66/17

Merchants

Jan. 1848 #20
John M. Lyle
vs. debt
John C. White
Schuyler Co. (formerly Adair)

$25 note
to
buy clock from peddler
w/o license.

THE STATE OF MISSOURI, ss.

The State of Missouri, To the Judge of the Fourth . —
Judicial Circuit —— in said State, GREETING:

Whereas, In the record and proceedings in a certain cause lately pending in the Circuit Court of Schuyler County in the Judicial Circuit aforesaid ——————— wherein John C White was plaintiff and John M Lyle was defendant . ——————— ——————— ——————— . ——— ———————

in an action of Debt . ——————— manifest error hath intervened, to the great damage of the said defendant as by his 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 26th ——— day of September , in the year of our Lord one thousand eight hundred and forty-Seven

H. L. Boon

Clerk

SEAL OF THE SUPREME COURT OF MISSOURI

State of Missouri, }
County of Schuyler. } ss.

In Obedience to the command of the within writ I, Isaac N Ebey Clerk of the Circuit Court within and for the County aforesaid return herewith duly certified a transcript of the record and proceedings in the within entitled cause as fully as the same remains of record and on file in my Office.

In testimony whereof I have hereunto set my hand and affixed my private seal (there being as yet no Official seal provided for said Court) Done at Office in the town of Lancaster this 4th day of December 1847.

I.N. Ebey Clerk

(20) 77.

John M Lyle
vs Error
John C. White

Filed Decem 29. 1847
H. L. Boon clk

Schuyler.

Henry Rhodes } Error to Schuyler Circ
John E White } Court.

In Sup. Ct. Jany. Term 1848

And the said ~~dep~~ plaintiff in error comes and says that in the record and proceedings in said cause and in rendering the judgment of said Court there is manifest error in this that said Circuit Court excluded evidence offered by the plaintiff error when by the law of the land the same should have been admitted.

In this that said Court rendered judgment in favour of defendant ~~below~~ in error when by the law of the land judgment should have been rendered in favour of said plaintiff in error wherefore for these and other errors the said plaintiff in error prays that said judgment may be reversed annulled and for nothing held and plaintiff restored &c

Stringfellow
Forsyth in error

Henry Rhodes
vs
McCarter

Assignment of
errors

Filed Jany 21. 1848
H. L. Boon clk

Lemuster Mo.

To Thomas Richardson Attorney of Record for John C White Sir:

Please take notice that I have sued out from the Supreme Court of the State of Missouri a writ of Error to the Circuit Court of Schuyler County in said State in the case of John C White vs John M Lyle returnable to the Supreme Court on the second Monday in January Eighteen hundred and forty Eight

This 18th December 1847 John M Lyle

I, Executed this notice by delivering a true copy of the same to the within named Thos Richardson this 21th day of December 1847

Done in Scotland Co Mo J. B. Lucas Shff

Scotland Co Mo

Isaac N Ebey being sworn says that he is clerk of the Circuit Court in Schuyler County Missouri and that Thomas Richardson was the attorney who prosecuted the within named cause in said Court for said Jacob White. ~~in said Court.~~

I. N. Ebey

Subscribed & sworn to before me Jany 24. 1848.

H. L. Boon clk

Sup. Ct. Mo.

John M Lyle
vs
John C White

Error from the Schuyler Circuit Court

Per Curiam — This case comes within the principle decided at the present term of Rhodes vs White
Judgment affirmed

Lyle

vs

White

Opinion of the Court

Filed July 5. 1848.
H. L. Boon, clk

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State of Missouri, } set.
County of Schuyler. }

Be it remembered that heretofore towit: on the third day of April Eighteen hundred and forty seven a transcript was filed in the office of the clerk of the Schuyler Circuit Court in words and figures as follows towit:

Note

"$25. March 29th 1844.

On or before the first day of April 1845 I of the township of Wells in the County of Adair in the State of Missouri

*This word is interlined.

se* to pay John C White or bearer twenty five Dollars— cents for value received negotiable and payable without defalcation or discount with interest at ten per cent after due. J. Mc. Lile L.S.

Summons

State of Missouri, } The State of Missouri to the Constable of Fabius Township Greeting. We command you to
County of Schuyler. }

Summons John Mc Lile to appear before the undersigned one of the Justices of the peace of Fabius Township Schuyler County on the 21st day of Nov 1846 at ten O'clock in the forenoon at his residence in Said township to answer the complaint of John C White. Given under my hand this 5th day of Nov. 1846. William Barlow J.P.

Transcript

John C White }
vs
John Mc Lile } Action on a note for $25 Dollars dated March the 29th 1844 bearing ten per cent interest after due: due on the first day of April 1845. Summons issued on the 5th of November 1846 and returnable on the 21st day of the same month: and the parties appeared and the trial went in to, and judgment was given by the justice for fifteen Dollars and forty five cents principal and also for interest $3.43 cents, also for costs. Justices cost 50 cents Constables costs 25 cents. Wm Barlow J.P.

On the same day that judgment was rendered in the above cause the defendant prayed for an appeal from the judgment of the justice and having filed an affidavit according to

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according to law the same was granted. Wm Barlow J.P.

Transcript

State of Missouri,
County of Schuler, } I hereby certify that the above is a true transcript of the entries made in my docket in the case wherein John C White is plaintiff and John M Lile is defendent This 3d day of April 1847.
Justices cost for this transcript 47 cts. Wm Barlow J.P.

Recognizance

We the undersigned John M Lile as principal and William Henry Lile ~~his securities~~ acknowledge ourselves indebted to John C White in the sum of Fifty Dollars to be void upon this condition whereas John M Lile has appealed from the Judgment of the Justice of the peace in an action between John C White plaintiff and John M Lile defendent Now if on such appeal the judgment of the Justice be affirmed or if on the tryal anew in the Circuit Court judgment be given against the appelant and he shall satisfy such judgment or if his appeal shall be dismissed and he shall ~~satisfy~~ pay the Judgment of the justice together with cost of the appeal the recognizance shall be void. Given under our hands this the 21st day of November 1846.

J M Lile (Ls)
William Henry Lile (Ls)

State of Missouri,
County of Schuyler. } set.

Be it remembered that at a term of the Circuit Court in and for the County of Schuyler of the State of Missouri begun and held at the Court house in the town of Lancaster in said County of Schuyler on the tenth day of September Eighteen hundred and forty seven: Present Hon Addison Reese Judge of the 4th Judicial Circuit in the State of Missouri, James R Abernathy Circuit Attorney Isaac N Ebey Clerk and B.H. Weatherford Sheriff when the following proceedings were had on the second day of said term to wit:

Judgment Circuit Court

John C White, } Appelle
vs. } ~~Appeal~~ Appeal
John M Lile. } Appellant.

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Judgment of Circuit Court.

Now at this day comes the parties aforesaid by their attorneys and neither party requiering a Jury this cause was submitted to the Court; who after hearing all the arguments adduced by the parties the Court doth find the debt due the plaintiff, appelee, from the defendant appellant to the sum of Sixteen Dollars and five cents for his debt aforesaid and the further sum of three Dollars and Sixty three cents damages sustained by him by reason of the detention of said debt, and his costs by him about his suit as well in the justices courts as in this court on this behalf laid out and expended and that he thereof have execution.

John C White, } Appelle.
vs. } Appeal.
John McGill. } appellant.

Bill of Exceptions Allowed.

Now at this day comes the parties by their attorneys, and the defendant, having saved his exceptions to the opinion of the Court in refusing certain evidence on the trial of this cause, files herein his bill of exceptions which is signed sealed and made a part of the record.

State of Missouri.

John C White, plff.
vs.
John McGill. Deft.

Bill of Exceptions.

In the Schuyler Circuit Court by Appeal from Justice of the peace.

Be it remembered that on the trial of the above named cause, the plaintiff by his attorney read the note which was the foundation of said suit: whereupon the defendant herein offered to give in evidence that said note the foundation of this suit was given for a clock sold by a man who was at the time peddling clocks and that there was no other consideration for said note than the said clock, that the sale for said clock was made in the County of Adair (now Schuyler County) in the said State of Missouri, and that the vendor of said clock had at the time of said sale no license authorizing

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Bill of Exceptions

said venue at the time of said sale at said County of Adair to peddle or sell clocks, and there was no other evidence offered or given in the cause which proposed proof the Court rejected, to the decission of the Court in refusing to admit the said evidence the defendant by his Council excepts and prays that this his bill of exceptions may be signed sealed and made a part of record in this cause. Which is accordingly done.

A Reese Judge 4th Jud. Dist, Mo.

State of Missouri,
County of Schuyler. } set.

certificate

I Isaac N. Ebey Clerk of the Circuit Court within and for the County of Schuyler aforesaid hereby certify that the foregoing are a true copy of the record and proceedings in the case of John C. John McLile as fully as remains in my Office. In testimony whereof I have hereunto set my hand and affixed my private seal (there being as yet no Official seal provided for said Court) Done at Office in the town of Lancaster this 1st day of December 1847.

I N Ebey Clerk

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