Steamboat Robert Fulton vs. Parkinson, William 1851 St. Louis Co. 304/3

553/15 Recovery of Wages

no appearance in court on behalf of app.

Court rules in favor of Park. by default

appealed on basis of improper admiss. of transcript of justice

improper exclusion of testimony of appellant, which was overruled

affirmed

State of Missouri }
County of St. Louis } Be it remembered that heretofore to wit on the 23rd day of May 1851 there was filed, in the Office of the Clerk of the Saint Louis Court of Common Pleas within and for the State and County aforesaid a Statement of the Sheriff of Saint Louis County in the words and figures following to wit:

Statement of Sheriff

William C. Anderson Jr. and Joseph H. Conn and Others
vs
Steam Boat Robert Fulton

Warrants Nos. 85 & 87 returnable to the September 1851 Common Pleas
Henry B. Belt Sheriff

states that he has seized the Steam Boat Robert Fulton tackel apparel and furniture by virtue of the warrants above named, that the said Boat has been in his custody and charge more than five days and no person has given or offered to give Bond for said Boat according to the provisions of the Statute in such case, he therefore applies for an order to sell said Boat &c according to the provisions of the Statute

Henry B. Belt Sheriff

St Louis May 23rd 1851.

Order of Sale

And thereupon the following order was made viz

In the St Louis Court of Common Pleas
February Term 1851 } May 23rd 1851

Anderson and Conn
vs
Steam Boat Robert Fulton

Now at this day comes Henry B. Belt Sheriff of St Louis County and files his Statement and shows to the Court that the defendant her tackel apparel and furniture has been seized by him under Warrant in the above

cause, that the said Boat has been in his custody and charge more than five days and no person has given or offered to give, the bonds required by the Statute in such case, and on his application it is ordered that he sell said boat to the highest bidder for cash giving twenty days notice of such sale by publication in the St Louis Intelligencer News Paper, and that he bring the money arising from such sale into Court.

a true Copy attest — P. Sippett Clk.

Report of Sale

And thereon the Sheriff made the following report viz. The Steam Boat Robert Fulton was advertised for sale agreeably to law, and was by me sold on the 16th day of June 1851. H. S. Phelps being the highest and best bidder for said Boat tackel apparel and furniture at the price and sum of Sixteen hundred and fifty dollars the same was stricken off, and sold to said Phelps for said sum.

Henry B. Bett Shff.

Order to Notify creditors

And afterwards the following proceedings were had viz:

February Term 1851 Saturday June 21st 1851

In the matter of the Steam Boat Robert Fulton } It appearing to the Court that the Sheriff of St Louis County has sold said Steam Boat the Court doth appoint the fourteenth day of July next as a day on which creditors shall appear and Exhibit their demands against said Boat and doth order that due publication of notice be made.

Creditors Notice

Creditors Notice

In the St Louis Court of Common Pleas.

February Term 1851 — June 21st 1851

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In the Matter of the Steam Boat Robert Fulton
In pursuance of an order of the St. Louis Court of Common Pleas, public Notice is hereby given to all creditors having a lien against the Steamboat Robert Fulton, under the act entitled "an act concerning boats and vessels" approved March 26. 1845. that they are hereby required to exhibit before the said Court on the 14th day of July next, at the Court House in the City and County of St Louis, their demands against the said Steamboat, and establish the validity thereof under the provisions of the said act, at which time and place all parties in interest may appear and be heard before said Court.
In Testimony whereof, I hereto set my hand and affix the seal (L.S.) of said Court at Office in St Louis this 21st day of June A. D 1851. Philip Tappett clerk By Thos. C. Shaizer D. C.

Proof of Publication

On the fourteenth day of July 1851, the proof of publication of the above Creditors Notice was filed, being the affidavits with the copy of said creditors notice annexed, of Geo. K. Budd and Richard Phillips

State of Missouri } ss.
County of St Louis }

On this fourteenth day of July in the year of our Lord one thousand eight hundred fifty one before me The Law Commissioner for the County aforesaid, personally appeared George K. Budd and made oath that he is the publisher of Newspaper printed and published in the City of St Louis and State of Missouri, called the St. Louis Intelligencer, and that the advertisement, of which the annexed is a copy, was printed and published in said Newspaper for two weeks successively, commencing on June 23 1851 and ending on July 8 1851 The first publication being in No. 147. June 23; Second No. 148 June 24. third No. 149 June 25; Fourth No. 150 June 26. fifth No 151 June 27; Sixth No. 152 June 28 Seventh No. 153 June 30. Eighth No. 154 July 1st Ninth No. 155 July 2 Tenth No. 156 July 3 Eleventh No 157 July 4 twelfth No. 158 July 5th

4 thirteenth No. 159 July 8. Geo K. Budd

Sworn to and Subscribed before me the dy and year aforesaid Jno. H. Watson The Law Commissioner of St Louis County.

State of Missouri, County of Saint Louis } ss

Personaly appeared before me, the undesigned, a Justice of the Peace within and for the County aforesaid. Richard Phillips Publisher of the Saint Louis Union. of the County and State aforesaid who being duly sworn deposeth and saith that the annexed Advertisement. Creditor's Notice S. B. Robert Sutton February Term was published in the Saint Louis Union the time below specified, on the following days and in the following numbers, viz (as Printed) June 23 1857 No. 261 June 24 1857 No. 262 June 25 No 263. June 26 no 264 June 27 No. 265 June 28 no 266 June 30 No. 267 July 1 No. 268 July 2 No. 269 July 3 No. 270 July 4 No. 271. July 7 No 272 July 8 No. 273 July 9 No. 274 July 10 No. 275 July 11 No. 276 July 12 No. 277 July 14 No. 278.

Richard Phillips

Sworn to & Subscribed before me this 14th dy of July 1857

Peter W. Johnstone Justice of the Peace.

Record from Justice WW. Fitzmiller.

State of Missouri
County of St. Louis } ss Before W W Fitzmiller a Justice of the Peace for St. Louis County: Wm H. Parkison

Complaint

complains that he has a demand against the Steam boat Robert Sutton a boat used in navigating the Waters of this State: amounting to ninety dollars and — cents; which demand accrued against the said Steamboat on account of the Master thereof, for Services as Mate and money paid within the 30 days next preceding the commencement of this suit, and is, in all its particulars, as follows, to wit: St Bt Robert Sutton

To Wm H. Parkison Dr.

a/c To 23 days Services as Mate a $100 per month 76.65

" Mon

5 To money advanced to pay Laborers ——— 13.35

$90.00

and the said Wm H. Parkison further states that he has now no other demand against the said Steamboat Robert Fulton which is a lien thereon. Wm H. Parkison being sworn on his oath says that the facts set forth in the above complaint are true.

Sworn & Subscribed before me this 23d dy of May 1851. Wm W. Kitzmiller Justice } Wm H. Parkison

Attachment Bond

Know all men by these Presents, that we Wm H. Parkison as principal and Peter V. Skillman security acknowledge ourselves to be indebted unto the State of Missouri in the sum of One hundred and Eighty dollars, for payment whereof we bind ourselves, our heirs, Executors and administrators firmly by these presents. Sealed with our Seals and dated this 28th dy of May in the year Eighteen hundred and Fifty One. The Condition of this Obligation is such, That whereas, Wm H. Parkison as plaintiff is about to bring a suit by warrant before W. W. Kitzmiller a Justice of the Peace within and for the township of St. Louis, against the Steamboat Robt Fulton defendant, returnable forthwith, wherein the sum sworn to is Ninety Dollars, Now, if said plaintiff shall prosecute the said suit with effect, and shall pay all damages which may accrue to the said Steamboat Robert Fulton or the owners or Officers thereof, by reason of the said Warrant, or any process or proceeding in said suit, then this bond shall be void; otherwise to remain in full force. Wm H. Parkison L. S.

Attest: W. W. Kitzmiller J. P. Peter V. Skillman L. S.

Warrant

The State of Missouri, To any Constable of St Louis Township in St Louis County — Greeting; Whereas Wm H. Parkison has this day made to the undersigned a Justice of the Peace within and for said County, his complaint, according to the provisions of an act entitled "an act concerning boats and vessels" approved March 26th, 1845 setting forth that his

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has a demand against the said Steamboat Robt Sutton amounting to Ninety dollars and — cents, which demand accrued against the said Steamboat on account of the Master thereof for Services as mate and money advanced to pay Laborers and in said complaint hereunto annexed is set forth in all its particulars. These are, therefore, to direct and authorize you forthwith to seize the said Steamboat Robert Sutton and detain her in your custody with her tackle, apparel and furniture, or so much thereof as shall be sufficient to satisfy said debt and costs, until discharged from your custody by due course of law. You are further directed to make return of this warrant forthwith. Given under my hand this 28th day of May 1851.

Wm W Kitzmiller Justice.

Constables Return.

By virtue of the within Warrant and complaint I have attached the A. Bt. Robert Sutton her tackle apparel and furniture and by reading the same to the Watchman in charge. the said Boat having been previously attached by the Sheriff of St Louis County and by the same being now in his custody I can not take her into actual possession Done in St Louis Township May 28th 1851

Samuel Maxwell Const By G. W. Calvert Deputy.

Judgment by Default.

No. 153 May Issued 1851

William H. Parkison vs. A. Bt. Robert Sutton

Suit for Wages and Supplies for $90.00
Bond and affidavit filed May 28th 1851
Warrant issued same day to Constable Maxwell returnable forthwith. Warrant returned same day duly served. the defendant comes not and makes default and now on this 29th inst. the matter being heard it is adjudged by the Justice that the plaintiff ought to recover of the defendant Ninety dollars for his debt and also for cost of suit and that thereof Execution the same being a lien of the first class against Boats and Vessels

| | |
|---|---|
| Judgment | $90.00 |
| Bond & affdt. | |
| Warrant & Spa | 1.15 |
| Cert & Judgment | 1.40 |
| this transcript | 1.50 |
| 3.05 | |
| Const Maxwell | .75 |

7 State of Missouri } ss.
Certificate County of St. Louis } I. Wm W. Kitzmiller a Justice of the Peace within and for the County of onesaid do hereby certify that the foregoing writing is a full and true Transcript from my docket of the entries therein made in a Certain Case tried before me at my Office in St Louis Township wherein William H. Parkison is plaintiff and the St Bt Robert Fulton is defendant and do further Certify that the papers hereto attached are true and correct copies of all the original papers filed in said suit together with Constables Endorsement and return thereon.

Given under my hand this 18th June 1851

Wm W. Kitzmiller
Justice of the Peace

Allowance And afterwards the following proceedings were had to wit:

February Term 1851. July 14th 1851

In the matter of the Steamboat Robert Fulton } This being the day for the hearing of claims against the Steamboat Robert Fulton and the Court being satisfied that the publication of notice to ~~the~~ claimants has been made, proof of which is filed the Claimants file their claims, and the Court proceeding to hear and determine the same allows the following and finds that it belongs to the first class of liens against said Boat

William H. Parkison $90.00

and the Court doth appoint Thomas Frazer and Henry A. Clover Commissioners to settle the proportion payable to each claimant out of the fund in this cause and to report to the Court without delay.

Motion for Rehearing Overld. And on the same day the following proceedings were had viz:

In the matter of the Steam Boat Robert Fulton } The defendant by its attorney files a motion for a rehearing

8 of the claim of William H. Parkison, which upon a hearing is by the Court overruled.

Appeal And afterwards the following proceedings were had viz

February Term 1851 July 15th 1851

In the matter of the demand of William H. Parkison vs Steam Boat Robert Fulton } The Defendant by her Attorney files an affidavit and prays an appeal from the allowance of said demand and the same is granted and the defendant files a bond according to law which is acknowledged by the Obligors, approved by the Court and filed.

Commissioners Report. And afterwards the following proceedings were had to wit:

February Term 1851. July 17th 1851

In the matter of the Steamboat Robert Fulton } Now at this day come the Commissioners appointed herein and file their report, which being examined by the Court and found to be correct and just is approved and it appearing to the Court that the amount for which the said boat sold for, is the sum of Sixteen hundred and fifty dollars, and that the Costs amount to the sum of Four hundred and Seventy Dollars and Seventy five cents; The Court doth order that the same be first paid and delivered out of said fund, and the Court doth order that the Sheriff pay out of the balance of said fund in his hands all claims of creditors of the first class in full as heretofore allowed by this Court with the exception of the claim of William H. Parkison which the Sheriff is hereby directed to retain in his hands until the further of the Court herein.

The following affidavit for appeal was filed July 15th 1851

"William H. Parkinson vs St. St. Robert Fulton

affidavit for appeal & Bond

Henry N. Hart the agent for Defendant makes oath and says that the said appeal in above case is not made for vexation or delay but because he believes that the appellant is agrieved by the Judgment or decision of the Court.

Sworn to & Subscribed before me July 15th 1857. P. Sippett Clk.

Henry N Hart

Know all men by these Presents, that we Henry N. Hart as principal and Richard J. Howard as Surety are held and firmly bound unto William N. Parkinson in the sum of fifty Dollars. 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, sealed with our Seals, and dated at St Louis, this 15 day of July A. D. 1857. The condition of the above obligation is such, that whereas The Steamboat Robert Fulton has appealed from the Judgment rendered against her and in favor of William N. Parkinson in the St Louis Court of Common Pleas for the sum of Ninety dollars — and cents together with costs.

Now if the said appellant will pay all costs and damages that may be awarded against her occasioned by such appeal, and shall prosecute her appeal and shall perform such Judgment as shall be given by the Supreme Court and such as the Supreme Court may direct the St Louis Court of Common Pleas to give, and if the Judgment or any part thereof be affirmed, that She will comply with and perform the same so far as it may be affirmed, and will pay all damages and costs which may be awarded against her by the Supreme Court then obligation to be void, otherwise to remain in full force and effect.

Approved in Open Court July 15th 1857 Attest. P. Sippett Clk

Henry N. Hart Seal
R. J. Howard Seal

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Bill of Exceptions

And on the fourteenth day of July 1857 the following Bill of Exceptions was filed to wit:

William H. Parkinson &
vs.
St. Bt. Robert Fulton

Be it remembered that on the trial of this cause the plaintiff offered in evidence the Transcript from William W. Fitzmiller a Justice. (which Transcript of Justice Fitzmiller is inserted herein beginning on page No. 4) which was all the evidence on behalf of Plaintiff — The defendant then offered to prove by James Webb the following Defendant offers to prove that the Plaintiff at the time mentioned in the acct, and before on the case, was Captain on board the Defendant, and that one William G. Cable was the only mate on the boat at the time that plaintiff went up in the defendant on a pleasure trip and that finding pltff was acquainted with the people along the River he witness employed him as Captain & authorized of the owner of defendant and in that capacity alone he acted. Which Evidence the Court excluded to which exclusion of said evidence the defendant by her owner at the time excepted to, wherefore the Court allowed the demand of the plaintiff afterwards and within 4 days after said allowance defendant moved the Court to set aside said allowance for reasons filed.

Motion and reasons to set aside allowance of claim

William H. Parkinson &
vs.
St. Bt. Robert Sutton

C.C.P.

Defendant moves to set aside the allowance of the plaintiffs claim in this case because the same is illegal. Because the Court refused legal Testimony admitted illegal testimony — Erroneously admitted the Transcript of the Justice. Erroneously declared said Judgment conclusive upon defendant. Hart atty p. q.

11 which motion was by the Court overruled, to which acts, opinions and decisions of the Court the defendant by her owner at the time excepted and files this as his Bill of Exceptions which he prays may be signed sealed and made a part of the record in this case which is done.

Sam[l] Treat, Judge [Seal]

State of Missouri
County of St. Louis } S.S.

I, Philip Sippett Clerk of the St Louis Court of Common Pleas within and for the County aforesaid Certify the above and foregoing to be a full and complete Transcript of the Record and proceedings in the matter of the Steamboat Robert Fulton upon the claim of William H. Parkinson as the same now remain of Record and on file in my Office.

In Testimony whereof I have to set my hand and affix the Seal of said Court at Office in the City of St Louis this 9th day of September in the year of our Lord One thousand Eight hundred and Fifty One.

Philip Sippett Clk

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(15) 114

Oct. T. 1851

William H. Parkinson

of

Sr Br Robert Fulton

Transcript

Filed Oct. 9th 1851
Wm B. Starke
by
Wm S. Glanville

$4.50 Paid by H. N. Hart

(12)

Steam Boat Robert Fulton appellant } In the Supreme Court
vs } of the State of Missouri
William A Parkinson appellee } October Term 1857.

And now comes the Defendant in the Court below and appellant in this Honorable Court and says that in the acts, opinions and decisions of the Common Pleas Court there is manifest error and therefore prays that the same may be revised, reviewed and reversed in this Court.

Henry R. Hart
for apellant

Supreme Court

October Term 1857.

Steam Boat Robert Fulton

appellant

vs

William A Parkinson

appellee

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Assignment of Errors

Filed 21. Oct 1857.
W B Starke Clk

Henry R Start
for appellant

State of Missouri
County of St Louis } ss
Supreme Court.
October Term 1864.

William N. Parkinson respondent
ads
H Boat Robert Fulton Appellant

by Garland & Norris

And now comes the said respondent, & says that in the matter of the above trial. the said St Louis Circuit Court of Common Pleas hath Committed no Error, in manner & form &c Wherefore he prays judgement.

Garland & Norris
resp. Atty

Supreme Court
October Term

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Wm H. Parkinson. resp
ads
St Boat Robert Fulton. app.

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Joinder in Error
Filed Oct. 22nd 1851
Wm F Glanville
for DC
Garland & Morris
Wm B Starkes
" resp Atty Clerk.

Assignment Oct 28.

State of Missouri
County of St Louis } ss

William N. Parkison } Supreme Court
ads
St Boat Robert Fulton } March Term 1851.

Statement of the Case by Respondent.

The Respondent sued the Appellant, before Justice Kitzmiller on the day under the act Concerning Boats & Vessels etc " — The return to the attachment issued was — Appellant already in Bankruptcy & in possession of the Sheriff of the County — Judgement against the Appellant by Default —

Under an Order of the Court of Com. Pleas "In the matter of the St Bt Robert Fulton", Calling upon Claimants to prove their claims etc Respondent appeared & filed the Transcript of the Record of Justice Kitzmiller as Evidence of an unsatisfied Claim against the Appellant. Which was by the Court admitted & judgement given against Appellant, for the amount shown to be due by Justice Kitzmillers transcript.

In the Com. Pleas parol Evidence was offered by the Appellant to the Effect that Resp. was not the mate on board Appellant, but that one William G. Cobbs was (the Transcript showing that Resp. received for services as mate & for money furnished for stores) Which testimony was excluded by the Court — the Appellant excepting. There are no instructions & the only point presented

for this Court is. Did the Court below err, in Excluding parol testimony affecting a judgement of a justice of the Peace, as Evidenced by the transcript of his Docket.?

Garland & Norris
Resp. Counsel

State of Missouri
Supreme Ct. N. Term

Wm H. Parkinson
ads
W Bt Robert Sutton

Statement of case by Res.

Filed Oct 24th 1857
Mr Sherman Clerk
Gr A
Resp Cons

Parkerson vs S. B. Robert Fulton

(Copy Statement -)

This case comes fully within the decision made by this Court in the Case of Noel ~~and~~ McSherry vs Steam Boat Eureka, de-cided by this Court at its last March Term; not yet printed -

The return of the Constable ~~Maxwell~~ in that case, was the ground of Error complained of in the Court below - The same point in the present is made - We adhere to the opinion then given and that opinion settles this case -

Judgment affirmed

The other Judges concurring

John F. Ryland

Parkinson
vs.
J. B. Robt. Fulton

Opinion
by Ryland

Filed December 10th 1851
Wm. Blanchard Clerk

Supreme Court of the State of Mississippi
For the March Term AD 1854

William N. Parkison } Respondent
adv
W Boat Robert Fulton } Appellant.

Respondents Brief.

Did the Court below err in excluding parol testimony affecting a judgement of a Justice of the Peace, as Evidenced by the transcript of his Docket? Certainly not

1. If parol contemporaneous evidence is inadmissible to contradict or vary the terms of a valid written instrument: a fortiori this is true of a Solemn Judicial Record.
Weber vs Schmeisser 7 Ire 600.
3. Dev & 23.

2. Copies of proceedings before Justices of the Peace certified by the Justice, before whom the proceedings are had, shall be Evidence of such proceedings
Rev. Cod 45 p 470 Sec. 21 & 23.

3 a Justices judgement, apparently regular cannot be collaterally impeached, by any parol Evidence. It is a judicial proceeding which is conclusive, unless upon some other proceeding directly to avoid it
Jones vs Jenkins 2 Dev & Batt 492.
Taylor vs Hays 6 Watts 398

4. The judgement of a Court of Concurrent jurisdiction is as a plea, a bar, or as Evidence Conclusive between the same parties upon the same matters, directly in question in another Court

Burt vs Sternberg 4 Cow 559
Gardner vs Buckbee 3 Do. 120
Wallace vs Usher 4 Bibb 508
Hayden vs Boothe 2. A.K. Marsh 353

The Proper way for the Appellant to review the decision of Justice Kitzmiller, was by Appeal. failing in that he must suffer the legitimate results of his own laches.

Gerhard & Norris
Attys for Respdts

State of Mo. Sup Ct
March Term A.D. 1851

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Wm. M. Parkinson
ads
H. B. & Robert Sutton

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Respondents Brief

Garland & Norris
Res. Attys

Steam Boat Robert Fulton } In Supreme Court of Mission
William H. Parkinson }

and now comes the appellant & sets forth the following ~~Points & authorities~~ why the judgment of the Court of Common Pleas ought to be set aside

1st Appellant contends that the Warrant before the Justice had never been served so as to give the Justice jurisdiction over the thing and that his proceeding to hear try and determine the suits was error. Rev'd Code Boats & Vessels Chap 20 Sec 6. 24 & 26.

2nd The appellant had been previously attached and was at the time in the custody of another officer by virtue of another warrant & levy. and the constable in this case not being able to seize the boat under the warrant in above case as he was required to do - his return on the writ is "as of no service because the boat was in the custody of another officer" by virtue of a prior attachment and levy

3d The warrant in this case requires the constable to seize the boat or so much thereof as is sufficient to satisfy the demand and to retain the same in his possession until discharged by due course of law the constables return shews that this could not be done - and it was error for the Justice to proceed any further on this return and hear and determine the case -
See. Lane & Dalton vs Jackson 5 Mass 157. also

Watson et al vs Todd et al & Thornton trustee
5 Mass 271. Vinton vs Bradford 13 Mass
114 Thomson vs Merrick 14 Mass. 269

4th The proceedings before the Justice was entirely exparte and the court below committed error in allowing the transcript of the Justice to be evidence of the demand of the plaintiff

5th The court of Common pleas also committed error in excluding the evidence offered on behalf of the appellant - and in ruling that the transcript of the Justice was conclusive against the boat.

1th Supposing that the Justice properly proceeded in rendering a Judgment by default against the appellant and in favor of appellee, without any notice to the boat by a levy or appearance of any officer of the boat authorized to appear. it is respectfully contended that under the statute, the appellant had the right to show before the court of Common pleas at the time appointed for claimants to present their demands against the boat, that the demand of the appellee was unjust & that nothing was due by appellant to appellee

Rev Code Boats & Vessels Chapter 20 Sec. 14 & 15

all of which is respectfully sub-
mitted & appellant for reasons
aforesaid pray a reversal of
the judgment of the inferior court

Henry W. Hart
for appellant

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Ct Bt Robt Fulton
appellant

—

Wm H Parkinson
appellee

Brief of appellant
points & authorities

Hemingh Hart
for appellant

Statement of Case

Steam Boat Robert Fulton
plaintiff in error
against
William H. Parkinson
defendant in error

In Supreme Court
of Missouri

This was a suit instituted before Justice Kitzmiller by the defendant in error against the plaintiff in error to recover wages alledged to be due to him as Mate on board the plaintiff in error under the Boat and Vessel Act. At the time of the issuing of the warrant the ~~defendant~~ plaintiff in error was in the hands of ~~the Shee~~ another officer by virtue of a previous levy & subsequently sold by order of the Court of Common pleas by said officer, the return made by the constable in this case states these facts and shews that no levy could be made by him in this case for reason of the plaintiff in error being in the custody of another officer upon this return no appearance is made by any one on behalf of the plaintiff in error and the justice renders judgment by default against the plaintiff in error for amount claim by defendant in error at the time appointed by the Court of Common pleas for creditors ~~to~~ present their demands against the plaintiff in error for adjudication, the defendant in error presents the transcript of Justice Kitzmiller which shews the aforesaid facts to the admission of which plaintiff in error objects to examine this was all the evidence of defendant in error, the plaintiff in error then offered witnesses to prove and establish that the ~~plaintiff~~ Defendant in error was never acting as Mate on board of her that he was employed as Captain and alone

acted in that capacity and also to prove who was mate at the time mentioned in the defendants in error's account which evidence the court excluded on the grounds that the transcript of the justice was conclusive on the plaintiff in error to which act & opinion of the Court of Common pleas the plaintiff in error by her Atty at the time excepted to motion was made to set aside the said allowance on the grounds of improper admission of the transcript of justice & improper exclusion of testimony offered by plaintiff in error which was overruled & this case appeals to this court.

Henry W. Hart
for plaintiff in error
B. Duke
for Deft. in Error,

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Sr Bt Robert Fulton
appellant

vs

Wm H. Parkinson
appellee

Statement of Case
(adopted)
Ryland