Craig, Hiram; Moore, John; Moore, Ephraim vs. State of MO April 1825 1st D. Chariton 114/11

12 Debt: Affirmed; Notes given for loan office certificates are recoverable

Contract

See also Davis et al v. MO 114/12, Watson v. MO 114/13

State of Mississippi }
County of Chickasaw } ss. Be it Remembered that on the fifteenth day of October in the year of our Lord One thousand eight hundred and twenty three, The State of Mississippi by her attorney filed in the Office of the Clerk of the Circuit Court for the county of Chickasaw aforesaid his declaration in writing against Hiram Craig John Moore and Ephraim Moore in an action of Trespass on the case, which said declaration is in the words and figures following, Viz

In the Circuit Court, November Term 1823

Chickasaw County Sowit, The State of Mississippi by her attorney complains of Hiram Craig John Moore and Ephraim Moore of a plea of Trespass on the case, For that whereas, heretofore on the first day of August in the year of our Lord one thousand eight hundred and twenty two, at the County of Chickasaw aforesaid, the said Craig John Moore and Ephraim Moore made their certain Promissory Note in writing bearing date the day & year last aforesaid and now to the Court here shown and thereby then and there for value received jointly and severally promised to pay to the State of Mississippi on the first day of November eighteen hundred and twenty two, at the Loan Office in Chickasaw the sum of One hundred and ninety nine dollars and ninety nine cents, and the two per centum per annum the Interest accruing on the Certificates borrowed, from the first day of October eighteen hundred and twenty one, yet nevertheless the said Hiram Craig John Moore and Ephraim Moore did not on the first day of November eighteen hundred and twenty two, or at any time before or since pay to the State of Mississippi at the Loan Office in Chickasaw the said Sum of One hundred and ninety nine dollars and ninety nine cents, and the two percentum per annum, the Interest accruing upon the certificates borrowed from the first day of October eighteen hundred and twenty one, but to pay the same or any part thereof they the said Hiram Craig John Moore and Ephraim Moore have hitherto and still doth wholly neglect and refuse to the damage of the State of Mississippi of Five hundred dollars therefore she brings her suit.

R. H. Gamble Circuit attorney

upon which Declaration the Clerk of said Court was ordered to issue a writ, which is in the following words & figures Towit. State of Missouri. County of Charitou &c.

The State of Missouri, To the Coroner of said County so Greeting We command you to summon Hiram Craig John Moore and Ephraim Moore if they be found in your Bailiwick, to appear before the Judge of our Circuit Court at the next Term thereof, to be holden at Charitou within and for the county of Charitou, on the first Monday in November next, to answer to the State of Missouri of a plea Trespass, on the case, Damages Five hundred dollars. and have you then and there this writ, Witness Edward B Cabell clk of our said Circuit Court at Charitou under his private Seal (there being no Seal of Office yet provided) on this fifteenth day of October in the year of our Lord One thousand eight hundred and twenty three & of the Independence of the State the fourth year

Edward B Cabell clk

and the return of the Coroner was in the words & figures following Towit, I return this writ by order of the Clerk of Charitou Circuit Court.

F. W. Bainbrick Coroner

Coroners fee $00.50 Nov. 1st 1823

Afterwards, at a court begun and held at Charitou for the Circuit and County of Charitou, on Monday the first day of March in the year 1824. present the Honourable David Todd Judge. Edw. B Cabell clk and Alexander Trent Deputy Sheriff The Defts being called, altho. promised so to do, came not and ~~the~~ on Motion of the circuit attorney an order was made Directing the clerk to issue an alias. which order was in the following words Towit

State plaintiff —

vs

Hiram Craig John Moore & Ephraim Moore Defts } Trespass On Motion of the prosecuting attorney. It is ordered that an alias writ issue against the Defendants returnable to the next Term of this court.

David Todd

And afterward the Clerk in obedience to the said order issued an alias writ, in the following words & figures Towit,

State of Missouri } ss. The State of Missouri
County of Chariton } To the Coroner of said County
Greeting

We command you, as at another time we have commanded you, to summon Hiram Craig John Moore and Ephraim Moore if they be found in your bailiwick to appear before the Judge of our Circuit Court at the next term thereof, to be holden at Chariton, within and for the County of Chariton, on the first Monday in July next to answer to the State of Missouri of a plea of Trespass on the case Damages five hundred Dollars, and have you then there this writ, Witness Edward B Cabell clerk of our said Circuit Court, at Chariton, under his Private Seal (there being no Seal of Office yet provided) at Chariton on this fifth day of May in the year eighteen hundred and twenty four, and of the Independence of this State the fourth

Edward B Cabell clk

And the Coroner indorsed thus, I Executed this writ & Declaration on Hiram Craig & John Moore two of the Defendants, by commencing reading the same to them, who afterwards took the papers in their hands, and looked them over, then acknowledge the same of the same at Chariton on the 14th day of May 1824

Frederick W Bambrick
Coroner

& again, I Executed the same writ & Declaration on Ephraim Moore in the same way on the 18th May 1824

Frederick W Bambrick
Coroner

Fees $3.00

Afterwards at a Court began and held at Chariton for the Circuit and County of Chariton on Monday the fifth day of July eighteen hundred and twenty four, in open court, the parties come into Court by their attorneys, and the defendants Craig & J. Moore files their Pleas of Non assumpsit whereupon issue is joined and the cause continued until the next term,

& then Plea is as follows Towit

Hiram Craig John Moore &
Ephraim Moore
ads
The State

and the said defendants by their attorney come and defend the wrong and injury when &c when &c and say the they did not undertake and promise in manner & form as the said plaintiff hath above thereof complained against them & this they pray may be enquired of by the country &c

John Wilson ally
for Defts
David Todd

and the plaintiff by her attorney doth the like &c

Leonard atty

and afterwards at a court begun and held at Charlton for the Circuit and county of Charlton, on Monday the first day of November eighteen hundred and twenty four, & on the second day of said court, on Open court, the parties came into court, by their attorneys, and neither party requiring a Jury the cause is submitted to the court, therefore all and singular the matters and things and evidences being seen and heard by the court, It is found by them that the said defendants did assume upon themselves in manner and form as the plaintiff by her counsel alledge, and the court also find that the consideration for which the writing declared upon and the assumpsit was made, was for the loan of Loan office certificates loaned by the State at her Loan office at Charlton, which certificates

were issued, and the Loan made in the manner pointed out by an Act of the legislature of the said State of Missouri, approved the 27th day of June 1821. entitled an act for the establishment of Loan Offices" and the acts amendatory and supplimentary thereto, and the court do further find that the plaintiff hath sustained dam=ages by reason of the non performance of the assump=tions and undertakings of them the said defendants to the sum of two hundred and thirty seven dollars and seventy nine cents, and do assess her damages to that sum, Therefore it is considered by the Court, that the plaintiff recover against the said defendants the damages aforesaid, in manner and form aforesaid assessed. and also her costs by her in prosecuting her suit in this behalf expended and the said De=fendants in Mercy &c. It is agreed that this Judg=ment be Credited by the sum of thirty one dollars Sixteen cents,

and afterwards the Defendants prayed an appeal which is in the following words & figures, Towit. The State of Missouri, against Hiram Craig Ephraim Moore and John Moore, — (In Case). This day came the parties by their attorneys and the defend=ants pray an appeal to the supreem Court, which is allowed by the court, and thereupon came themselves with Charles Harryman and Robert S Davis, who in Open Court jointly and severally acknowledged themselves indebt=ed to the plaintiff in the sum of Six hundred dol=lars, to be levied of their goods and Chattels Lands and tenements, to the use of the said plaintiff to be rendered, to be void condition that the said defend=ants shall prosecute their appeal with effect, pay and satisfy the condemnation money and all costs, or othe=wise abide the Judgment of the said supreeme court in such appeal

David Todd

A true Copy

Attest, Edward B Cabell clk

State of Missouri, } Clerks Office
County of Chariton } Jan 7th 1825

I Edward B Cabell Clerk of the Cir=cuit Court within and for Chariton County in the State of Missouri, do certify that the foregoing is a true full and complete transcript, of the record and proceedings of said Circuit Court in the case therein mentioned.

In Testimony Whereof I have hereto set my hand and affixed my private Seal (there being no Seal of Office yet provided) at Chariton on this the Seventh day of January in the year of our Lord One thousand eight hundred and twenty five, & of the In=dependence of this State the fifth

Edwd B Cabell clk

The Cost in the foregoing as follow

Coroners fees	$4. 80
Clerks fees	3. 30
Transcript	3. 00
Tax on original writs (2)	2. 00
Tax on certificate of transcript	1. 00

Edwd B Cabell clk

Apr 7 1825 (12)

State of Missouri
against
H. Craig J. & E. Moore

Transcript } appeal
to
Supreme Court

A true Copy
E. B. Cahill clk

Filed March 12th 1825.
G. Bynum clk
Supreme Court.

Tax on orig. Writ	1.00
Coronos fees	$4.80
Clerks fees	4.00
Transcript & Tax	3.00
Tax on original writs - (2)	2.00

State of Missouri

vs

Hiram Craig John Moore
& E Moore

Lafayette Court
April Term 1825

And hereupon afterwards to wit on the fourteenth day of April Eighteen hundred and twenty five being the fourth day in the Term of said Court the said State of Missouri by her attorney comes here into Court and says there is no manner of Error either in the Record and proceedings aforesaid or in giving the judgment aforesaid and the prays that the said Supreme Court may examine as well the Record and proceedings aforesaid as the matters aforesaid assigned for error and that the judgment aforesaid in form aforesaid given may be in all things affirmed —

Ino B Clark
Atty for Deft in Error

1160
17
5800
1160
74

State of Missouri
ads Z Journal of Errors
Craig &c

filed 14 Apl. 1825
G. Bynum clk

In the Supreme Court
First Judicial ~~Circuit~~ District
State of Missouri } Of April Term 1825
vs

Hiram Craig John Moore } Appellants
& Ephraim Moore

And afterwards ~~Court~~ in the present Term comes the said Defendants Hiram Craig. John Moore. & Ephraim Moore by their attorney and say that in the record and proceedings aforesaid and also in giving the Judgement aforesaid there is manifest error in this Viz

1 - ~~That the Judgement is entered against the all the defendants whereas it aught only to have been entered against Hiram Craig & John Moore~~

2 That the Judgement aught to have been given for the defendants upon the ~~finding~~ special Verdict found on submission by the Court and not for the State of Missouri. Therefore in that there is manifest error - And this the said Hiram Craig John Moore & Ephraim Moore are ready to verify wherefore for the errors aforesaid and other errors in the records and proceedings aforesaid the said

Hiram Craig John Moore & Epraim Moore pray that the Judgement aforesaid in manner and form aforesaid may be reversed and annulled and altogether held for nothing and that they may be restored to all things by them lost on accasion thereof &c

John Wilson
attorney for Defts

Hiram Craig John Moore
& Epraim Moore
ad Errors
State of Missouri

filed 14 Apl 1825
G. Bynum
clk

The State vs Craig & Moores } The State vs Watson } The State vs Davis, Williams, & Thrash }

The above cases all depend upon the same principles, which were decided by this Court in the case of the state vs Graves & others decided at Jackson at the last May Term.

We there decided, that notes given for loan office certificates borrowed at the loan offices, were recoverable. The Judgments of the Circuit Court must be affirmed with costs.

Mathias McGirk
Rufus Pettibone } Judges
George Sompkins

No 19.

State of Mississippi
vs } Opinion
Craig & Moore.

Filed 15 April 1845
G. Byrnes Clk

State of Missouri, } Sct.
County of Howard, }

The State of Missouri, to the Sheriff of the County of ~~Howard~~ Chariton, Greeting:

WHEREAS The State of Missouri recovered against Hiram Craig, John Moore & Ephraim Moore at our ~~Circuit~~ Supreme Court, before our judges thereof, the sum of two hundred and thirty seven dollars and seventy nine cents for damages by her sustained by reason of the non performance of the assumptions and undertakings in the declaration mentioned and also her costs and charges as well in the Circuit court of Chariton County as in that behalf in the said Supreme court laid out and expended which to the said State of Missouri were adjudged, as appears to us of record: These are, therefore, to command you, that of the goods and chattels, lands and tenements of the said Hiram Craig John Moore & Ephraim Moore in your bailiwick, you cause to be made the aforesaid damages and costs, and that you have the same before the judges of our said court on the Second Monday of April next, to render to the said State of Missouri the damages and costs aforesaid. And for want of sufficient goods and chattels, lands and tenements whereon to levy and make the same, we command you to take the said Hiram Craig John Moore & Ephraim Moore if they be found in your bailiwick, and them safely keep, so that you may have their bodies before the same judges on the said Second Monday of April to satisfy the said State of Missouri of the aforesaid damages and costs, and that you certify to our judges how you execute this writ; and have you then there this writ.

WITNESS *Gray Bynum*, Clerk of our said Court, at Office this twenty Ninth day of October in the year of our Lord one thousand eight hundred and twenty seven and of the Independence of the United States the ~~fifty~~ fifty second

Gray Bynum Clerk.

This writ of Execution came to hand on the 30th day of October 1827

John Moore Sheriff

This Execution satisfyed in full this 14th day of Aprile 1828

John Moore Sheriff
Chariton County

Supreme Court
April term 1828.

The State of Missouri
vs
Execution.
N. Crag. J. Moore & E. Moore

Judgment signed in the Circuit Court of Chariton November 2nd 1824.

Damages $237.79.

This Judgment to be credited by the sum of thirty one dollars and sixteen cents.

Affirmed in Supreme Court 15th April 1825.

Costs in Chariton Circuit Court

Coroners fees	$4.80
Clerks fees	3.50
Transcript	3.00
Taxes on writs	2.00
Tax on certificate	1.00
Clerk Supreme Court	2.65
Tax on Execution	1.00
Attorney fee	5.00
Gray Byrne	22 95