

DECISIONS  
OF THE  
SUPREME COURT  
OF THE  
STATE OF ILLINOIS,

DELIVERED

AT THE DECEMBER TERM 1847,

AT SPRINGFIELD.

PETER H. JOHNSON *et al.*, appellants, *v.* NEWMAN L. BARBER, appellee.

*Appeal from Kane.*

Where an appeal was prayed by the defendants in a suit in the Circuit Court and allowed on the "condition that *they* file their bonds," &c. the appeal bond being executed by one only, the appeal was, in the Supreme Court, dismissed on motion.

9	1
152	217
9	1
73a	669
4g	1
210	603

TRESPASS ON THE CASE, brought by the appellee in the Kane Circuit Court against the appellants. The cause was heard before the Hon. John D. Caton and a jury, at the April term 1847, when a verdict of guilty was rendered against the defendants below for \$489. Judgment by the Court thereon.

An appeal being prayed, it was allowed by the Court "on condition that they file their bonds in ninety days in the

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penal sum of six hundred and fifty dollars, with Jacob Johnson as their security, conditioned as the law directs." On the 9th of June, 1847, within the time fixed by the Court, a bond was filed in the Clerk's office, executed by Peter H. Johnson and Jacob Johnson, in the penal sum of \$1000. The appeal was entered in this Court.

*W. D. Barry*, and *A. T. Bledsoe*, for the appellees, moved the Court to dismiss the appeal, for the following reasons, to wit:

1. The order of the Circuit Court granting the appeal, has not been complied with;
2. Because there has been no appeal bond filed, as required by the Circuit Court at the time of granting the appeal;
3. Because one of the defendants in the Circuit Court, (John B. Johnson,) did not join in the appeal bond; and
4. Because the appeal bond is, in other respects, wholly insufficient.

*L. Trumbull*, for the appellants, entered a cross motion for leave to amend the appeal bond, which was refused.

PER CURIAM. The motion to dismiss the appeal must be sustained. The record shows that the appeal was prayed by the "defendants," and not by one of them. The order of the Circuit Court required that *they* file a bond, but Peter H. Johnson only has executed it. The order has not been complied with, and as has before been decided by this Court in the cases of *Carson v. Merle*, 3 Scam. 168, *Ryder v. Stevenson*, *ib.* 539, and *Watson v. Thrall*, 3 Gilm. 69, the appeal must be dismissed with costs.

*Appeal dismissed.*