25/6

Jan. 1844 #1376

John B. Camden &
Peter G. Camden
vs.
Jacob Snowden et.al
Carroll County

(1)

State of Missouri }
County of Carroll } Carroll Circuit Court October Term 1841

To the Carroll Circuit Court John B Camden And Peter G Camden Plantiffs State that they are the Legal Owners of a note against the defendants James W Freeman and Jacob Snowden to the following Effect —

$744.34 One day after date we promise to pay to the Order of John B Camden and Peter G Camden Surviving Partners of J B & M. Camden Co which firm was composed of John B Camden Marbell Camden & Peter G Camden Seven Hundred forty four dollars Thirty four Cents for value received to bear ten pr. Cent Inst pr annum after due until paid

September 2d 1841 James W Freeman
Jacob Snowden

Yet the debt remains unpaid therefore they demand Judgement for their debt and damages for the detention thereof together with costs R D Wayatt for Plantiff

State of Missouri } Set
County of Carroll } The State of Missouri

To the Sheriff of Carroll County Greeting —

You are hereby Commanded to Summons James W Freeman and Jacob Snowden of said County of Carroll that all Excuses and delays set aside

They and Each of them personally be and appear before The Hon^e Judge of our Carroll Circuit Court at the Court House in Carrollton in Said County of Carroll On the first Monday after the fourth Monday in September 1841) it being the 4th day of October 1841) Then and there to answer the Complaint of John B Camden and Peter G. Camden Surviving partners of J B & M Camden &c In an action of debt by petition in debt and hereof they are Not to fail under the legal penalty thereof and Certify to our Said Carroll Circuit Court how you Execute this Writ —

Witness Joseph Dickson Clerk of our said Carroll Circuit Court at office with his Private Seal affixed there being no official Seal yet procured this 4th day of September in the year 1841 Joseph Dickson Clk

I James Trotter Sheriff of Carroll County do hereby certify that I read this petition and Summons to Jacob Snowden and James W Freeman in Carroll County on the 4th day of September 1841 James Trotter Sheriff of Carroll County

Sheriffs Fee $2.00

J B Camden Et. all Plaintiffs
Vs. } Petition in debt
Freeman & Snowden Defts

Defendants aforesaid filed their Motion to Set aside

The Writ Issued in the Cause
James W Freeman
Jacob Snowden
Ats
J B Camden Et. al } The defendants in this cause mooves the Court to quash the writ and set ~~it aside~~ it aside for irregularity — For that the writ does not agree with the petition in this. That the petition describes the plantiffs simply as John B Camden & Peter G. Camden while the writ Commands the defendants to answer the action of John B Camden and Peter G Camden Surviving partners of J B & M Camden & Co and for that it is otherwise irregular and Informal Jones for defendant
J B Camden Et al plfts
V.S. } petition in debt
Freeman & Snowden defts
The defts aforesaid by their attorney file There demeurer to Said plantiffs petition
James W Freeman
Jacob Snowden
Ats
John B & Peter G Camden } And the Said defendants by their attorney Comes and defends the wrong & Injury when &c. and Say that the said petition and the Matters therein Contained in Manner and form as the same are above Stated and set forth — are not sufficient in law for them the Said plantiffs to have or Maintain there aforesaid action thereof — against the

Said defendants. and they the said defendants are not bound by law to answer the same— and this he is ready to verify Wherefor by reason of the insufficiency of the said petition in this behalf the said defendants pray Judgment and that the said plaintiffs may be barred from having or maintaining their aforesaid action thereof against them &c— and the said defendants according to the form of the Statute in such case made and provided. State and show to the Court here the following Cause of demurrer to the said Petition. That is to say that the instrument Sued upon shows that it was given to the plaintiffs as Surviving partners of the firm of J B & W Camden &c. that they hold it as said Surviving partners and should have declared as such in their said petition That the record shows that they are Surviving partners and should have Sued as such. and not in their own right or name— And also that the said Petition is in other respects uncertain informal and insufficient

Jones for defts—

J B & Camden &c Plffs
vs. } Petition in debt
Freeman & Snowden defts

The Motion to quash the writ in this cause is by the Court here overruled

I B Camden & Co Plaintiffs
V.S. } Petition in debt
Freeman & Snowden defts

The plaintiffs aforesaid by there attorney file their Foundier In demurer demurer argued and by the Court here overruled

I B Camden et al
V.S. } petition in debt
Freeman & Snowden } And the said plaintiffs saith that the said petition and the matters therein contained. in manner and form as the same are stated and above set forth are sufficient in law for them the said plaintiffs to have and maintain there aforesaid action thereof against the said defendants. and the said plaintiffs are ready to verify and prove the same as the Court here shall direct and award. Wherefore in as much as the said defendants have not answered the said petition. nor hitherto in any manner denied the same the said plaintiffs pray Judgment and their debt aforesaid together with their damages by them sustained on occasion of the detention thereof to be adjudged to them &c R S Ray attoy for Plfs

I B Camden & Co plfts
V.S. } petition in debt
I.W. Freeman & Jacob Snowden defts } And now at this day comes

The parties aforesaid by their respective attorneys and the Court renders Judgement on the demurrer against said defendants for the sum of Seven Hundred and forty four Dollars and Thirty four Cents debt and Six dollars and Seventy three Cents damages in the way of Interest

It is therefore considered by the Court here that the plan-tiffs aforesaid recover of said defendant the debt and damages aforesaid as found and assessed by the Court to-gether with his costs and charges by him in this suit in this behalf laid out and expended and that there be thereof Execution &c &c

J N B Camden &c plfts
V.S. } Petition in debt
J W Freeman & Jacob Snowden dfts

The defendants aforesaid by their attorney filed their Motion in arrest of Judgement rendered in this Cause which said Motion is by the Court here overruled to which opinion of the Court the defendants aforesaid by their att-orney Excepts and files their bill of Exceptions which is signed by the Court and filed as a part of the records in this Cause

J N B Camden &c plaintiffs
V.S. Petition in debt
J W Freeman & Jacob Snowden dfts

The defendants aforesaid b

Freeman & Snowden
Ats
I. B. & Peter G. Camden } The defendants in this cause moves the Court to arrest the Judgement of the Court upon the demurrer & defendants Motion — For that the Court Erred in Matters of Law in overruling the defendants Motion to Quash the Writ & Set it aside for Irregularity For that the Court erred in Matters of Law in overruling the defendants demurrer and giving Judgement against them upon it — And for that the Court erred in Matters of law in giving its judgements aforesaid —

Jones Attorney for defts

I. B. Camden & Co plaintiffs
V.S. } Petition in debt
J. W. Freeman & Jacob Snowden defts

The defendants aforesaid by there Attorney filed their Motion for a new trial in this cause which Motion is by the Court Overruled

Freeman & Snowden
Ats
I. B. & Peter G. Camden } The defendants in this cause moves The Court to Set aside the Judgement of the Court and Grant a new Trial. For that the Court erred in overruling the defendants Motion to quash the Writ and Set it aside for irregularity. for that the Court erred in overruling and giving Judgement on the defendants demurrer and for that the Judgement of the Court was Contrary to law

Jones Atty for Defts

John B & P Camden Co pltfs
V.S. } Petition in debt
Jas W Freeman & Jacob Snowden defts } And now at this day comes the defendants aforesaid by their attorney and prays an Appeal to the Supreme Court in this cause and Jacob Snowden one of said defendants having filed his affidavit as by law required—

John B & Peter G Camden
V.S.
Freeman & Snowden } Jacob Snowden one of the above named defendants makes oath and swears that the appeal in the above cause is not made of vexation or delay but because this affiant believes that the appelants are aggrieved by the Judgement of the Court—

Jacob Snowden

Subscribed and sworn and subscribed in open court on the 7th day of October 1821. Joseph Dickson ck

An appeal is granted and thereupon comes Jas W Freeman and Jacob Snowden the defendants aforesaid with Bartley Pitts and Morgan P Ellis their securities and acknowledged themselves to owe and be indebted to said plantiffs in the sum of one thousand dollars ~~and they the said defendants~~ that is to say they the said defendants in the sum of one thousand and they the said Morgan P Ellis and Bartley Pitts in the sum of Five Hundred dollars Each to be levied of their respective

Goods and Chattels lands and Tenements to the use of said plantiffs to be rendered but to be void upon this express condition that said appellants will prosecute their said appeal with due diligence to a decision in the Supreme Court and that if the Judgement appealed from is affirmed or their appeal dismissed they will pay whatsoever of the debt damage and costs have been recovered against them by the Judgement of the Circuit Court together with the Interest that shall grow due thereon and that they will otherwise perform the Judgement of the Circuit Court and that they will also pay the costs and damage that may be adjudged against them in the Supreme Court upon their appeal

John B & Peter G Camden
vs
Freeman J Snowden

Be it remembered that on the trial of the above cause the defendants filed the following Motion in arrest of Judgement

The defendants in this cause moves the Court to arrest the Judgement of the Court upon the demurrer & defts Motion —

For that the Court Erred in Matters of Law in overruling the defendants Motion to quash the Writ & set it aside for irregularity —

For that the Court erred in Matters of law in overruling the defendants demurrer and giving Judgement against them upon it

And for that the Court erred in Matters of Law in giving its Judgement aforesaid Jones atty for defts Which said Motion was overruled by the Court to which Opinion of the Court the defendants Excepts the defendants also filed the following Motion to setu aside the Judgement and to Grant a new trial

The defendants In this Cause Moves the Court to set aside the Judgement of the Court and Grant a new trial

For that the Court erred in Overruling the defts-endants Motion to quash the writ and set it aside for irrigulanty

For that the Court erred in overruling and giving Judgement on the defendants demurrer and for that the ~~Court erred~~ Judgement of the Court was Contray to Law Jones atty for Defts Which said Motion was overruled by the Court to which Opinion of the Court the defendants Excepts and prays that this their Bill of Exceptions to all of the above Opinions of the Court may be signed and sealed by the said Court and made a part of the records in this Cause which is done accordingly

Austin A. King Clerk

Clerks Fee for Transcript
Copying 2000 words & figs 2.00
Certificate & Seal 50
$ 2.50

State of Missouri } Ss
County of Carroll } I Henry H Miller clerk of the Circuit Court within and for the County of Carroll aforesaid do hereby Certify that the foregoing Transcript Commencing at Page 1 and Ending with Page 10 is a full true and perfect Transcript of the record and proceedings of the Suit in said Circuit Court of the County of Carroll aforesaid wherein J N B Camden & Co is Plaintiffs and Freeman & Snowden defendants

In testimony whereof I Henry H Miller Clerk as aforesaid have hereunto set my hand and affixed my private seal at Office there being no Official Seal yet procured this Twenty Eight day of October 1841

Henry H Miller clk

1842 (19)

J. B & P. G. Camden

vs

Transcript

J. Snowden & J. W. Freeman

Filed April 4th
1842 —
Wm Spratt Clerk
SC

(1)

State of Missouri }
County of Carroll } Carrol Circuit Court October Term 1841

To the Carroll Circuit court Edward McDaniel plaintiff States that he is ~~indebted~~ the legal owner of a Bond against the defendant Jacob Snowden to the following Effect— $283.35/100 For value rec^d fifteen Months after date I promise to pay to the order of E. McDaniel The Sum of Two Hundred & Eighty three dollars And thirty five cents as witness my hand and Seal this 18th of March 1840—

Jacob Snowden Seal

Yet the debt remains unpaid therefore he demands Judgment for his debt and damages for the detention thereof Together with Costs R D Ray Atty for Plaintiff

State of Missouri } Set
County of Carrol } The State of Missouri to the Sheriff of Carroll County Greeting you are hereby Commanded to Summons Jacob Snowden of Said County of Carroll that all excuses and delays Set aside he ~~be~~ personally be- and appear before the Hon^r Judge of our Carroll Circuit at the Court House in Carrollton in said County of Carrol on the first Monday after the fourth Monday in September in the Year 1841 (It being the 4th day of October 1841) Then and there to answer the Complaint of Edward McDaniel in an action of Debt by petition in debt and herof he is not to fail under the Pegue —

Penalty thereof and certify to our said Carroll Circuit Court how you Execute this Writ—

In Witness Joseph Dickson Clk of our said Carroll Circuit Court at office with his Private Seal affixed there being no official Seal yet procured this 4th day of September 1841 Joseph Dickson Clk

I James Trotter Sheriff of Carroll County do hereby certify that I read this petition and summons to Jacob Snowden in Carroll County on the 4th day of September 1841

James Trotter Sheriff of Carroll County

Sheriffs Fee $1.00

Edward McDaniel Plaintiff
vs. } Petition in Debt
Jacob Snowden deft

The defendant aforesaid by his attorney files his Special plea in this cause—

Edward McDaniel Plaintiff
vs. } Petition in debt
Jacob Snowden deft

The defendant aforesaid by his attorney filed his plea of No Consideration

(2)
(3)

Edward McDaniel plff
vs. Petition in debt
Jacob Snowden deft
defendant aforesaid by his attorney filed
his plea failure of Consideration

Edward McDaniel plff
vs. Petition in debt
Jacob Snowden deft—
The defendant aforesaid filed his plea Non
Est Factum
Jacob Snowden
ats
Edward McDaniel And the said defendant by his attorney
Comes and defends the wrong and injury when &c and
Says that the said supposed Bond is not his deed and
of this he puts himself upon the Country &c
Jones for defts

Edward McDaniel plff
vs Petition in debt
Jacob Snowden deft
The plea of No Consideration filed in this cause
is by the Court here overruled
Edward McDaniel Plff
vs. Petition in debt
Jacob Snowden deft The plea of failure of Consideration
Filed in this cause is by the Court here overruled

Edward McDaniel plff
vs. } Petition in debt
Jacob Snowden defft

The plea non est factum filed in this cause is by the court here overruled —

Edward McDaniel plff
vs. } Petition in debt
Jacob Snowden defft

The special plea filed in this cause is by the Court here overruled —

Edward McDaniel plff
vs. } Petition in debt
Jacob Snowden defft

The defendant aforesaid by his attorney withdraws the three special pleas filed in this cause

Edward McDaniel plff
vs. } Petition in debt
Jacob Snowden defft

The defendant aforesaid by his attorney filed plea of Arand Generally in this cause

Jacob Snowden
atts }
Edward McDaniel }

And the said defendant by his attorney comes and defends the wrong and injury when &c—

and Says that the said plaintiff ought not to have or Maintain his aforesaid action thereof against him the said defendant — Because he says that the said Bond in the said petition mentioned was obtained from the said defendant by the said plaintiff by fraud. Covin and Misrepresentations. So doth he the County of Carroll aforesaid. Wherefore he the said defendant Said that the said bond in the said petition Mentioned is void in law and this he the said defendant is Ready to verify. Wherefore he prays Judgment if he ought to be charged with the said debt by virtue of the said Bond &c. Jones for defts

Edward McDaniel Plff
vs
Jacob Snowden deft
Petition in debt

The defendant aforesaid by his attorney files his Motion to dismiss the Suit —

Edward McDaniel
vs
Jacob Snowden

The defendant in this cause moves the Court to dismiss the Suit — For that the plaintiff is a non resident of the State of Missouri. and there has been and is no Bond filed for Security of Costs

For that the Statute requires that before a Suit is instituted — by an Non Resident — that he Should file a bond

with security for costs and this the plantiff has wholly failed to do — Jones for deft

Edward McDaniel ptft
vs. } Petition in debt
Jacob Snowden deft

And now at this day comes the plantiff aforesaid by his attorney and files his replication to defendants plea of general fraud and issue taken —

Edward McDaniel
vs. } Petition in debt
Jacob Snowden deft

And the said plantiff as to the said plea of the said defendant by him (secondly) above pleaded — saith that the said plantiff by reason of any thing by the said defendant in that plea alleged ought not to be bared from having and maintaining his aforesaid action thereof against the said defendant because he says that the said Bond in the said petition mentioned — was obtained fairly and honestly by the said plantiff and was not obtained from the said defendant by the said plantiff By fraud Covin or misrepresentation in manner and form as the said defendant hath in his said plea by him (secondly) above pleaded alledged — and this the

Said plantiff prays may be inquired of by the County &Co

Edward McDaniel Pltft — R D Ray attorny for Pltff

v.s. } Petition in debt

Jacob Snowden deft

The Motion filed by defendant attorney to rule plantiff aforesaid to give security for costs taken up and before disposing the same R D Ray an attorney of the Court by Sepecial leave of the Court filed a bond for the costs and said Motion is overruled and neither party requiring a Jury the cause is submitted to the Court Setting as a Jury whereupon the Court doth find the issues for said plantiff and finds the debt to be Two Hundred and Eighty Three dollars & Thirty five cents and the damages by way of Interest to be the Sum of Four dollars —

It is therefore considered by the court here that the plantiff aforesaid recover of said defendant the debt and damages aforesaid in from aforesaid as found and assessed by the Court together with his costs and charges by him in this suit in this behalf laid out and expended and that there be Execution &Co

Know all men by these presents that I Robt. D Ray of the County of Carroll and State of Missouri do hereby acknowledge myself bound unto Jacob Snowden to an for the use of person concerned or interested herein bound to pay all costs which have or hereafter may accrue in the case of Edward McDaniel against said

Jacob Snowden by petition in debt in Carroll Circuit Court now pending — Given under my hand and seal this Seventh day of October AD 1841 —

R. D. Ray (Seal)

Edward McDaniel Plft
vs. } Petition in debt
Jacob Snowden deft

And now at this day comes the defendant aforesaid by his attorney and files his Motion in arrest of Judgement in this Cause, and for a new Trial. Which said Motion are by the Court here overruled and therefore said defendant files his affidavit for an ~~[illegible]~~ appeal in this cause which is granted —

Edward McDaniel }
vs }
Jacob Snowden } The defendant in the above cause moves the Court to arrest the Judgement for that the Court Erred in overruling the defendants Motion to dismiss the Suit and for that the Court erred in forcing defendants Council in to Trial

Jones for deft

Edward McDaniel }
vs }
Jacob Snowden } The defendant in the above cause moves the Court to set aside the Judgement of the Court and grant a new trial — For that the Court Erred in overrulling the defendants Motion to dismiss the Suit

And for that the court Erred in forcing the defendants Into Trial

Jones for deft

Edward McDaniel
vs
Jacob Snowden } Jacob Snowden the above named defendant makes oath that the appeal in the above Cause is not made of Vexation or delay but because this affiant beleaves that he is aggreaved by the Judgment of the court

Jacob Snowden

Subscribed and Sworn in open court on the Seventh day of Oct 1841 —

Joseph Dickson ck

And thereupon Comes Jacob Snowden the defendant aforesaid with Morgan P. Ellis as his Security and acknowledged themselves to owe and be indebted to said Plaintiff in the Sum of three Hundred dollars Each to be levied of their respective goods and Chattls Lands and Tenements to the use of said plaintiff to be ren=dered — But to be void upon this express condition that said appelant will prosecute his said appeal with due diligence to a decision in the Supreme Court and that if the Judgement appealed from is affirmed or his appeal dismissed he will pay whatever of the debt damages and Costs has been recovered against him by the Judgement of ~~said~~ the Circuit Court together with the

Interest that Shall grow due thereon and that he will otherwise perform the Judgment of the Circuit Court and that he will also pay the costs and damages that may be adjudged him in the Supreme Court upon his appeal

Edward McDaniel Plff
vs Petition in debt
Jacob Snowden defdt

And now at this day comes the defendant aforesaid by his attorney and files his bill of Exceptions in this cause to the opinion of the Court in overruling his Motion in arrest of Judgment and new trial which said bill of Exceptions is by the Court here signed and Sealed and made a part of the Record in this cause

Edward McDaniel
vs
Jacob Snowden

Be it remembered that on this Trial of the above Cause the defendant filed the following Motion to dismiss the plaintiffs Suit

The defendant in the above Cause moves the Court to set aside the Judgment of the Court and Grant a new Trial — For that the Court Erred in overruling the defendants Motion to dismiss the Suit —

Which Motion was overruled by the Court and the plaintiffs Counsel was permitted to file a bond for Security for Costs on this Trial which bond was filed

befor the Motion was disposed of to which opinion of the Court the defendants Excepts - the defendant also pleaded Non Est Factum and Fraud Generally and his Counsil insisted that he had a Meritorious defence - The Evening previous to the trial the defendant went to his residence into the Country Six Miles from the Court House with directions from his Counsil to return at Nine Oclock when his cause would be tried. the Court adjourned on that Evening to meet at Eight oclock next Morning when the Court with the cause was called for Trial at ½ past 8 oclock Several Cases which stood before the defendants were Continued and the defendants Counsil Shewing no cause for Continuance went to Trial without the defendant himself being present who wished to make an affidavit for a continuance of the cause in Order to prove the fraud as alleged - Judgment was thereupon rendered by the Court without the defendants Counsil having an opportunity to introduce Evidence or having the cause Continued - he insisting that he had a Meritorious defence - to which opinion of the Court in Rendering Said Judgment - Made Such Circumstances the defendant Excepts and prays that this his bill of Exceptions be Signed and Sealed and made a part of the Record in this cause which is done accordingly

Austin A King Cir.

Clerks Fee for Transcript
Coping 2000 words & figs 2.00
Certificate & Seal 50
$2.50

State of Missouri } Sct
County of Carroll } I Henry H Miller clk of the Circuit Court within and for the County of Carroll aforesaid do hereby Certify that the foregoing Transcript Commencing at Page 1 and Ending at with Page 11 is a full true and perfect Transcript of the Record and proceedings of the Suit in said Circuit Court of the County of Carroll aforesaid wherein Edward McDaniel is Plaintiff and Jacob Snowden defendant

In Testimony whereof I Henry H Miller Clerk aforesaid Have hereunto set my hand and affixed my private Seal at Office there being no Official Seal yet procured this Twenty Eighth day of October 1841

Henry H. Miller Clerk

(27)

Edward McDaniel

vs

Transcript

Jacob Snowden

Filed April
4th 1842

Wm Spratt clerk

Jacob Snowden
vs
Edward M'Daniel

Appeal from Cowell Circuit Court
& Supreme Court of April Term 1843

And now at this day comes the said appellant by his attorney and says that in the said Record & proceedings, and in giveing the said judgement, there is manifest Error in this:

1st That it appears by the said Record & proceedings that judgement was given against the appellant, whereas by the Law, judgement ought to have been given against the appellee.

2d That there is error in this. That the Court erred in over-ruling the appellants pleas of Non-est-factum - failure of Consideration, want of consideration, & pleas Specially, and that without demurrer.

3d The Court erred in forcing the ~~appellant~~ appellants Council into trial, when other causes were before it on the docket & the cause did not come on in Course.

4 That the Court erred in not ~~hearing~~ hearing a Motion for a Continuance of the Cause

4th That the Court erred in overruling the appellants Motions in arrest of judgement & for a new trial

Wherefore, for the errors aforesaid, and for others appearing in the said Record and proceedings, the said ~~appellant~~ appellant prays that the said judgement be reversed, annulled, and entirely for nothing esteemed, and that ~~he~~ he be restored to all things, which he may have lost, by reason of said judgement, and that the Court here proceed as well to the examination of the record & proceedings as the said Errors above assigned & that the said appellee join in Error &c.

M C Lee & Ryland
for appellants

Jacob Snowden

vs

Edward M'Daniel

Assignment of Errors

Filed April 25th
1842
Wm Spratt clerk

Error-

John B & Peter G. Camden defendants in
James W. Freeman & Jacob Snouden plaintiffs in Error

In Supreme Court
April Term 1842.

And the said defendants in Error come and say that there is not any error in the Record & proceedings of said cause or in the Judgement and that said judgement ought to have been given for the Defendants in Error and not for the plaintiffs in Error

Wherefore the said Defendants in Error pray that the said judgement may in all things be affirmed

R. C. Ewing
Atty for defendants in Error.

Snowden
vs Error
McDaniel

Sinder in Error

Filed April 26th
1842 —
Wm Spratt clerk

Dear Sir — Keytesville Decr 1st

I wish you to issue a writ of Error to Carroll Circuit Court in the Case of Jacob Snowden & others vs John B. & Peter G. Camden — the latter being plfs in the lower Court in a suit by scire facias on a recognizance for an appeal herein or taken to the Supreme Court — the former except to the judgt of the Circuit Court —

I will pay yr. fee when I come down to Jefferson in Jany.

— Please write me & let me know the days of the term on which the cases from Kings & Clarkes Circuits are set for trial — Yr friend

B. S. Trongfellow

John B. Camden
Peter G. Camden } plfs below. dfts above

Jacob Snowden
James W Freeman
Morgan P Ellis } dfts below — plfs. here —

I think perhaps another was security besides Ellis but am not certain — Say Snowden & others

Snoorden

vs Pre.

Camden.

filed 14 Dec 1843

H. L. Boon Mr

STATE OF MISSOURI----Sct.

The State of Missouri....To the Judge of the Fifth —— Judicial Circuit in said State....**GREETING**:

WHEREAS, *In the record and proceedings in a certain cause lately pending in the Circuit Court within and for the County of* Carroll —— *in said circuit, wherein* John B Camden & Peter G Camden were plaintiffs, and Jacob Snowden and others were ——— *defendants manifest error, hath intervened, to the great damage of the said* defendants. — *as by* their *complaint, we are informed;*

Now, we being willing that the error, *if any there be, should be corrected, and full and speedy justice done to the parties aforesaid, in that behalf,* **command you,** *that you send to us certified under your* **seal,** *the record and proceedings in the cause aforesaid, as fully as the same remain of record before you in said Court, so that we may have them before us at our Supreme Court, to be begun and held at the City of Jefferson, in the County of Cole, in said State, on the* Second *Monday in* January — *next, so that our Judges of our Supreme Court on inspecting the record and proceedings aforesaid, may cause to be further done therein, for correcting the error, what of right and according to law ought to be done.*

WITNESS, Hampton L. Boon, *Clerk of our said Supreme Court, at office, in the City of Jefferson, the* fourteenth ——— *day of* December *in the year of our Lord, one thousand eight hundred and forty-*three, with his private seal, having no seal of office yet provided.

H. L. Boon.

State of Missouri } ss
County of Carroll } I Lewis A Rees Clerk of the Circuit Court in and for said County of Carroll return this writ accompanied with a full true and perfect transcript of all the records and proceedings had in said Carroll Circuit Court in the within mentioned cause

In Testimony whereof I have hereunto set my hand and affixed my private seal at office in Carrollton this 26th day of December 1843

Lewis A Rees Clerk

Sup. Ct. Mo.
January Term 1844.

Jacob Smarden et. al
vs
John B. Camden &
Peter G. Camden.

State of Missouri } Ss
County of Carroll } Pleas held before the
Honorable Austin A King Judge of the
Carroll Circuit Court in the fifth judi
cial Circuit for said State began and
held at the Court house in Carrollton
in and for said County of Carroll on
the eighteenth day of September in the
year of our Lord One thousand eight
hundred and forty three

Be it remembered that heretofore
to wit on the twenty eighth day of April
in the year of our Lord One thousand eight
hundred and forty three John B Camden
and Peter G Camden ordered out of the
office of the Clerk of said Circuit Court
a writ of Scire facias against James W
Freeman Jacob Snowden Bartley Pitts
and Morgan P Ellis which said scire
facias is in words and figures following
To wit (State of Missouri }
County of Carroll } To wit

The State of Missouri
To the Sheriff of Carroll County = Greeting
Whereas John B Camden and Peter G Camden
at the Court house in said County on the sixth
day of October in the year of our Lord eight
=een hundred and forty one at our Carroll
Circuit Court at the October term thereof
recovered by the Consideration of said Court
Judgment against James W Freeman
and Jacob Snowden
for the sum of Seven hundred and forty four

dollars and thirty four Cents debt and
Six dollars and twenty Cents damages by
way of Interest together with their Costs and
Charges by them in that Suit in that behalf
laid out and expended and that there should
be there of Execution, and whereas afterwards
to wit on the Seventh day of October in the
Year aforesaid at Said term of Said Court
at Carroll County aforesaid Came the Said
defendants by their attorney and prayed
an appeal to the Supreme Court in Said
Cause and the Said Jacob Snowden having
filed his affidavit as by law required
an appeal was then and there in Said Cause
by Said Court granted to the Supreme
Court. and thereupon Came James W Free-
man and Jacob Snowden the defendants afo-
resaid with Bartley Pitts and Morgan
P Ellis their Securities therein and acknowl-
edged themselves to owe and be indebted
to the Said plaintiffs in the Sum of One
thousand dollars that is to Say they the Said
~~plaintiffs~~ defendants in the Sum of One
thousand dollars and they the Said Morgan
P Ellis and Bartley Pitts in the Sum of five
hundred dollars each to be levied of their
respective goods and Chattels lands and
tenements to the use of the Said plaintiffs
to be rendered. but to be void upon the
express Condition that the Said appellants
would prosicute their Said appeal with
due diligence to a decision in the Supreme
Court and that if the Judgment aforesaid

from thence to affirmed or their appeal dismissed that they would pay whatever of the debt damages and Costs had been recovered against them by the judgment of the said Circuit Court to gether with the interest that should grow thereon and that they would otherwise perform the Judgment of the Circuit Court and that they would also pay the Costs and damages that might be adjudged against them in the Supreme Court upon their appeale and whereas afterwards to wit at the April Term of the Supreme Court aforesaid for the Year of our Lord eighteen hundred and forty two the said James M Freeman and Jacob Snowden did prosicute their said appeal to a decision in the Supreme Court and whereas the said judgment aforesaid from thence and there by said Supreme Court affirmed and whereas the said James M Freeman Jacob Snowden Bartley Pitts and Morgan P Ellis have not nor has either or any of them paid the said debt damages and Costs together with the interest thereon recovered as aforesaid by the aforesaid Judgment of the said Circuit Court or either of them or any part thereof to the said plaintiffs or either of them nor have they or either of them otherwise performed the judgment of the said Circuit Court

These are therefore to Command you to summons the said James M Freeman Jacob Snowden Bartley Pitts and Morgan P Ellis

to be and appear on the fourth Monday in May A.D. 1845 before our said Carroll Circuit Court to be begun and held at the Court house in Carrollton within and for said County of Carroll on the twenty second day of May A.D. 1845 and Show Cause if any they have why Execution shall not be issued against them for the aforesaid debt damages and Cost and have you then and there this writ

Witness Lewis A Rees Clerk of our said Carroll Circuit Court at office with his private seal affixed there being no official seal yet procured this 28th day of April 1845

(Seal)

Lewis A Rees Clerk

And the endorsements of the Sheriff made thereon as & for the return of the Service of the said writ is in the following words and figures To wit

I James M Goodson Sheriff of Carroll County do certify that I Executed this Scire facias and Summons by reading the same to the within named James N Freeman and Morgan P Ellis in Carroll County on the 29th of April 1845 and to the within named Bartley Pitts in Carroll County on the first day of May 1845 and to the within named Jacob Snowden in Carroll County on the 2nd day of May 1845 May 2nd 1845

James M Goodson Sheriff of Carroll County

Sheriffs fee $4.00

And afterwards to wit on the 22d day of May 1843 at a circuit Court begun and held at the Court house in Carrollton within and for said County of Carroll and on the first day of said Term among the records of said Court is the following to Wit

John B & Peter G Camden
Vs } Scirifacias
Jacob Snowden Morgan P Ellis & Others

Now at this day Come the defendants by their attorney and file their demurrer to the Scirifacias and declaration

John B & Peter G Camden
Vs } Petition in Debt
James W Freeman & Jacob Snowden

Now at this day Come the plaintiffs by their attorney and filed their motion to amend the record in this Cause

And on the Second day of said Term among the records thereof is the following To wit

Now at this day Comes the defendants aforesaid by their attorney and withdraws their demurrer filed in this Cause and files their plea Nultiel Record and leave is given them to file notice of Special Matter thirty days before the next term of this Court and

next term to be the trial term and issue made

John B Camden & Peter G Camden
vs } Petition in Debt
James M Freeman & Jacob Snowden

The Motion filed to amend the records in this Cause is sustained and the amendment allowed which said motion is in words and figures following To Wit.

State of Missouri } In Carroll Circuit Court
County of Carroll } May Term 1844

John B Camden & Peter G Camden
vs } Action of Petition in Debt
James M Freeman & Jacob Snowden

The Plaintiffs by their attorney in the above named Suit moves the Court here for leave to amend the record of the Judgment and recognizance in this Cause obtained at the October term of this Court A.D. 1841 in this that is to say in the first line of said Judgment instead of J B & N Camden & Co insert these words To Wit John B Camden and Peter G Camden, and also in the Sixth line of said Judgment from the beginning in stead of the word defendant insert the word defendants and also in the tenth line from the beginning of said Judgment instead of the word defendant insert the word defendants

is such a record of recognizance entered into by the said James W Freeman Jacob Snowden Bartley Pitts and Morgan P Ellis in favor of the said John B Camden and Peter G Camden as the said John B Camden and Peter G Camden hath above in that behalf alleged, and also that there is such a record of affirmance by the supreme Court of the aforesaid Judgment appealed from as the said John B Camden and Peter G Camden hath in that behalf above alleged Therefor it is considered by the Court here that the said John B Camden and Peter G Camden have execution against the said James W Freeman Jacob Snowden Bartley Pitts and Morgan P Ellis for as well the debt damages Costs and Charges aforesaid in the writ of Scirifacias aforesaid mentioned according to the force form and effect of the recognizance aforesaid to wit for the sum of three hundred and thirty nine dollars to gether with their Costs and Charges by them in this suit in this behalf laid out and expended

John B Camden & Peter G Camden
Vs } Scirifacias
James W Freeman Jacob Snowden
Bartley Pitts and Morgan P Ellis

and also in the recognizance in the first line there of instead of John B & P Camden & Co insert these words to wit John B Camden and Peter G Camden

Reg atty for Pltff

And afterwards to wit at the September term of said Court began and held at the Court house in Carrollton in and for said County of Carroll on the 18th day of September 1843 and on the third day of said term among the records thereof is the following To wit

John B Camden and Peter G Camden
Vs ½ Scirifacias
James W Freeman, Jacob Snowden
Bartley Pitts and Morgan P Ellis

Now at this day Come the parties aforesaid by their respective attorneys and the Cause being submitted to the Court for trial upon the plea of Nul tiel record upon which the record aforesaid being seen and inspected by the Court here it sufficiently appears to the same Court that there is such a record of recovery against them the said James W Freeman and Jacob Snowden at the suit of John B Camden and Peter G Camden as the said John B Camden and Peter G Camden hath above in that behalf alleged and that there

Now at this day Comes the defendants aforesaid and files their motions for a new trial and in arrest of Judgment and also their Bill of Exceptions which is signed Sealed and made a part of the records which Said Bill of exceptions is in words and figures following To Wit

Jacob Snowden James W Freeman
Bartley Pitts & Morgan P Ellis
ats } Sci Fa
J B & Peter G Camden

September Term 1843

Be it remembered that on the 20th day of September AD 1843 on the 3rd day of this September Term 1843 in the Carroll Circuit Court this Cause Came on to be heard by the Court upon the plea of nul tiel record and there upon the said plaintiffs offered to read in evidence as the record of the Supreme Court of the State of Missouri the following (James W Freeman & Jacob Snowden Defdts & Appellants
vs } appeal from the Circuit Court of Carroll County
John B & Peter G Camden Pltffs & appellees

Now at this day Come the parties aforesaid by their attorneys whereupon all and singular the record and proceedings had in the Circuit Court and the judgment therein rendered and the matters and things herein assigned for Error by the said appellants being seen examined and by the Court fully understood and mature deliberation being

thereupon had, It appears to the Court here that in the record and proceedings and in giving of the Judgment aforesaid by the Circuit Court aforesaid there are no errors in manner and form set forth and alleged by the said appellants in their assignment of Errors aforesaid, Therefore it is Considered by the Court here that the Judgment of the Circuit Court ~~be~~ aforesaid be and the same is affirmed and it is further Considered by the Court that said appellees recover against said appellants their Costs and Charges by them in this behalf laid out and expended and that they have thereof Execution,

State of Missouri }
County of Lafayette } ss

I William Spratt Clerk of the Supreme Court for the Second Judicial District in the State of Missouri do hereby Certify that the foregoing is a true and perfect Copy of the Judgment rendered by said Court in the above Cause at the April Term thereof 1842 as fully as the same now appears of Record

In Testimony whereof I have hereunto set my hand and affixed the Seal of
(Seal) said Court at office in Lexington this
18th day of May A.D. 1842

William Spratt Clerk

To the reading of which the defendants objected but their objections was by the Court overruled and the same was read in evidence to the overruling of which objections

the said defendants and permitting the record to be read by the Court the defendants excepted and have here their exceptions allowed and there upon the said plaintiffs offered and read in evidence the records of a Judgment of the Camden Circuit Court with the amendment of the same which said Judgment is in words and figures following to wit

J B & M Camden & Co pltfs

Vs ⅔ Petition in Debt

J. W. Freeman & Jacob Snowden Defts

And now at this day Comes the parties aforesaid by their respective attorneys and the Court renders Judgment on the demurrer against said defendant for the sum of seven hundred and forty four dollars and thirty four Cents debt and six dollars and twenty Cents damages by way of Interest —

It is therefore Considered by the Court here that the plaintiffs aforesaid recover of the said defendant the debt and damages aforesaid as found and assessed by the Court together with his Costs and Charges by him in this suit in this behalf laid out and expended and that there be thereof Execution &c &c

and the amendments allowed in said Judgment are in the words and figures following To wit

In the first line of said Judgment instead of J B & M Camden & Co insert these words to wit John B Camden and

Peter G Camden and also in the 24th line from the beginning of said Judgment instead of the word defendant insert the word defendants and also in the tenth line from the beginning of said Judgment instead of the word defendant insert the word defendants)

To the reading of which in evidence the defendants objected and their objection being overruled by the Court the defendants excepted to the Opinion of the Court and have here their exceptions allowed

And thereupon the plaintiffs offered and read in evidence the record of the Carroll Circuit Court of the recognizance and the amendments thereof as follows

John B & P Camden & Co pltfs
vs
Petition in Debt
Jas W Freeman & Jacob Snowden Defts

And now at this day Came the defendants aforesaid by their attorney and prays an appeal to the Supreme Court in this Cause and Jacob Snowden one of the defendants having filed his affidavit as by law required an appeal is granted and thereupon Came James W Freeman and Jacob Snowden the defendants aforesaid with Bartley Pitts and Morgan P Ellis their securities and acknowledged themselves to owe and be indebted to said plaintiffs in the sum of one thousand dollars that defendants in the sum of one thousand dollars and the said to say they the said Morgan P Ellis and Bartley Pitts in the sum of five hundred dollars each to be levied of their respective

goods and Chattels lands and tenements to the use of the said plaintiffs to be rendered but to be void upon this express Condition that said appellants will prosecute their said appeal with due diligence to a decision in the Supreme Court and that if the Judgment appealed from is affirmed or their appeal dismissed they will pay what ever of the debt damages and Costs have been recovered against them by the Judgment of the Circuit Court together with the interest that shall grow due thereon and that they will otherwise perform the Judgment of the Circuit Court and that they will also pay the Costs and damages that may be adjudged against them in the Supreme Court upon their appeal

And the amendments allowed in said recognizance are in the words and figures following To wit

In the first line thereof in stead of John B & P Lemaden & Co insert these words to wit John B Lemaden and Peter G Lemaden)

To the ruling of which the defendants objected and their objections being overruled by the Court excepted to the opinion of the Court and have here their exceptions allowed

This was all the evidence offered in the Cause the Court thereupon gave Judgment for the plaintiffs

(13)

and thereupon the defendants fence here their motion to set aside their Verdict in this Cause as follows

(J B & P G Camden
vs
Jacob Snowden & Others

And the said Defendants Come and move the Court here to set aside the Verdict in this Cause and grant them a new trial

Because the Verdict is Contrary to the law and the evidence

That the record should not have been received in evidence

That the record produced in evidence did not authorise the Verdict

That the record did not afford sufficient information on which to render the Verdict

Strong fellow & Read for Defts

which being heard by the Court was overruled to the overruling which motion the defendants except and have here their exceptions allowed

and thereupon defendants fence here their motion in arrest and to set aside the Judgment in this Cause which said motion is in the words and figures following To wit

(J B & P G Camden
vs
Jacob Snowden & others

} Motion in arrest of Judgment

The defendants by their attorneys Come and move the Court here to arrest the

Judgment in this Cause because there is error in this. That the Court erred in receiving the record offered here in evidence

The Court erred in giving Judgment for Plaintiffs

The Court erred in permitting the amendments to be made of the record

That the Scire facias is defective in not shewing that Execution issued on the Judgment of the Circuit Court against the defendants Snowden and Freeman before this suit was Commenced

Strengfellow & Rees for Defts.)

Which being Overruled by the Court the the said defendants excepted to the overruling the same and have had their exceptions allowed and the same is signed and sealed and made part of the records in this Cause

Austin A King Seal

State of Missouri } SS
County of Carroll } I Lewis A Rees Clerk of the Circuit Court within and for the County of Carroll in the State of Missouri aforesaid do Certify that the foregoing Commencing on page 1 and ending on page 15 is a full true and Complete transcript of the record and proceedings of the said Circuit Court in the Cause therein mentioned

In Testamony whereof I have hereunto set my hand and affixed my private seal at office in Carrollton having no official seal yet provided this 26th day of December 1843

Lewis A Rees Clerk

(14) Jany Term ~~1844~~ 1843 BOX 33

1376 28

John B Camden

1376 dft

Peter G Camden

vs Scirifacias

James W Freeman

Jacob Snowden pltf

Bartley Pitts &

Morgan P Ellis

A True Copy of the records

Clerks fees for

Transcribing 4450 words & figures $4 45

Certificate & seal 50

Certificate & seal to return on writ of error 50

$5 45

Lewis N Rees Clk

Filed January 4. 1844.

H L Boon Clk

To Robert A Ray, Attorney of Record for
John B & Peter G Camden

Sir — You will take notice that we have sued out a
Writ of Error returnable to the next Term of the
Supreme Court of the State of Missouri to be
held at Jeffersonbity in said State on the
Second Monday in January next in a certain
cause lately pending in the circuit court for
Carroll County in said State in which said
~~Peter~~ John B & Peter G Camden were Plaintiffs
and we were defendants

December 23rd 1843

James W Freeman
Jacob Snowden
Morgan & Ellis
Bartley Pitts

This Notice is Executed by reading the same to the within named Robert J. Ray. attorney for the within named John B. & Peter S. Camden on the 23rd day of December 1843 in Carroll County by Sheriffs fee $" 50

Jas M. Goodson Sheriff of " " Carroll County

Immuen Et al
To 3 Notice
R J Ray

Filed January 4. 1844
H L Boon clk

James W Freeman
Jacob Snowden
Bartley Pitts
& Morgan P Ellis
Peter G vs Camden
& John B Camden

Plaintiffs in Error

Defts

In Supreme Court
January Term 1844

And now at this day come the plaintiffs in Error by their attorney and say that in the record and proceedings aforesaid as well as in rendering the judgment aforesaid there is error in this viz.

By the record and proceedings aforesaid it appears upon the trial of said Cause that the court admitted certain evidence offered by the plaintiffs below (defendants in error) and objected to by the defendants below (plaintiffs in error) whereas by the law of the law of the land the evidence so offered and objected to ought to have been rejected therefore in this there is manifest error —

There is also error in this viz.

That by the record and proceedings in said Cause it appears that said Court overruled the motion of the defendants below (plaintiffs in Error) to set aside the verdict and grant a new trial. whereas by the law of the land the Court ought to have sustained said motion and to have granted a new trial. therefore in that there is manifest error.

There is also error in this —

That by the record and proceedings in said Cause it appears that the Court overruled the motion of said defendants below (plaintiffs in Error) to arrest the judgment and to set aside the same. Whereas by the law of the land the said Court ought to have sustained said motion and to have arrested said

judgment and set the same aside. Therefore in this there is error.
Therefore is also error in this
That by the record and proceedings of said Cause it appears that judgment was given for plaintiffs below, (defendants in error) whereas by the law of the land judgment ought to have been given for defendants below (plaintiffs in error) Therefore in this there is manifest error —
Wherefore for the errors aforesaid and for other errors in said record and proceedings manifestly appearing the defendants below plaintiffs in error pray that the judgment aforesaid be reversed annulled and altogether for nothing held and that they may be restored to all things that they have lost by the premises &c

Stringfellow
Atty for plaintiffs in Error

Snowden et al
v. Z. In Error
J. B. & J. Condon
Assignment of Error

filed Jany 20. 1844
H. L. Boon Clk

State of Missouri
Cole County } Sct.

This day personally came B F Stringfellow before the undersigned Judge of the Supreme Court of the State of Missouri and being sworn saith - That Robert D Ray upon whom notice of the writ of Error to the Carroll Circuit Court was served ~~was and is the~~ in the case of Jacob Snowden et al plaintiffs in Error against John B and Peter Camden defendants in Error was and is attorney of Record for said defendants in Error in said Carroll Circuit Court in said cause -

Subscribed and sworn to this 23rd Jany 1844

B F Stringfellow

Sworn to before the undersigned -

W. B Napton

Jacob Snowden et al

vs } affidavit

Camden's.

Filed Jany 23. 1844

H. L. Boonneck

Jacob Snowden & others v. J.B. & P.G. Camden

Error to ~~Barry~~ Carroll C.C.

This was a scire facias on a recognizance, entered into by the plaintiffs in error to John B. & Peter G. Camden & Co. The scire facias recited the original judgment, the recognizance & the judgment of the supreme Court on the appeal. The writ was served upon all the defendants, that the return terem thereof, the plaintiffs below asked leave to amend the record of the original judgment, & recognizance, by inserting in the first line of said judgment the words "John B. Camden & Peter G. Camden" instead of "J.B. & M. Camden", & in the sixth line of said judgment, the word "defendants" instead of "defendant", & the same in the tenth line, the plaintiffs also moved to amend the recognizance by inserting the words "John B Camden and Peter G. Camden" instead of "John B. & P. Camden & Co"; which amendments were made accordingly. The defendants pleaded nul tiel record, & on this issue, the plaintiffs read in evidence a copy of the record of the Supreme Court affirming the judgment of the Carroll Circuit Court, to the reading of which defendants objected, but the Court allowed the same to be read, & the defendants excepted & saved their exceptions. The plaintiffs also read the original judgment & recognizance taken in said Carroll Circuit Court, with the amendments thereto, to which objections were made & overruled & the opinion of the Court excepted to.

The verdict was for the plaintiffs below, and the defendants moved for a new trial & in arrest of judgment. These motions were overruled & the cause is brought here by writ of error.

The errors assigned, are that the Court below improperly allowed the record of the original judgment, & the amendments thereto, to be given in evidence; that the Court also erred in permitting the amended recognizance to be given in evidence, & that it was also error to allow the record of the judgment of this court in evidence. The two first are objected to as inadmissible, because the amendments were improperly allowed, & the copy of the record of the Supreme Court is objected to, because it was not a full transcript of all the proceedings of said Court in that cause, but a copy of the judgment only.

In relation to the two first errors, we observe, that the amended records given in evidence are not objected to because of any variance ~~between them~~ from the records ~~&c~~ set out in the scire facias, but because the amendments were improperly allowed. If the plaintiffs in error wished to have the opinion of this Court in relation to the propriety of the amendments, he should have objected to them, at the time they were made, The bill of exceptions should

have preserved this fact, & also the entire record of the proceedings on which the original judgment was founded, ~~before~~ in order that we might examine whether such amendments were legally made. The amendments seem to consist entirely of a change of the names of the parties; whether such ~~amendments~~ mistakes would be clerical ~~or not~~, ~~could only be~~ & therefore within the ~~provisions~~ powers conferred by our statute (Rev. Co. 35 p. 468. 469.) or whether they affected the right of the parties, & therefore not amendable after the term could only be seen by our inspection of the entire record. The point is not saved.

The same may be said in relation to the sufficiency of the record of the judgment of this Court. The record of this judgment corresponds with the one declared on, & it was clearly sufficient on the plea of nul tiel record. If the scire facias was defective in not setting forth all the proceedings of the said Court, previous to the judgment, the defendants should have demurred. The defect certainly is not such an one as can be taken advantage of on writ of error.

Judgt. affirmed

W. B. Napton

We concur
G. Tompkins
W. Scott

44

Jacob Snowden
& others
v.
Camden

Opinion

W. B. Napton
Jan'y. Term
1844.

files Feby 16. 1844
H. L. Boon clk

STATE OF MISSOURI-----Sct. The State of Missouri----To the Sheriff of the County of ~~Ray~~ Carroll in said State-----GREETING:

Whereas, John B. Camden & Peter G. Camden on the Sixteenth day of February in the year eighteen hundred and forty-four at our Supreme Court for the State of Missouri aforesaid, before our Judges of said Court, recovered against James W. Freeman, Jacob Snowden, Bartley Pitts & Morgan P. Ellis the sum of Nine dollars and eighty five Cents for their costs and charges by them expended in a certain suit wherein the said James W. Freeman, Jacob Snowden and others were appellants, and the said John B. Camden and Peter G. Camden were appellees, which to the said defendants were adjudged, as appears to us of record:== Therefore, we command you, that of the goods and chattels, lands and tenements of the said James W. Freeman, Jacob Snowden, Bartley Pitts, and Morgan P. Ellis in your bailiwick, you cause to be made the aforesaid costs and that you have the same before the Judges of our said Supreme Court, on the first Monday in July next, to render unto the said John B. Camden and Peter G. Camden the costs aforesaid: and that you certify to our said Judges, how you execute this writ, and have you then there this writ.

Witness, Hampton L. Boon, Clerk of our said Supreme Court, at office, in the City of Jefferson the Tenth day of May in the year of our Lord one thousand eight hundred and forty-four.

H. L. Boon

41.
Supreme Court
July Term 1844

J. B. & P. G. Camden
vs Execution
Jacob Snowden et al

Costs.
H. L. Boon .. 4.40
His writ .. 1.00
Lewis N. Rees .. 5.45
$ 10.85

This writ was Received in Carroll County on the 20th day of May 1844

Jas M Goodson Sheriff
"of" Carroll County Mo.

Received on this Execution ten dollars in currency on the Bank of Kentucky payable at Greensburg dated Oct 6th 1835 No. 467 letter B.
May 25th 1844

Jas M Goodson Sheriff
"of" Carroll County Mo.

This Execution is Satisfied in full this 8th day of June A.D. 1844

Jas M Goodson Sheriff
of Carroll County

I herewith send by G. W. Dunn $4.40

Jas M Goodson S.C.C. Mo.

I send the same amount $4.40 by W. R. Holman
G. W. Dunn

Snowden et al- plfs in Error
J B. & P. G. Camden defts in Error

This was a proceeding by Sci. Fa. in the Carroll Circuit Court, by J B & P. G Camden against the plfs in Error on a Recognizance for an appeal to the Supreme Court. Defendants pleaded nul tiel Record- on which a trial was had.

On the trial the plaintiffs offered in evidence a recognizance entered into by the plaintiffs in Error, to "John B & P Camden & Co." reciting that a judgment in favour of said "John B & P Camden & Co. against Snowden & Freeman- and conditioned for the prosecution of an appeal from said Judgment. (This recognizance was entered into at the October Term of the Carroll Circuit Court 1841.) together with an amendment of this recognizance made by said Court at the May Term 1843. by which amendment the recognizance was made to "John B & Peter G Camden"- The defendants below objected to the reading of this recognizance and amendment- But their objection was overruled & they excepted-

See Record p. 6.

The plaintiff below then offered in evidence a judgment rendered at the October Term of the Carroll Circuit Court 1841 in favour of "J B & P Camden & Co against Snowden & Freeman- with an amendment made in said judgment by said Court at the May Term 1843. To the reading of which the defendants below objected and their objections

See Record p. 6

being overruled by the Court excepted.
Plaintiffs below then offered to read
See Record in evidence a certified copy of a judgement
p. 9. of the Supreme Court in favour of the
plaintiffs below and against the defen
ants Snowden & Freeman - with no other part
of the Record of the Supreme Court -
To reading which defendants below
objected and their objections being
overruled excepted - Court then
gave judgment for plaintiffs
below - Defts below moved for new
trial - to set aside verdict & judgment
& in arrest of judgment. All which
motions were overruled and the
Cause comes here by writ of Error.
Mr Longfellow for plfs
in Error - relies on following
points & authorities to reverse
the judgt. of the Court below -

1st The Court erred in admitting as evi
dence the judgment in favour of
J B & M Camden & Co. and the amend
ment thereof -
The amendment being made in this
Case not only after one term but after
a lapse of two years from the judgment.
2. The Court erred in admitting in evidence
the recognizance to J B & P Camden & Co.
with the amendment thereof -
For the same reason as above and with
greater force if possible, Securities thus
being made responsible to strangers
we insist that this is error -
See Ashby v Glasgow 7 Mo. De. 320.

3 The certified Copy of the judgment of the Supreme Court was not evidence - The whole record of the Supreme Court was necessary to shew jurisdiction of the Cause and it should have been certified - a mere part thereof is no evidence and the Copy of the judgment ought not to have been received

4 There being no legal evidence the Court erred in overruling the motion for a new trial.

5 The Court erred in overruling motion in arrest of judgment

B F Singleton

Snowden et al

J B & P. G. Camden

Plaintiffs Brief

B J Stringfellow

Cases Cited

Ashby
vs
Glasgow 7 Md D 320

John B. Camden
Peter G. Camden
ats.
James N. Freeman
Jacob Snowden
Bartley Pitts
Morgan P. Ellis

In the Supreme Court
January Term 1844.

On Error from the Cannel
Circuit Court.

This is a Proceeding on Scire facias against the Plaintiffs in Error on a recognizance.

At the October Term 1841. of the Cannel Circuit Court, J.B. Camden & P.G. Camden, the defendants in error, recovered judgment against James N. Freeman, and Jacob Snowden for the sum of 744 dollars & 34 Cents debt, and 6 dollars & 20 Cents damages. The defendants appealed to the Supreme Court, and entered into recognizance with said Bartley Pitts and Morgan P. Ellis as Securities. The judgment of the Court below was affirmed. (7. Mo. R. p. 298.)

On the 28th of April 1843, the defendants in error sued out a Scire facias on the recognizance. reciting the Original judgment, the recognizance, & the Proceedings on the appeal in the Supreme Court.

The writ of Scire facias was served on all the defendants below.

At the return term of the Scire facias, the Plaintiffs below, asked leave to amend the record of the Original judgment & recognizance by inserting in the first line of said judgment the word, John B. Camden and Peter G. Camden, instead of J. B. & M. Camden & Co. and in the sixth line of said judgment the word defendants instead of the word defendant, and the same in the tenth line, and instead of John B. & P. Camden

& Co in the recognizance. The word John B. Camden & Peter G. Camden - Their Amendments were permitted by the Court -

The defendants below filed their plea of Nul tiel record, and asked leave to file Notice of Special Matter within thirty days before the next term of the Court, which was granted, but no such Notice was filed, and the Cause was submitted to the Court on the plea of Nul tiel record - The issue was found for the Plaintiffs below, and execution awarded against all the defendants -

The defendants filed their Motion for a new trial, and in arrest of Judgment, which Motions were overruled.

The bill of exceptions states that the plaintiffs below, on the trial of the issue read in evidence a copy of the record of the Supreme Court affirming the judgment below, to the reading of which the defendants objected & excepted. also the Original judgment against Snowden & Fruman. and the Amendments Made thereto. also the proceedings on the appeal & the recognizance and Amendment thereof. to the reading of all which the defendants objected & excepted - The forgoing was all the evidence in the Cause.

The defendants moved to set aside the Verdict.

1. Because the Verdict was Contrary to law & evidence.
2. Because the record should not have been received in evidence.
3. Because, the record in evidence did not authorize the judgment -
4. Because the record did not afford sufficient information on which to render the Verdict.

The Motion was overruled. Whereupon the defendants filed their Motion in arrest of Judgment.

Because tho the Court erred in receiving the record offered in evidence, and in permitting the amendments to be made, and in giving judgment for the Plaintiffs. And because the Scire facias was defective in not shewing that execution issued on the judgment of the Circuit Court against the defendants Bowden & Freeman before this suit was commenced. The Motion was overruled, and the cause is brought here by a writ of Error.

Points & Authorities by
Leonard Bay for Defendants in Error

1. The Points relied on by the Plaintiffs in error, in relation to the Amendments, and the transcript of the judgment of the Supreme Court, do not arise in this Cause. The only Plea is nul tiel record, and of course the only matter in issue was whether there was such a record as the Plaintiffs below alleged. The Propriety or impropriety of the Amendments, and the sufficiency of the transcript were not in issue. Besides, the Plaintiffs in error did not except to the judgment of the Court in Permitting the Amendments to be made, but on the trial excepted to the judgment of the Court in Permitting the Amendments to be read in evidence.

2. Admitting that the question of the Propriety of the Amendments was involved in the issue, the defect in the record and Scire facias could be supplied and the Amendments made under the Provisions of the 7th & 8th Sections of the ~~[illegible]~~ "~~[illegible]~~ 6th Article of the act relating to Practice at Law. R. S. 1835. p. 468-9. See Hart v. Reynolds reported in 3. Cowen 42.

Mitcheltree v. Sparks 1. Scammon 122.

John B. Camden
Peter G. Camden
vs
James W. Freeman
Lucas Snowden
Bartley Pitts
Morgan P. Ellis

Statement of Case
&
Points.

By Leonard & Bay
Attys. for Defendants
in Error

Freeman & Snowden } Appeal from Carroll Circuit Court
vs
J B & N. G. Camden } In Supreme Court of April Term 1842

And now at this day come the said appellants by their attorney and say that in the said Record & proceedings and in giveing the said Judgement, There is manifest Error in this:

To wit. 1. That it appears by the Record and proceedings in the cause that judgement was given against the appellants, and in favor of the appellees, whereas in law, judgement ought to have been given in favor of the appellants.

2 There is Error also in this, to wit. that the court Erred in overruling the appellants motion to quash the writ

3 There is error also in this, To wit. that the court erred in overruling the appellants demurrer and giveing judgement thereon

4th There is error also in this. To wit. that the court erred in overruling the appellants motions in arrest of judgment and for a new trial

Wherefore for the said Errors, and for others appearing in said Record & proceedings, the said appellants pray that the said judgment be reversed, annulled and for nothing esteemed, and that they be restored to all things which they have lost by reason of said judgement, and that the court here proceed as well to the examination of the record and proceedings, as the said Errors above assigned, and that the said appellees join in Error &c

W C Jones & Ry Land
for appellants.

Freeman & Crowder

vs

J. B. & P. G. Camden

Assignment of Errors

"Filed April 25th
1842
Wm Spratt clerk

L. B. & P. G. Camden } Appeal from Carroll
vs
Freeman & Snowden } circuit court
In Supreme Court Spec Term

The Appellees & plaintiffs below brought suit on a note against James W. Freeman and Jacob Snowden, by Petition in Debt in the Carroll circuit court October Term 1841. A motion to quash suit was filed by defendant & overruled. Defendant also filed his demurrer to plaintiff Petition, which was by the court overruled & judgement rendered for plaintiff for the amount of debt & damages called for by note. Appellees insist that the court below rendered judgement for the right party

1 Because Petition by Petition in Debt will properly lie on such a note

2 Because suit & service were good & in conformity with the statute

3 If suit was bad, there is no evidence on the record that the motion to quash was filed before the pleas were put in & after pleas filed the objections to it were waived & cured

4 Because the Petition is good & therefore demurrer properly overruled.

R. C. Ewing
for Appellees.

L. B. & P. G. Camden

vs Z. Brope

Freeman & Snowden

Appellees Brief

R. C. Ewing

Edward McDaniel Defendant in Error
Jacob Shoulder plaintiff in Error.

In Supreme Court
April Term 1842

And the said defendant in Error comes and says that there is not any Error in the Record & proceedings of said Cause or in the judgement and that said judgement ought to have been given for the defendant in Error and not for the plaintiff in Error.

Wherefore the said defendant in Error prays that the said judgement may be in all things affirmed.

R. C. Ewing Atty
for defendant in Error.

Truman Snowden

vs Error

J. B. & P. G. Camden

Joinder in Error.

Filed April 26th
1842 —
Wm Spratt clerk