

8631

No. _____

Supreme Court of Illinois

James Thompson, Admr.

vs.

Heirs of B.C.Prisley

Pleas held at the Court House in the Town
of Chester County of Randolph and State of Illinois
before the Hon^{ble} Sidney Beell Judge of the Second
Judicial Circuit of which the County of Randolph
forms apart

Copy of order of County Court

Randolph County Court November term AD 1855.
Nov 9th

Benjamin C. Presley Dec^d.

And now on this day Comes James Thompson
administrator of the Estate of Benjamin C. Presley Dec^d.
and presents his account with said Estate from which
it appears that he has received the sum of four hundred
and twelve Dollars and eighty one Cents, and that
he has paid out the sum of \$301.45, leaving a
balance in his hands (after deducting, twelve
Dollars, not allowed by the Court) of \$111.36, which
account is examined, approved and ordered to be filed

Copy of account for time filed
in probate Court -
"account of time spent for Estate of B. C. Presley dec^d
by James Thompson Admr."

Attending Circuit Court at Sept ^r term 1852. two days		\$ 3.00
May term 1853 four days		6.00
Sept ^r term 1853 five days		7.50
putting up advertisements for sale of real estate 2 days	L	3.00
going returning from Chester to get notice in newspaper 2 days	L	3.00
putting up notice advertisements for sale of real estate 2 days	L	3.00
going returning from Chester to get notice in newspaper 2 days	L	3.00
going to Chester to take evidence before master in Chancery 2 days		3.00
going to Chester making out account Current 2 days		3.00
3 per Cent on amount of real estate \$329.75		9.90

making 4 deeds for real estate

12.00
\$ 56.40

The items marked thus & not allowed

R. B. Servant Co Judge

afterwards to wit on the 30th day of April AD 1856,
the Circuit Court for said County of aforesaid
made entered the following order in said Cause
to wit. of which the following is a copy

cc James Thompson admr. of Benjamin C. Presley decd
vs The heirs of Benjamin C. Presley decd

Appeal from Probate Court
And now on this day comes said plaintiff by
Hedrick Anderson his attorney the defendant
by Hedbrook their attorney, the Court after hearing
the arguments of Counsel and duly considering
is of opinion and doth order that the judgment
heretofore given by the Probate Court be and
the same is hereby in all things confirmed &c.

Whereupon on the first day of May 1856
the plaintiff files his bill of exceptions to said
judgment, of which the following is a true copy

cc In the State of Illinois, In the Randolph Cir Court
April Term 1856,

James Thompson admr. of B. C. Presley
vs The heirs of B. C. Presley

Appeal from Probate Court
In account
Be it remembered that on the trial
of this Cause the plaintiff by his Counsel having

filed the following items of account before the Probate Court -

Putting up advertisements for sale of real Estate 2 days	\$ 3.00
going & returning from Chester to get notice in newspaper 2 days	" 3.00
Putting up advertisements of 2 nd Sale of real Estate 2 days	" 3.00
going to Chester & returning to put notice in newspaper for 2 nd Sale 2 days	" 3.00

to which items of account the debt by his Council objected whereupon the matter was referred to the Court, who being of opinion that the six per Centum on the whole amount of personal Estate & the three per Cent on the amount arising from the sales or letting of Land or Estates allowed by the 136, Section of the Statute of Wills, comprised all the allowances, except as therein excepted, allowed by Law to Executors & Administrators in the State of Illinois for their ordinary Services as required by Law in the execution of their duties and therefore affirm the Judgment of the Probate Court, to which said opinion the Plaintiff by his Council excepted & prayed that there his exceptions might be signed, sealed & made a part of the record, pursuant to the act of the general assembly in such case made & provided and it is accordingly done

Sidney Breese (Seal)

State of Illinois
Randolph County } D. S. J. James M. Kates, Clerk of the Circuit Court
within and for said County, Certify that the foregoing is a true copy of the order of Probate Court, afd, order of the Circuit Court, & Bill of Exceptions signed in the foregoing entitled Cause as appears from the files & record of my office.

In witness whereof I hereunto subscribe my name and affix the Seal of said Court this 9th day of June A D 1856,

J. M. Kates, Clerk

James Thompson Adm'r &c

vs.

The heirs of Bay. C. Presley dec'd

} Abstract.
}

On the 9th day of November 1855 the plff. in error presented to the County Court of Randolph county for allowance four items (among others) for putting up notices &c of twice of a sale of real estate as Adm'r which claim was disallowed by the County Court. Plff. then appealed to the Circuit Court of said county where on the 30th day April A. D. 1856 the judgment of the County Court was affirmed, from which last judgment the plff. brings this cause by writ of error to the Supreme Court. D makes the following assignment of error, to wit:

~~Adm'r~~

~~James Thompson~~

~~Adm'r~~



James Thompson &c
Adm'r

James Thompson Adm ^r of Benjamin C. Presley decd.	}	November Term of the Supreme Court 1856.
vs.		First Grand Division
The heirs of Benjamin C. Presley deceased.	}	Error to Randolph & Co.

And now comes the plff. in error and says in the record & proceedings aforesaid there is manifest error in this to wit;

1st-

The court below erred in excluding evidence & disallowing the several items of said plff. in error in the court below.

2-

The court below erred in deciding that said items were not chargeable against said estate, wherefore the said plff. in error prays that the judgment of the court below may be reversed and held for naught &c.

Wm. J. B. Underwood
Atty. for plff. in Error

No 28 /

James Thompson
Administrator of
Benjamin C. Presley decd.
vs.

The heirs of said
deceased.

The Clerk of the Su-
preme Court will
please issue a Si. fa.
to the Sheriff of Ran-
dolph county & file
this record.

W. C. & J. B. Underwood
Atty. for pliffs
in error.

Filed 18th June 1856.

N. Johnston clk
Prepaid \$5. by attys

STATE OF ILLINOIS
SUPREME COURT,

} SS.

WRIT OF ERROR.

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

James Thompson - Administrator of the Estate of Benjamin C. Presley deceased was plaintiff, and Benjamin C. Presley, Keuben L. Presley, Thurephile R. Presley and Elizabeth A. Presley - heirs of said Benjamin C. Presley deceased were defendant & it is said manifest error hath intervened, to the injury of the aforesaid Plaintiff

as we are informed by *his*

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 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 *first Sunday after the 2^d 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. Coates

Witness, the Hon. ~~WALTER~~ *COATES* Chief Justice of our said court, and the seal thereof, at Mount Vernon this

thirteenth day of *April*

in the year of Our Lord One Thousand Eight Hundred and Fifty-*eight* -

Noah Johnston
Clerk Supreme Court.



No 1

James Thompson - Adm^r
Benjamin C. Presley & Co
by } Mid of Evn

Benjamin L. Presley,
Theophilus R. Presley &
Elizabeth A. Presley -
Heirs of the said Benjamin
C. Presley - Deced -

Issued filed 13. April 1858.

A. Schuster Clk

STATE OF ILLINOIS
SUPREME COURT,

} SS.

THE PEOPLE OF THE STATE OF ILLINOIS;

WRIT OF ERROR.

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 *James Thompson Administrator of the estate of Benjamin C. Presley deceased* was plaintiff, and *"The heirs of said deceased"* was

defendant, it is said manifest error hath intervened, to the injury of the aforesaid

Plaintiff

as we are informed by *him*

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 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 *Second 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. WALTER B. SCATES Chief Justice of our said court, and the seal thereof, at Mount Vernon this

28th day of *June*

in the year of Our Lord One Thousand Eight Hundred and Fifty-*Six*

A. Johnston

Clerk Supreme Court.

No 25 /

James Thompson Adm^r
of Benj. C. Purley Decd
in { Mrs of em
The heirs of said Decd^d

Spaid filed 28 June
1856.
A. Johnston Clk



Belleville, Jan 1858,

Dear Sir:

In the case of Hoogner et al vs.
Hoogner

Trustees vs. O'Neal

Same vs. Welch

— vs. Hanna

Please execute & for costs & in
last case for judgment

In last case send me a copy of
order certified of judgment affirmed.

The names of the heirs of
Benjamin C. Presly deceased are
Reuben L. Presly, Theophilus R.
Presly & Elizabeth A. Presly. Please
insert their names in the or-
der & Sci. fa & issue to Shff. of
Randolph county.

Yours truly

W. H. Underwood

Feb 13. 1858
N. Schmitt *cl*

STATE OF ILLINOIS, }
SUPREME COURT. } ss.

First Term Division

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 *James Thompson - Administrator of the estate of Benjamin C. Presley deceased* plaintiff - *Anna Ruben L. Presley, Throphilus R. Presley and Elizabeth A. Presley - heirs of said Benjamin C. Presley deceased* -

defendant, it is said that manifest error hath intervened to the injury of said *James Thompson - Adm. &c.*

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 Mt. 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 *Ruben L. Presley,*

Throphilus R. Presley and Elizabeth A. Presley - Heirs of said Benjamin C. Presley deceased

that *they* be and appear before the Justices of our said Supreme Court, on the first day of the next term of said Court, to be holden at Mount Vernon, in said State, on the *first Tuesday* 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 *Ruben L. Throphilus R. & Elizabeth A.* notice, together with this writ.

John D. Catron

Witness, the Hon. ~~James H. Taylor~~ Chief Justice of our said

Court, and the seal thereof, at Mount Vernon, this *thirteenth*

day *of April* in the year of our Lord,

one thousand eight hundred and fifty-*eight*.

Noah Johnston
Clerk of Supreme Court.

In pursuance of the within writ to me directed, I have this day given notice to the said Reuben & Presley & Elizabeth A. Presley to be and appear before the justice of the supreme court at the time and place within mentioned, and also by delivering a copy thereof of said writ with each of the above named persons, as within I am commanded and the within named Theophilus R. Presley not found in my County he being deceased October 29th 1858.

S. A. Vivian
 Shff. Randolph County Ala
 Sheriff
 Special Bailiff

James Thompson. Atty
 Benjamin C. Presley Decd.
 vs } Sci fa
 Reuben L. Presley
 Theophilus R. Presley &
 Elizabeth A. Presley -
 Heirs of said Benjamin
 C. Presley Decedent

I hereby appoint Edward
 Boncheri Special Bailiff
 to execute the within
 writ October 26th 1858
 S. A. Vivian
 Shff R. Co. Clinch

shff fee's	
servin' g. l.	\$ 1.00
32 miles travel	1.60
returning writ	10
Malage	3
	\$ 2.73

Nov

[Faint, illegible handwritten notes and a circular stamp on the right side of the page.]

James Thompson - Adm
of B. C. Parley, decd
Wtff in em

by

Heirs of B. C. Parley, decd
Sept 26 in em

Ernest Randolph

8637

Dismissed Nov. 1858 - for
want of prosecution