said Clerk and  
 reports to the Court in writing that he finds due of principal  
 the sum of One hundred and sixty dollars and the further  
 sum of Five dollars interest due on said note It is  
 therefore ordered and adjudgment and decreed by the Court  
 that plaintiff recover of and from said Noah  
 Guyman the said sum of One hundred and sixty  
 dollars debt and the further sum of five dollars interest  
 or damages due thereon making in the aggregate the  
 sum of One hundred and sixty five dollars, together  
 with all costs of suit taxed and that execution

issue therefor, and it is further ordered that a writ  
of *Scire facias* issue to Perry County against said  
S. J. More requiring him to appear and show cause  
why he should not be made a party to said judgment &c

State of Illinois  
Randolph County } SS

I Severin Strain Clerk of the  
Circuit Court for said County of Randolph and  
State aforesaid hereby Certify that the foregoing pages  
are a true and correct copy of the whole & complete  
Record in the Cause wherein Albert H. Burlington  
was Plaintiff and Noah Gayman & Sebastian J. More  
were defendants containing the original process  
summons & return thereon, Declaration and order of  
Court as appears from the Records and files in  
my office

In testimony whereof I have hereunto  
subscribed my name and affixed the  
seal of said Court at my office in the  
City of Chester this 29<sup>th</sup> day of  
February A.D. 1864  
S. Strain Clerk



Noah Luzzman Plaintiff in Error  
impleaded with ~~Edison~~ J. M. M. }  
28 } Court Randolph  
Albert H. Burlingame } Defendants in Error.

In the Supreme Court first  
Grand division of State of Illinois at  
Mount Vernon.

November Term 1864

Came this day  
the Plaintiff by his Attorney and alleges  
that there is manifest error in the  
record and process aforesaid in  
this that the Circuit Court of Ran-  
dolph County rendered judgement  
in favor of the defendants in error  
whereas by the law of the land the  
said Circuit Court ought to have  
rendered judgement in favor of  
the plaintiff in error and this he  
is ready to verify &c.

And praying errors excep-  
tional, on the record, the Plaintiff  
says that the said Circuit Court  
erred, <sup>in</sup> rendering judgement in  
favor of the Defendants in Error a-  
gainst him for the sum of \$1650  
costs and damages.

Second said Court of Randolph  
County erred in assuming juris-  
diction of the person of him the said  
Plaintiff

First - Because there was no legal service  
or process upon him the said Plain-  
tiff -

Second - Because the said Plaintiff was  
not summoned to appear at said  
Court of Randolph in which said judgment  
was rendered against him -

Third - Because the Sheriff of Randolph  
County had no legal authority to  
make a special Bailiff for the  
purpose of serving said writ upon  
him the said Plaintiff

Fourthly - The said Court erred in  
rendering judgment against  
him the said Plaintiff in said  
Court - Because the writ of obligation  
issued on was absolutely void on  
the face of it -

Fifthly - The said Circuit Court of Randolph  
County erred in rendering judgment a-  
gainst the Plaintiff in error for \$165 =  
Dollars and damages and costs of suit -

Wm. G. Gaudin

Attorney for Plaintiff in Error

The writ of error will be made a supersedeas  
on plaintiff in error accounting a bond  
with Harkins restore his security in  
the penalty of four hundred dollars  
and have answering to law, May  
9. 1864 J. May, Moore

Writ of error for debt in  
error &c

H K S O'Connell  
for debt in  
error



Centuria June 10<sup>th</sup> 64

Walter Johnson Esq

Exeter

Sc: fu in Case of Sargen  
impleaded with Seaborn  
J. Moore, by mistake  
it is in the process &  
Bey Seaborn, J. Moore  
Please rectify it as  
I do in the record, &  
remail it to Mr Murphy  
The process had better  
be taken in corrected  
which you will please  
do if necessary, the  
same as if I was there  
to do it in person &  
it is a clerical error of  
mine I suppose

your attention  
will oblige

Yours  
W. Nelson

In the Supreme Court of the  
State of Illinois 1<sup>st</sup> Grand Division  
November term AD 1864  
Noah Guyman impleaded }  
with Seaborn S Moore } Error  
Plaintiff in error } So  
vs } Randolph  
Albert H Burlinghame }  
defendant in error }

The Clerk of said Court will please  
issue a writ of error and Scire facias  
in the above styled cause to Sheriff  
of Randolph County Ills and enclose  
the writ to W. K. Murphy Esq  
at Law Pinkneyville Perry  
County Illinois W. S. Nelson  
~~Wm H. Murphy for~~  
plaintiff in error

Parties in the court below

Albert H Burlinghame }  
vs } Action of Debt  
Noah Guyman and }  
Seaborn S Moore } in Randolph Circuit  
Court

Noah Guyman  
Error in  
vs Randolph  
A H Burlinghame

Recipe

12

Filed May 19-1864  
A. Johnston Cll

Henningburg, Ky  
Sept. 26. 1864

Dear Sir.

I some time since mailed  
to you about 8 Copies of printed  
Briefs which Messrs Taunert & Casey can  
sign as "per Taunert & Casey" if they  
are going to attend to the case  
I should like to know fully as to  
the Bond for costs per power of atty  
enclosed for if not all right I  
will come & attend to it myself then  
I know it <sup>will</sup> be done.

I also mail you 8 Copies of the  
printed abstract, it has the substance  
if not the form.

Mr Horton is a hotel Keeper in  
Ill, worth several times \$500 over his  
debts & all liabilities doing good  
business - well established & a respectable  
Man - I merely asked to show  
\$500. He has put it literally so in  
his affidavit without saying more  
Let me know at once if all  
right. It ought to be in view of  
the sum heretofore remitted &  
advanced toward the costs. If the  
Case is reversed will not DePury  
recover all printing Bills for Briefs  
& abstracts as part of his costs please



let me know so I may send  
the printers receipts Clark & Co  
of Cin. charged \$13.75 for  
the Briefs

And our printer here charged  
\$3.00 for the abstract \$16.75 -  
in all

Write me fully at once  
as time draws near

Is it the Tuesday after the  
2<sup>nd</sup> Monday when your  
Court sits, or after 1<sup>st</sup> Monday,  
for what day of the term  
is this Cause set & will it  
be reached early in the term  
or does it stand as of the 1<sup>st</sup>  
day or how is that - How long  
does your Court sit there

Yours truly

W. H. Lord

Arch Guyman }  
impleaded with Lea- }  
son of Moore } Plaintiff in Error  
vs }  
Albert H. Burdengame } Defendant in Error

Carroll Randolph  
In the Supreme Court of the U.S.  
Grand Division in Foreclosure Term  
A. D. 1864

This Affiant R. S. Nelson  
being first duly sworn according  
to law, deposes and says that he is  
acquainted with the property and  
circumstances of Capt Hawkins  
Osburn, of Perry County, Ark. -  
and that the said Osburn is worth  
in Real and Personal Property at least  
\$500 - above all Homestead and Ex-  
emption Laws, and that the real and  
Personal Property of the said Osburn  
is wholly free from encumbrances,  
judgments, mortgages &c - & that the  
above named Osburn is worth this  
sum over & above all debts to the debt  
of this Affiant's Pledged &c and believ-

R. S. Nelson

Subscribed & sworn  
to before me a Notary  
Public in and for County of  
Maine and State of Maine  
this 1st day of August  
1864

12.  
Lynchman's Burden game  
Em. to Randolph  
Affidavit of R. L. Nelson.

Filed May 19-1864.  
N. Johnston Clk

Mr Noah Johnson,  
Clerk of the Supreme  
Court.

Mr Werner

Esq.

Sir

will you please  
send me a copy of the  
Judgment rendered in  
your office last winter  
wherein Noah Guyman  
was plaintiff in writ of  
Error and A. H. Burlingame  
- me defendant, and please  
also state whether the sale  
of my Land sold under  
them Executions is valid  
or not, I was in the Army  
when all this was going on  
and could not help myself.

Yours Respectfully

Noah Guyman,  
over

P.S. and please send  
the fee bill to the Sheriff  
of Randolph County Ill.  
for collection in the  
cause. State your cost for  
the copy and I will send  
it to you. address  
Steels Mills Ill.

Nash Guyman

# IN THE SUPREME COURT.

## FIRST GRAND DIVISION—STATE OF ILLINOIS.

NOVEMBER TERM, 1864.

### ERROR TO RANDOLPH.

NOAH GUYMAN, impleaded with  
SEABORN S. MOORE, } Plaintiff in errors.  
vs.  
ALBERT H. BURLINGAME, Defendant in error.

#### ABSTRACT OF PLAINTIFFS IN ERROR.

1 On the 5th day of April, 1861, a summons was issued from the Randolph County Court, against the plaintiffs, who were the defendants in the Courts below, in an action of debt, which summons was in the usual form, and was directed to the Sheriff of Randolph county. The following endorsement was on the summons: "I hereby appoint R. H. Jenkins special bailiff to execute this writ, April 9th, 1861. "M. S. M'Cormick, Sheriff, R. C. Ill's." "I have executed the within writ by reading to within named, Noah Guyman, and Seaborn Moore, not in my county."

"M. S. McCORMICK,  
Sheriff of R. C., Ill's.  
by R. H. Jenkins,  
Special Bailiff"

At the April term, 1861, of said Court, a declaration in debt, in usual form was filed on the following writing obligatory:

5 30 days after date, we or either of us, promise to pay A. H. Burlingame, or bearer, one hundred and sixty dollars, for value received, providing Abraham Lincoln receives the electoral vote of the State of Illinois.

Signed, NOAH GUYMAN, {L. S.}

S. J. MOORE, {L. S.}

Filed, 12th April, 1861.

S. St. VRAIN, Clerk.

6 At the same term of court, Noah Guyman, after he was three times called at the bar of the court did not appear, but made default, and a judgment was rendered against him for \$165 debt and damages and a scire facias was awarded against the other defendant below, to make him a party &c.

Now there are two questions only presented in this cause to the court for its consideration, by the plaintiff in error: First the plaintiff contends that there was no service on him in said cause, because the sheriff of Randolph had no power to make a bailiff, conferred upon him, except in the manner pointed out by the statute.

Secondly—The plaintiff contends that the writing sued on, was and is void upon its face, and that no recovery could be had upon it, it being plainly a bet or wager upon an election, and made in contradiction of the statute laws of this State, against betting on elections; and upon both these grounds, plaintiff seeks to reverse the judgment of the court below.

NELSON & SANDERS,  
for Plaintiff in error.

#### BRIEFS OF POINTS AND AUTHORITIES RELIED UPON BY PLAINTIFF IN ERROR.

1st. There was no service upon the plaintiff in error, as required by law, and the court had no jurisdiction over his person. The judgment is consequently erroneous. See page 1120, 2, Purple's statutes, Sec. 20.

2nd. The writing sued on in this cause, is, on its face, void. See page 592, Sec 1, Vol. 1. Purple's statutes. Consequently the judgment rendered on the same is a nullity and void. See page 71, 23 Illinois Reports in Gordon vs. Casey.

NELSON & SANDERS,  
for Plaintiff in error.

174 Printing in error.

ARISTON & BARNES

is a right and void. See page 11, 23 Illinois Reports in Gordon vs. Cook.

See J. Vol. I. Parke's statement. Correspondingly the judgment rendered on the same case. The writs issued on in this case, is, on its face, void. See page 205, notes. See page 1130, 2 Parke's statement. See 30.

The court had no jurisdiction over this person. The judgment is correspondingly error. There was no service upon the plaintiff in error, as returned by law, and

IN ERROR.

WRIT OF HABEAS CORPUS AND AUTHORITYS RELIED UPON BY PLAINTIFF

FOR PLAINIFF IN ERROR

THE JUDGMENT OF THE COURT BELOW.

against petition on execution, and upon both these grounds plaintiff claims to recover wages upon an execution, and made in contemplation of the statute law of this State upon the law, and that no recovery could be had upon it. It being highly a law or

generally. The plaintiff contends that the writs issued on are void, and is void a writ, returned upon him, exactly in the manner pointed out by the statute.

no service on him in any other person the specific of Randolph, but no power to make an execution, by the plaintiff in error. That the plaintiff contends that there was

Now there are two questions only presented in this case to the court for its

order subsequent below, to make him a party to.

At the same term of court, Joseph Gorman, after he was tried, there called in

March 23rd April 1861.

R. B. ARVIN, Clerk.

E. J. MOORE, J. C.

Chief, JOHN GILMAN, J. C.

only receives the electoral vote of the State of Illinois.

or person, one hundred and sixty dollars, for votes received, from Joseph Abraham Pe-

was filed in the following writing of Joseph:

At a Court term, 1861, of said Court, a declaration in debt, by J. H. Peabody,

by J. H. Peabody,

12

Brief & Authorities

Abstract of Brief

Filed April 19, 1864  
A. Johnston Clerk

ABSTRACT OF PLAINTIFFS IN ERROR.

BEYRON & MOORE, PLAINTIFFS IN ERROR.

ERROR TO RANDOLPH.

NOVEMBER TERM, 1861.

FIRST GRAND DIVISION—STATE OF ILLINOIS.

IN THE SUPREME COURT.

---

SUPREME COURT OF ILLINOIS---FIRST GRAND DIVISION.

NOVEMBER TERM, A. D., 1864.

---

Noah Guyman,  
VS.  
A. H. Burlingame.

BRIEF OF DEFENDANT IN ERROR.

1. The Writ was served April 14, 1861.
2. Bailiffs at Common Law may serve process.
3. *See* Blackstone's Com., 3 Book 344-5. - *8 Bacon Abridgment top page 677.*
4. The Sheriff executes this writ.—See ~~Atwood~~. *Record page 2.*
5. The Note on its face is not necessarily void—it may or may not have been a bet.

H. K. S. O'MELVENY, Attorney for Defendant in Error.

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IN THE SUPREME COURT.

FIRST GRAND DIVISION—STATE OF ILLINOIS.

NOVEMBER TERM, 1864.

ERROR TO RANDOLPH.

NOAH GUYMAN, impleaded with SEABORN S. MOORE, } Plaintiff in errors.
vs. ALBERT H. BURLINGAME, Defendant in error.

ABSTRACT OF PLAINTIFFS IN ERROR.

1

On the 5th day of April, 1861, a summons was issued from the Randolph County Court, against the plaintiffs, who were the defendants in the Courts below, in an action of debt, which summons was in the usual form, and was directed to the Sheriff of Randolph county. The following endorsement was on the summons: "I hereby appoint R. H. Jenkins special bailiff to execute this writ, April 9th, 1861, "M. S. M'Cormick, Sheriff, R. C. Ill's." "I have executed the within writ by reading to within named, Noah Guyman, and Seaborn Moore, not in my county."

"M. S. McCORMICK, Sheriff of R. C., Ill's. by R. H. Jenkins, Special Bailiff"

2

At the April term, 1861, of said Court, a declaration in debt, in usual form was filed on the following writing obligatory:

5

30 days after date, we or either of us, promise to pay A. H. Burlingame, or bearer, one hundred and sixty dollars, for value received, providing Abraham Lincoln receives the electoral vote of the State of Illinois.

Signed, NOAH GUYMAN, {L. S.}

S. J. MOORE, {L. S.}

Filed, 12th April, 1861.

S. St. VRAIN, Clerk.

6

At the same term of court, Noah Guyman, after he was three times called at the bar of the court did not appear, but made default, and a judgment was rendered against him for \$165 debt and damages and a scire facias was awarded against the other defendant below, to make him a party &c.

Now there are two questions only presented in this cause to the court for its consideration, by the plaintiff in error: First the plaintiff contends that there was no service on him in said cause, because the sheriff of Randolph had no power to make a bailiff, conferred upon him, except in the manner pointed out by the statute.

Secondly—The plaintiff contends that the writing sued on, was and is void upon its face, and that no recovery could be had upon it, it being plainly a bet or wager upon an election, and made in contradiction of the statute laws of this State, against betting on elections; and upon both these grounds, plaintiff seeks to reverse the judgment of the court below.

NELSON & SANDERS, for Plaintiff in error.

BRIEF OF POINTS AND AUTHORITIES RELIED UPON BY PLAINTIFF IN ERROR.

1st. There was no service upon the plaintiff in error, as required by law, and the court had no jurisdiction over his person. The judgement is consequently erroneous. See page 1120, 2, Purple's statutes, Sec. 20.

2nd. The writing sued on in this cause, is, on its face, void. See page 592, Sec 1, Vol. 1. Purple's statutes. Consequently the judgment rendered on the same is a nullity and void. See page 71, 23 Illinois Reports in Gordon vs. Casey.

NELSON & SANDERS, for Plaintiff in error.

Writ was served. Dapts. Brief. 12 APR. 1861.

Cites. 3 Blackstone 344-5. Bailiff may sue procep- The total had on do base void Bellamy

*Received of the Clerk of the Court  
for the State of Illinois  
the sum of \$100.00  
for the State of Illinois  
for the State of Illinois*

IN ERROR  
HEIRSON & SANDERS  
vs  
The State of Illinois  
The judgment rendered on the same  
is a nullity and void. See page 11, 12 Illinois Reports in Error at 100.  
See J. Vol. 1, Parke's notes. Consequently the judgment rendered on the same  
is void. The writs were on in this case, it is on the law void. See page 265  
of the case law no jurisdiction over his person. The judgment is consequently void.  
The State was no parties from the judgment in error as rendered by law and

IN ERROR  
HEIRSON & SANDERS  
vs  
THE STATE OF ILLINOIS

for HEIRSON in error  
HEIRSON & SANDERS

of the judgment of the court below.  
The judgment rendered on the same is a nullity and void. See page 11, 12 Illinois Reports in Error at 100.  
See J. Vol. 1, Parke's notes. Consequently the judgment rendered on the same  
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The State was no parties from the judgment in error as rendered by law and

S. J. MOORE  
CLERK

12  
Noah Guymann  
impleaded with  
Seaton J Moore  
plaintiff in error  
vs  
A. H. Burlingame  
defendant in error

Abstract of Brief  
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Filed, Nov. 15, 1864,  
N. Johnston clk

NOVEMBER TERM, 1864.  
FIRST GRAND DIVISION—STATE OF ILLINOIS.  
IN THE SUPREME COURT.

SUPREME COURT OF ILLINOIS --- FIRST GRAND DIVISION.

NOVEMBER TERM, A. D., 1864.

Noah Guyman,  
VS.  
A. H. Burlingame.

BRIEF OF DEFENDANT IN ERROR.

1. The Writ was served April 14, 1861.
2. Bailiffs at Common Law may serve process.
3. Blackstone's Com., 3 Book 344-5. *8 Bacon Abust. top page 677.*
4. The Sheriff executes this writ.—See *Atwood Record p 2*
5. The Note on its face is not necessarily void—it may or may not have been a bet.

H. K. S. O'MELVENY, Attorney for Defendant in Error.

~~Josh Gorman~~  
~~Deft in Error~~

vs

A H Burlingame  
Deft in Error

Deft's Brief

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NOVEMBER TERM, A. D. 1864  
FIRST GRAND DIVISION

A. H. Burlingame,  
vs  
Josh Gorman,

PLEA OF DEFENDANT IN ERROR

H. K. E. OMBELTERRY, Attorney for Defendant in Error.  
I. The plea is timely made.  
II. The plea is in substance true.  
III. The plea is in substance true.  
IV. The plea is in substance true.  
V. The plea is in substance true.

Filed, Nov. 16 - 1864  
A. Johnston Clk

# IN THE SUPREME COURT.

## FIRST GRAND DIVISION—STATE OF ILLINOIS.

NOVEMBER TERM, 1864.

### ERROR TO RANDOLPH.

NOAH GUYMAN, impleaded with } Plaintiff in errors.  
SEABORN S. MOORE, }

*vs.*  
ALBERT H. BURLINGAME, Defendant in error.

#### ABSTRACT OF PLAINTIFFS IN ERROR.

1 On the 5th day of April, 1861, a summons was issued from the Randolph County Court, against the plaintiffs, who were the defendants in the Courts below, in an action of debt, which summons was in the usual form, and was directed to the Sheriff of Randolph county. The following endorsements was on the summons: "I hereby appoint R. H. Jenkins special bailiff to execute this writ, April 9th, 1861. "M. S. McCormick, Sheriff, R. C. Ill's." "I have executed the within writ by reading to within named, Noah Guyman, and Seaborn Moore, not in my county."

"M. S. McCORMICK,  
Sheriff of R. C., Ill's.  
by R. H. Jenkins,  
Special Bailiff"

2 At the April term, 1861, of said Court, a declaration in debt, in usual form was filed on the following writing obligatory:

5 30 days after date, we or either of us, promise to pay A. H. Burlingame, or bearer, one hundred and sixty dollars, for value received, providing Abraham Lincoln receives the electoral vote of the State of Illinois.

Signed, NOAH GUYMAN, {L. S.}

S. J. MOORE, {L. S.}

Filed, 12th April, 1861.

S. St. VRAIN, Clerk.

6 At the same term of court, Noah Guyman, after he was three times called at the bar of the court did not appear, but made default, and a judgment was rendered against him for \$165 debt and damages and a scire facias was awarded against the other defendant below, to make him a party &c.

Now there are two questions only presented in this cause to the court for its consideration, by the plaintiff in error: First the plaintiff contends that there was no service on him in said cause, because the sheriff of Randolph had no power to make a bailiff, conferred upon him, except in the manner pointed out by the statute.

Secondly—The plaintiff contends that the writing sued on, was and is void upon its face, and that no recovery could be had upon it, it being plainly a bet or wager upon an election, and made in contradiction of the statute laws of this State, against betting on elections; and upon both these grounds, plaintiff seeks to reverse the judgment of the court below.

NELSON & SANDERS,  
for Plaintiff in error.

#### BRIEF OF POINTS AND AUTHORITIES RELIED UPON BY PLAINTIFF IN ERROR.

1st. There was no service upon the plaintiff in error, as required by law, and the court had no jurisdiction over his person. The judgment is consequently erroneous. See page 1120, 2, Purple's statutes, Sec. 20.

2nd. The writing sued on in this cause, is, on its face, void. See page 592, Sec 1, Vol. 1. Purple's statutes. Consequently the judgment rendered on the same is a nullity and void. See page 71, 23 Illinois Reports in Gordon vs. Casey.

NELSON & SANDERS,  
for Plaintiff in error.

12 Noah Guzman  
impleaded with  
Seaborn J Moore  
Plaintiff in error  
vs

A H Burlingame  
Defendant in error

Abstract & Brief

12

ABSTRACT OF EVILS IN ERROR

ERBOLTZ & MOORE  
NOTH GUZMAN, impleaded with

Plaintiff in error

ERROR TO VANDOLPH

NOVEMBER TERM, 1864.

FIRST GRAND DIVISION—STATE OF ILLINOIS

IN THE SUPREME COURT.

Filed, Nov. 15, 1864.  
N. Johnston Clerk

for printing in error.  
MELISSA G. SANDERS,  
is a nullity and void. See page 11, 23 Illinois Reports in Gordon vs. Grant.  
See 1, Vol. 1, Parke's statutes. Consequently the judgment rendered on the same  
and the writs issued on it in this case is on its face void. See page 632,  
notes. See also 1130, 5, Parke's statutes. See 39.  
The court had no jurisdiction over the parties. The judgment is consequently erro-  
neous. There was no service upon the plaintiff in error, as ordered by law, and

IN ERROR.

DIREX OF POINTS AND ALTIORITIES HELD UPON BY PRIVATELY

for printing in error.  
MELISSA G. SANDERS,

the judgment of the court below.

against setting on objections and upon both these grounds, printing books to retailers  
against them an objection, and made in contemplation of the statutes laws of this State,  
upon its face, and that no record could be had upon it, it being plainly a law in  
violation of the printing contracts that the printing was on, and was in violation  
of the statute in this regard, because the spirit of the statute was to have no more  
contemplation of the printing in error. First the printing contracts that there was  
no more than two directions only, directed in this case to the court for the  
other defendant below, to make him a party to  
against him for \$100, and defendant and a writ issued was awarded against the  
the part of the court did not appear, but made judgment, and a judgment was rendered  
At the same term of court, Joseph Gilbert, after he was three times called as

Filed, 12th July, 1861.

E. S. ARVAIN, Clerk.

E. V. MOORE,

Notary Public for the State of Illinois.

Witness, NOTH GUZMAN,

1864

of the same term of court, Joseph Gilbert, after he was three times called as  
against him for \$100, and defendant and a writ issued was awarded against the  
the part of the court did not appear, but made judgment, and a judgment was rendered  
At the same term of court, Joseph Gilbert, after he was three times called as

Special Justice.

Chief of H. C. H. S.

M. S. McDONNELL.

Abstract & Brief  
12  
ABSTRACT OF EVILS IN ERROR  
ERBOLTZ & MOORE  
NOTH GUZMAN, impleaded with  
Plaintiff in error  
ERROR TO VANDOLPH  
NOVEMBER TERM, 1864.  
FIRST GRAND DIVISION—STATE OF ILLINOIS  
IN THE SUPREME COURT.

State of Illinois,  
SUPREME COURT,  
First Grand Division.

} SS

The People of the State of Illinois,

To the Sheriff of Randolph 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 Randolph county, before the Judge thereof between

Albert H. Burlingame plaintiff and Noah

Geyman and Seaborn J. Moore defendant's it is said that manifest error hath intervened to the injury of said Noah Geyman

impleaded with Seaborn J. Moore as we are informed by his complaint, the record and proceedings of which said judgments, 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 Albert H. Burlingame

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 Albert H. Burlingame notice together with this writ.

WITNESS, the Hon. P. H. Walker Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this thirteenth day of June in the year of our Lord one thousand eight hundred and Sixty four.

Noah Mustin

Clerk of the Supreme Court.



SUPREME COURT.  
First Grand Division.

North Burlington  
vs  
Richard L. Moore

Plaintiff in Error,

vs.

A. W. Burlingame

Defendant in Error.

SCIRE FACIAS.

FILED.

I have this day <sup>served this writ</sup> ~~made known~~ by reading the ~~within~~ writ to A W Burlingame as I am within command  
July 29<sup>th</sup> 1864

John Campbell Shff R Co  
By Wm S Campbell depy

Shff = Jus \$1,000 paid  
by Murphy. atty 3

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 Randolph 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 Randolph county, before the Judge thereof between

Albert H. Burlingame plaintiff and Noah

Guyman and Seaton J. Moore

defendants it is said manifest error hath intervened to the injury of the aforesaid Noah Guyman ~~implied~~ with Seaton J. Moore as we are informed by his 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 1<sup>st</sup> Tuesday after The 2<sup>d</sup> 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. P. A. Walker Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twentieth day of May in the year of our Lord one thousand eight hundred and Sixty-four.

Noah Johnston

Clerk of the Supreme Court.



State of Illinois,  
SUPREME COURT,  
First Grand Division.

SS

The People of the State of Illinois,

To the Sheriff of Randolph 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 Randolph county, before the Judge thereof between

Albert H. Burlingame plaintiff and Toah

Guyman and Seaborn J. Moore defendants it is said that manifest error hath intervened to the injury of said Toah Guyman ~~implication with Seaborn J. Moore~~ as we are informed by his 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 Albert H. Burlingame

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 Albert H. Burlingame notice together with this writ.

WITNESS, the Hon. P. H. Walker Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twentieth day of May in the year of our Lord one thousand eight hundred and Sixty-four.

Toah Johnston  
Clerk of the Supreme Court.

SUPREME COURT.  
First Grand Division.

North Beaumont -  
vs  
Jackson J. Moore

Plaintiff in Error,

vs.

A. H. Beaumont

Defendant in Error.

SCIRE FACIAS.

FILED.

This writ is returned for execution of it and the  
Receipt - and a new writ issued - June 13-64  
and sent to Moore at Centerville

1864

12 ————— 21.

Guyman H.  
by  
Burlingham

Opinion H. with  
Reporter

12 ————— 21

Guyman H.  
by  
Burlingham

(Pass out)

8657