Bullard, James H; Bullard, William D. + Broadus, Nicholas E. vs Buster, Archibald 1841 Platte

102/23

8

Archibald Buster
v
James H Bullard
William D Bullard
& Nicholas E Broaddus

Pleas before the Honorable David R Atchison Judge of the Circuit Court within and for Platte County in the State of Missouri on the 25th day of March in the Year of our Lord 1841 in which the said Archibald Buster is plantiff and the said James H Bullard William D Bullard and Nicholas E Broaddus are defendants

Best remembered that on the 21st day of November in the Year of our Lord 1840 Isaac W Gibson a Justice of the peace of Platte County aforesaid file in the office of the Clerk of the Circuit Court his transcript with the original papers in the above Cause which transcript and original Papers are as follows viz

Archibald Buster
v
James H Bullard
William D Bullard
& Nicholas E Broaddus

Action of Debt Suit an account for Coun & C. ninety dollars October the 5th Summons issued to Constable Jones returnable on the 24th Just which was indorsed the within Executed Nicholas E Broaddus this fifteenth October 1840 October the 24th the parties appeared and the Case adjourned on motion of the Plantiff until the 3d day of November 1840 the parties appeared Nov 3d 1840 and being ready for trial a Jury was impannelled and Sworn Well and truly to try the Case and the proof and allegations being fully heard ~~and~~ the said Jury retired and Considered on their

Verdict and on the same day returned into Court and handed to me their verdict in writing in writing in the words following We the Jury find for the plantiff in the Case seventy two dollars A G Morgan foreman

It is therefore considered that the plantiff recover Judgement for seventy two dollars for his debt and for costs of suit taxed at seven dollars and ninety one cents October the 25 defendants applies for an appeal and files bond and affidavit which is granted

Justice fees for issuing summons	18¾
" 4 subpoenas	75
" entering adjournment	37½
" Judgement	37½
Swearing Jury & witnesses	1.68¾
	62½
Constable fees	2.31¼
for serving summons	25
" subpoenaing 10 witnesses	2.50
summoning Jury	75
	3.50
Mileage fees	1.50

I Isaac W Gibson a Justice of the Peace of Canal Township in Platte County do certify that the foregoing is a true and complete transcript of the entry on my docket this November the 19th 1840

Isaac W Gibson J.P.

appeal Bond

We the undersigned William D Bullard and Christopher C Branham acknowledge ourselves indebted to Archibald Buster in the sum of one hundred and forty five dollars to be void on this condi

action Whereas William D Bullard has appealed from the Judgment of Isaac W Gibson a Justice of the peace in and action between Archibald Burton plantiff and James H Bullard William D Bullard and Nicholas E Broaddus defendants Now if on such the trial anew in the Circuit Judgment be given against the appellants and they shall satisfy the Judgment or if this appeal shall be dismissed and they shall pay the Judgment of the Justice together with the costs of the appeal the Recognisance to be void

William D Bullard
Christopher C. Branham

Taken and acknowledged before me this 4th day of November 1840

I W Gibson J.P.

Writ

The State of Missouri to the Constable of Canal Township in Platte County Greeting ~~You are hereby~~ We Command You to Summon James H. Bullard William D Bullard and Nicholas E Broaddus to appear before the undersigned one of the Justices of the Peace of Canal Township in Platte County on the 24th day of October 1840 at ten O'clock in the forenoon at my office in the same Township to answer the complaint of Archibald Burton herein under my hand this 5th day of October 1840

Isaac W Gibson Justice

Returns

The within executed by reading the same within the hearing of the within Nich

alas E Broaddus this 15th day of October 1840

Free B James Constable
By John M Baker D.C.C.I.

Affidavit
State of Missouri }
County of Platte } ss

This affiant William D Bullard one of the defendants in the case of Archibald Buster against James H Bullard William D Bullard and Nicholas E Broaddus states ~~that~~ upon oath that he does not take this appeal for the purposes of vexation or delay but because he feels himself a grieved by the Judgment of the Justice rendered in this cause William D Bullard sworn and subscribed to before me this 4th day of October 1840

Isaac W Gibson J.P.

and be it remembered that afterwards to wit at a circuit court held at the Court house in Platte City in Platte County by the Honorable Austin A King Judge of the circuit court in and for said County on the 23d day of November 1840 was the following proceedings to wit

Archibald Buster }
v } appeal
James H Bullard & }
Brothers

This cause is continued until the next term of this Court

and be it remembered that at circuit court held at the Court house in Platte City in Platte Cou

by the Honorable David R Atchison Judge of the circuit Court in and for said County on the 25th day of March 1841 Was the following proceedings to wit.

Archibald Buster
v
James H Bullard and Brothers } Appeal

Now at this day came the parties aforesaid and both parties being ready for trial thereupon came a Jury to wit James Mobley Baldwin Bane Samuel Paul G. F. List William Camogg J W Atkins R R Duell J B Collier William M Sitton B R Morton M Beethe Thos McQueen Who ~~being duly~~ returned into Court the following verdict

We the Jury find for the plaintiff damages Seventy two dollars J B Collier foreman it is therefore considered that the said Plaintiff recover of the said defendants the said sum of seventy two dollars damages together with costs of suit and that Execution issue therefor

And be it remembered that afterwards to wit at a circuit held as last aforesaid on the 27th day of March 1841 Was the following proceedings to wit

Archibald Buster
v
James H Bullard
William D Bullard &
Nicholas E Broaders } Appeal

Now at this day came

the parties aforesaid and the said defend
ants file their motions for a new trial and
in arrest of Judgment and the said
plaintiff remits thirty one dollars of the Ju
dgment obtained by him against the
said defendants and the said motions for
a new trial and in arrest of Judgment
being argued and understood by the Court
are overruled to the opinion of the Court
in overruling said motions the defendants
Except and tender their bill of Exceptions
which is signed sealed and made a part
of the record. And the defendants pray
an appeal to the Supreme Court which
is granted and ~~therefore came~~ the affidavit
of Nicholas E Broadus one of the defend
ants being filed the said Nicholas E Broadus
and V R Rice as security entered into the
following recognisance Towit,
We acknowledge ourselves to owe and be
indebted to Archibald Buster in the sum
of one hundred dollars to be levied of our
respective goods and chattels lands and ten
ements and to be void on condition that
the said James H Bullard William D Bull
ard and Nicholas E Broadus shall pros
ecute their appeal with due diligence
to a decision in the Supreme Court and
if the Judgment appealed from shall be
affirmed or their appeal dismissed they
will pay the costs recovered against them
by the Judgment of the Circuit Court or that they will oth
erwise perform the Judgment of the Cir
cuit Court and that they will also pay
the costs adjudged against them in

the Supreme Court upon their appeal

Bill of Exceptions

Anglubala Buster

v

James H Bullard & Brothers

Be it Remembered that on the trial of this Cause D A Sullon was called as a witness for the Plantiff and gave evidence that the plantiff was indebted to the defendants by Notes and account to the amount of fifty one dollars and that the plantiff was indebted to witness in same amount not stated by the witness and that the witness had in his possession same Corn of the Plantiff who was considered in insolvent or doubtful circumstances that the defendant wished to secure their debt out of the ~~Plantiff~~ Corn belonging to plantiff in the possession of witness and to that end the plantiff defendants and and witness agreed that the witness should dispose of the Corn and first pay himself and then the residue or balance of the money arising from the sale of the Corn after paying witness if any should should be appropriated to the discharge and payment of the claims of defendants and in consideration of that arrangement the defendants delivered to witness their Note and account and took his receipt in the following words. Received of James Bullard and Brothers a Note on A Buster for forty six dollars and an account current for twenty one dollars 60 cents

the note is credited with twenty five dollars and due Jan 2 1839 bearing interest until pair now any money that may be left in my hands after settling with said Buster is to be pair over to said Bullard and Brothers in discharge of in whole or in part of said note and account Oct 18th 1839.

D A Sutton

that after this arrangement on the 14th day of November following the witness sold the Corn forty Eight barrels at $ 1.50 per Barrel to One Nelson P Owen who never pair for it and same time after the sale to him run away from the Country and the proceeds of the sale of said Corn was lost that this sale was made without advising with the defendants witness understanding him self to have the whole management of it and being fully and no other One authorized to sell the Corn and to dispose of the proceeds as aforesaid the witness produced in Court here the note and account of the defendants so place in his hands Yet unpair to defendants Except 17 Barrels of Corn which should be credited on the note and account that neither Buster nor Bullard & Brothers had any controll of the corn except

aforesaid that after the sale of the Corn Bullard and Brothers consented to the sale the plantiff then introduced Martha Henderson who testifies that she was saw Mr Broaders One of the firm of Bullard and Brothers take a note from the plantiff Plantiff refused to give said note claiming a credit for corn

and said Broadus promised plaintiff that after seeing his partner Bullard the Corn should be credited on the note She said she did not know what note it was nor did she remember the time but it was last fall the fall of 1840
They then introduced Elisha Green who testified that the defendants informed him that they were made safe out of the proceeds of the ~~corn~~ sale of the Corn by Sutton to Owen
The defendants then offered Robert Logan who testified that in July last the plaintiff in a conversation with him relative to the sale of the Corn to Owen informed the witness that he looked upon Sutton as being liable to him and expected to get his pay from Sutton
This was all the evidence given in the Cause
After the verdict the defendants filed their motions for a new trial and in arrest of Judgment
Bullard & Brothers
vs } Motion for new trial
Arch Buster }
the defendants in the above Cause comes and moves the Court here to set aside the verdict of the Jury returned in this Case on Yesterday and to grant them a new trial Because the verdict is manifestly and obviously contrary to the evidence in the Case
~~Because~~ That the improper testi

mony was permitted to go to the Jury
3 That the evidence is [illegible]
against the law and the evidence
4 that new and material evidence
has been discovered since the trial

Thomas & Rees
Attys for Defts

Archibald Buster
vs
Bullard & Brothers

The defendants come
and move the Court to arrest the
Judgement in this Cause Because
It is Contrary to and not supported
by the law

Thomas & Rees attys for defts
which Motions ~~the Court~~ Well over
ruled by the Court to which Opinions
of the Court in overruling the Motions
aforesaid the defendants by their Counsel
Excepts and pray this their bill of Excep
tions to be Signed Sealed and Made
a part of the record in this case which
is done accordingly

David R. Atchison Seal

State of Missouri
County of Platte } ss

I Jesse Morin
Clerk of the Circuit Court within and
for Platte County aforesaid do hereby
Certify that the foregoing ten pages
contain a full true and perfect
transcript of the record and proceed
ings in the Case in the above
Caption Stated In testimo

whereof I have hereunto
subscribed my name and
affixed the seal of said
Court at Platte City the
4th day of September
AD 1840.

Sefoe Morris Clerk

A Butler
vs
Transcript
Bullard and
Brothers

Transcript 3.00
Seal & certificate .50
3.50

Filed September
6th 1841
Wm Spratt clk

Archibald Buster
vs
James H. Bullard
William D. Bullard
& Nicholas E. Broadus

Appeal from the circuit Court of Platte County to the September Term 1841 of the Supreme Court at Lexington

And the said Archibald Buster, plaintiff in the Court below, and Appellee in the Supreme Court, by his Attorney produces in Court here a perfect transcript of the Record and proceedings in the above cause and moves this Court to affirm the judgment of the Platte Circuit Court rendered in the above cause for the following reasons —

1st — The appellant did not cause to be filed in the office of the Clerk of the Supreme Court, ten days before the first day of the present Term of this Court, a perfect transcript of the record and proceedings in the above cause —

2d — The appellant has not as yet caused to be filed in the office of the Clerk of the Supreme Court, a perfect transcript of the record & proceedings in the above cause —

3d — The appellee has produced in court here a perfect transcript of the record & proceedings in the above cause —

William B. Almond
Attorney for plaintiff below
& Appellee in Supreme Court

4

Archibald Buster
vs
James H. Bullard
William D. Bullard
& N. E. Broadus

Motion to affirm
judgment of the
Circuit Court

Filed September
6th 1841 —
Wm Spratt clk

Second Judicial District
State of Missouri

The State of Missouri

To the Sheriff of Platte County Greeting

Whereas Archibald Buster at our Supreme Court before the judges thereof recovered against James H. Bullard William D. Bullard & Nicholas C. Broaddus at the term of said court begun and held within and for the second judicial district on the first monday of September 1841 the sum of Seventy two dollars Debt the sum recovered in the court below and also the sum of Eleven dollars and forty one cents for his costs in said court below - together with his costs ~~in this court~~ laid out and expended in said Supreme court amounting to the sum of three dollars & two & a half cents which to the said Archibald Buster were adjudged for Debt costs and charges as appears of records, These command you that of the goods and chattels and real estate of the said James H. Bullard William D. Bullard & Nicholas C. Broaddus in your County, you cause to be made the debt and costs aforesaid and that you have the same before the judges of our said court, on the first day of our next April term thereof, to satisfy the debt and costs aforesaid. And that you certify how you execute this writ. And have you then there this writ —

Witness William Sprath clerk of our said court with his official seal hereto affixed at office in Lexington this 18th day of September A.D. 1841 —

William Sprath clerk

SC

The within Execution Satisfied in full
this 11 day of April 1842
J. H. Owen Sheriff

No. 2

Supreme Court
2nd District
September Term 1841

Archibald Buster
vs Execution
J. H. Bullard & others

Debt	$72.00
Costs	
Justice Wells	2.31¼
Constables fees	3.50
Witnesses fees	1.50
J. Morin clk fees	3.50
Wm Spratt " "	2.62½
	$87.43¾

Test
Wm Spratt clk