

8741

No. _____

Supreme Court of Illinois

John W. Haley

vs.

Cynthia Toalson

71641  7

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Pleas held before the Hon. William
H. Parish presiding Judge of the third
Judicial Circuit of the State of Illinois
of which the County of Massac Composes a part

Cynthia Toulson }
vs } Trespass on the Case
John W. Haley } Marriage for 10,000
De et Rememered that

on the second day of September A. D. 1853
was filed in the Clerks Office of the Circuit
Court of Massac County Ill. the Declaration
in the above styled Cause, which is in
the figures and words following to wit,

State of Illinois }
Massac County } Set } Of the October Term
Court A. D. 1854

Cynthia Toulson By Thomas G. C. Davis
Her Attorney Complain of John W. Haley

Declarator } Summoned &c of a plea of Trespass on
the Case. ~~Know~~ that Whereas the said
Defendant, heretofore To wit, on
the 10th day of September A. D. 1853
at the County of Massac, in the State
of Illinois, in a certain discourse, which
he the said defendant then and there
had of and to the said plaintiff
in the presence and hearing of Luther
Woodard and divers other good and
lawful Citizens of the State of Illinois
then and there published of and to the
said plaintiff, false scandalous and
defamatory words, following, that is to
say, "you (meaning the said plaintiff
killed a child when you were fifteen

Years old, and have been at it ever
 since that time. She (meaning the
 said plaintiff) killed a child when
 she was fifteen years old, and has
 been at it ever since, thereby meaning
 then and there meaning that the
 said plaintiff had been and was
 guilty of the crime of murder.
 She (meaning the said plaintiff)
 is a Whore (meaning the said
 plaintiff) and a Whore (meaning
 the said plaintiff) make her living,
 by "fucking". She (meaning the said
 plaintiff) makes her living by "fucking"
 when any strangers come to town
 I (meaning the said defendant) tell
 them if they want a little, they can
 get it at the brick house (meaning
 plaintiffs house. There are two women
 there, who make their living by keep-
 ing a whore house (meaning that
 the plaintiff) there and there kept a
 whore house, or house for the practice
 of "fornication"; By means of which
 said several grievances then and
 there committed, by the said defendant
 the said plaintiff has been and is
 greatly injured and damaged in
 her feelings, good name and reputation
 with and amongst her neighbors, to
 wit at the County aforesaid, and
 has sustained damages to the amount
 of \$10,000 and therefore she brings her
 Suit &c

Wm. G. Davis
 att. for 1881

And be it further Remembered that afterwards To Writ, on the third day of September A D, 1853 the Summons in the words and figures following was Issued by the Clerk of Said Court To Writ

State of Illinois
Massac County } Set

Summons }

The People of the State of Illinois To the Sheriff of Said County Greeting We Command you that you Summon John M. Haley if he shall be found in your County that he be and appear before the Circuit Court in and for Said County on the first day of the next Term thereof to be holden at the Court house in Metropolis City Ills. on the second Monday of October next, then and there to answer Cynthia Toulson of a plea of Trespass upon the Case for words Spoken, To her Damage Ten thousand Dollars, as she says, And have your then and there this Writ with an endorsement thereon as to how you execute the same Witness James Elliott Clerk of Said Court, and the Judicial Seal thereof this 3rd day of September A D, 1853

James Elliott Clk

Sheriff }
Endorsement }
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As I am Commanded within I have ^{this day} served the within by reading the same to John M. Haley this 1st day of October 1853

G. M. Gray Sheriff

And be it further Remembered that afterwards To wit at a Circuit Court began and held at the Court house in Metropolis City, in and for Massac County on the 10th Day of October A D 1853 in pursuance of law, pursuant to the Hon. William A. Sherman presiding Judge of said Court, the following Order was duly and Regularly entered as of Record among the Judicial proceedings of said Court. To wit

| | | | | | |
|-------------------------|-----------------|----|---------------|---|---------------------|
| Order of Continuance | Cynthia Paulson | vs | John W. Haley | } | Respondent the case |
| | Plaintiff | | | | Damages \$10,000 |

And now on this day came the Parties by their attorneys, and it is Ordered by the Court, on motion, that this cause be continued for service until the next term of this Court And afterwards To wit on the 24th Day of December A D 1853 the alias summons in the figures and words following issued from the Office of the Clerk of said Court To wit

State of Illinois
Massac County } Set

| | | |
|------------------|---|---|
| Alias summons | } | The People of the |
| | | State of Illinois To the Sheriff of said County Greeting: We command you that you summon John W. Haley if to be found in your County that he be and appear before the Circuit Court in and for said County, on the first day of the next Term thereof to be holden at the Court house in Metro- |

polis City Ill. on the first Monday of June next then and there to answer Cynthia Faulson of a plea of Trespass on the Case, to her Damages Ten thousand Dollars and against the peace and dignity of the People of the State of Illinois And have you then and there this writ with an endorsement thereon as to how you execute the same



Witness James Elliott Clerk of said Court and the Judicial Seal thereof this 24th Decr. 1853
James Elliott Clerk

And afterwards to wit on the day of June 1854 the Defendant filed his plea which is in the words and figures following To wit

John W. Haley }
 a to }
 Cynthia Faulson } Trespass on the case
 Defendants }
 plea }
 And the said defendant by Allen & Logan his Attorneys comes and defends the wrong and injury when &c and for plea says that he is not guilty of the said several grievances a-bove laid to his charge, or any or either of them, or any part thereof in manner and form as the said plaintiff hath above therein complained against him, and of this the said defendant puts himself upon the country &c Allen & Logan for Deft

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Joined Issue

J. G. Harris

Atty

And be it further remembered that afterwards to wit, at a Circuit Court began and held at the Court House in Metropolis City Ill. on the 10th Day of June A. D. 1854 in and for said Massac County in presence of law, Present the Hon. William K. Parish presiding Judge of said Court on the 8th Day of said Term of said Court the following Order was duly and regularly entered of Record as among the Judicial proceedings of said Court
To wit

Cynthia Saulson,

vs

John W. Haley,

} In possession of the
} lease

Damages \$10,000

And now on this day came the Parties and they having joined Issue therefore let a Jury come. Therefore came a Jury to wit James Murrie 1 Travis Withers 2 Robert H. Leak 3 Alfred Copland 4 Jacob Helmstedter 5 Williamson Brown 6 John Haley 7 Levi's Hatterup 8, Daniel Hamner 9, Jacob Bunnigamer 10, Sampson Newhoof 11 and Richard A. Peter 12, Who being Elected tried and sworn, the truth to speak upon the Issue joined, do say We the Jury find the Defendant guilty and assess the plaintiffs damages at \$287.50

Whereupon Defendant by his Counsel moved the Court to ...

And afterwards to wit on the 17th
day of June A.D. 1854 Defendant filed
the following reasons for a new trial
to wit,

Cynthia Paulson, Plaintiff
vs }
John W. Haley } for p[er]ff for
\$287 & 1/2

The Defendant moves the Court
for a new trial in the above entitled
Cause for the following grounds

1st The Verdict of the Jury is contrary
to the evidence - it having been clearly
shown that the character of p[er]ff was
bad & secondly the circumstances
under which the words were spoken
conclusively rebut the presumption
of malice. Newly discovered evidence
The damages under the proof are
excessive.

The Verdict is contrary to Law.

And afterwards to wit on the
19th day of June 1854 the defend-
ant filed the affidavit in the
words & figures following, to wit,

Cynthia Paulson, Plaintiff
vs } Slander
John W. Haley }

This affiant John
W. Haley, being first duly sworn
says that in the trial of the above
entitled Cause at the present term
of this Court, he was taken complete

by surprise, by the testimony of one Theodore Hicks, a witness sworn on the part of the plaintiff. Affiant states that since said trial it has come to his knowledge for the first time, that he can prove by Mrs D. Peterson, a resident of Metropolis City Illinois, that she heard a conversation some time last Spring between the plaintiff and said Theodore B. Hicks, in which the said plaintiff agreed to give the said Theodore B. Hicks four dollars and half of all that could be recovered from this affiant in said suit by plaintiff, if said witness would appear as a witness at said trial and swear for said plaintiff, and that said Theodore B. Hicks agreed to the same. Affiant also states that he has been informed since said trial that he can prove by said witness that said plaintiff has stated since the verdict was rendered in said case that Theodore B. Hicks should have half of the amount recovered against affiant, provided his the said Theodore's family did not get any of it. Affiant states that in his opinion, if the foregoing evidence could have gone before the Jury the verdict would have been different. - He states that he did not know that he could prove the same till since said trial

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but should the Court be pleased to grant him a new trial, he has no doubt but what he can prove the foregoing facts as stated, affiant states that the evidence of said Theodore B. Hicks, as given to the Jury was untrue, and that he believes that he was induced to testify from the nature of his interest aforesaid,

Subscribed and sworn
to before me this
17th June 1854
James Colliett clk

John W. Haley

And afterwards To wit on the twelfth day of last mentioned June of said Court the following Order was entered as of Record among the Judicial proceedings of said Court To wit,

Cynthia Paulson }
U.S. }
John W. Haley }

Sus pps on the case

And now on this day came again the Parties by their attorneys, and the motion for a new trial herein is, by the Court Overruled. Therefore it is considered by the Court that the plaintiff recover of the defendant the sum of Two hundred and Eighty Seven dollars and fifty cents damages and also her costs in and about her suit in this behalf by her expended &c &c

And afterwards To wit, on the
 thirteenth day of the last mentioned
 Term of said Court the following
 Order was duly and regularly entered
 of record as among the Judicial
 proceedings of said Court
 To wit,

| | | |
|-----------------|---|---------------------|
| Lynetha Boulson | } | Trespas on the case |
| vs | | |
| John W. Haley | } | Damages \$10,000 |

The Defendant
 herein prays an appeal to the Supreme
 Court, which is by the Court gra-
 nted, on condition that he enter
 into Bond in the sum of \$400
 with William McBean and Samuel
 H. Trimmer and John Cunningham
 as his Securities, in thirty days

And further ~~that~~ Ordered
 by the Court that the bill of Excep-
 tions herein may be signed in vacation
 of Court

And afterwards To wit on the fifth day of July A. D. 1854 the Defendant filed in the Office of the Clerk of the Massac Circuit Court, the appeal Bond which is in the words and figures following, to wit,

Copy of
Appeal
Bond

Know all men by these presents, that the John W. Haley principle and William McLean, Samuel H. Pfunner, and John Cunningham Securities are held and firmly bound unto Cynthiah Taulson in the sum of four hundred dollars, good and lawful money of the United States of America for the payment of which well and truly to be made, we bind ourselves our heirs Executors and administrators jointly and severally, firmly ~~by~~ these presents.

Signed with our hands, and sealed with our seals, and dated this first day of July A. D. 1854

The condition of the above Bond is such that whereas at the same Term A. D. 1854. of the Circuit Court in and for the County of Massac. and State of Illinois the above mentioned Cynthiah Taulson obtained against the above Defendant John W. Haley, Judgment, for the sum of Two hundred and Eighty Seven Dollars and fifty cents, beside Interest and costs of suit, and from which said Judgment of the said Circuit Court, the said John W. Haley at the time of the rendering of the said Judgment, in Term time (same Term

1854) prayed an appeal to the
 Supreme Court of the State of Illinois
 to be holden at Mount Vernon in the
 first Grand division of the State of
 Illinois, and having at the same
 time and place, tendered to the
 Court, as his Securities, the said
 William McBean, and Samuel H.
 Pfriemer and John Cunningham
 who were approved of by the Court
 and the appeal granted accordingly

Now if the said John M. Haly
 shall pay the aforesaid Judgment
 of Two hundred and Eighty seven
 dollars and fifty cents, and costs
 and damagis in Case the same be
 affirmed in the said Supreme Court
 and shall duly prosecute his said
 appeal, then and in that Court, this
 Bond to be Void and for nothing
 Esteemed, Else to Remain in full
 force and Effect,

Witness our hands and seals this
 1st day of July A. D. 1854

Attest
 James Collitt, Clerk
 John M. Haly, Esq.
 William McBean, Esq.
 John Cunningham, Esq.
 S. H. Pfriemer, Esq.

State of Illinois }
Massac County } Set

I James Colliott
Clerk of the Circuit Court in
and for said County of Massac
and State of Illinois, do hereby
certify that the twelve preceding
pages contain a full and com-
plete Transcript of the Record and
proceedings of ~~the~~ the cause there
in mentioned & fully and com-
pletely as the same appears of Record
in any Office

Witness my hand and the
Judicial Seal of said
Court, done at Office in
Metropolis City this 28th day
of October A. D. 1857

James Colliott Clerk

No 41

Cynthia Tolson

David Leach

U.S.

John W. Haddock

John W. Haley

John W. Haley

by

Cynthia Tolson

Appeal from ~~Mason~~

Filed 21. Nov. 1854.

F. D. Preston clk

By A. Johnston & Co.

Circuit Clerk's fees

Devinson

\$ 3.20

Devinson pay for

No 41

November 1852

John W. Halcy

vs

Cynthia Tolson

Appeal from Massachusetts

By the Court.

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Appeal Dismissed