

SUPREME COURT OF ILLINOIS.

First Grand Division—November Term, 1864.

ABSTRACT OF THE RECORD.

JERRY S. BALLENGER, Appellant. }
vs. } Appeal From Clinton.
SAMUEL MCKEE, Appellee. }

R. 1 This was an action of Assumpsit commenced by Samuel McKee, vs. Jerry S. Ballenger, at the August Term of the Clinton circuit court, A. D. 1864.

I.

R. 1 & 2 A Praecipe filed and summons issued against the Defendant, viz. Appellant on the 12th day of July, A. D. 1864.

II.

R. 2 Summons returned, duly served by reading July 19th, 1864.

III.

R. 2, 3, 4 Declaration filed in the usual legal form in Assumpsit.

IV.

R. 4 & 5 The Appellant filed the General Issue to said declaration.

V.

R. 4, 5 & 6 The Defendant pleaded the following special plea in words and figures following, to-wit: And for further plea in this behalf Defendant says actio non; because he says that the said promissory note sued on and the cause of action herein accrued beyond the limits of this State, subsequent to the 17th day of January, A. D. 1851, to-wit: On the 16th day of January, A. D. 1856, and that the period of five years have elapsed before the commencement of this suit, and this he is ready to verify, wherefore he prays judgment, &c. O'MELVENEY & GRAY,

For Defendant.

VI.

The Appellee joined issue on the first plea and filed his Demurrer to the second plea.

VII.

The court sustained the Demurrer to the second plea to which judgment of the court is contained in said Demurrer.

Handwritten notes in the left margin, including "The record of the case" and "The record of the case" written vertically.

VI.

The Appellee joined issue on the first plea and filed his Demurrer to the second plea.

VII.

The court sustained the Demurrer to the second plea to which judgement of the court in sustaining said Demurrer to said Appellants, second plea the Defendant at the time excepted.

R. 6

VIII.

The case was called for hearing and a jury being waived, the cause was submitted to the court, and the court gave judgment for the Appellee in the sum of one hundred and fifty-eight dollars and fifty-nine cents, (\$158.59.)

R 6 & 7

IX.

The Defendant below moved the court for a new trial, which motion for a new trial was overruled by the court, whereupon Defendant at the time excepted and prayed an appeal which was granted on condition that Defendant execute bond in the sum of three hundred dollars to be approved by the Clerk of the circuit court.

R. 7

X.

Appeal Bond executed in accordance with the order of the court and approved by the Clerk.

R. 8

ASSIGNMENT OF ERRORS.

I.

The court erred in sustaining the Demurrer to the Defendant below second plea.

II.

The court erred in rendering judgment in favor of the plaintiff in the court below.

III.

The court erred in overruling Defendant motion for a new trial.

GRAY & O'MELVENEY,

For Appellant.

Abstract of Record
Gerry O. Ballenger
Appellant
vs
Samuel McKee
Appellee
Appeal from Clinton

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Filed, Nov 2^d. 1864.
N. Johnston Clk

THE COURT OF APPEALS IN AND FOR THE STATE OF MISSISSIPPI
AT
THE CITY OF JACKSON

IN REPLY TO THE WRIT OF HABEAS CORPUS
IN FAVOR OF GERRY O. BALLENGER
APPELLANT
VERSUS
SAMUEL MCKEE
APPELLEE

APPEAL FROM CLINTON

ABSTRACT OF THE RECORD

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THE COURT OF APPEALS—JANUARY TERM, 1864

CLERK OF THE COURT