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9-29-1799

Judgment Book of the Rockingham County Superior Court, Vol. M, at 347–51, New Hampshire State Archives - Gile v. Hilton

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State of New Hampshire

Rockingham ss.

At the Superior Court of Judicature holden at Exeter within and for the county of Rockingham on the third tuesday of September in the year of our Lord one thousand seven hundred and ninety five.

Present

The honorable Simeon Olcott Esquire Chief Justice

The honorable { John Dudley
Timothy Farrar } Esquires Justices
Ebenezer Thompson }

Charles Walker Silas Belton Samuel Green & Moses Leavitt Neal Esq- uires were admitted attornies of this Court and took the oath of Office accordingly.

Returns of Grand Jurors

Exeter	Ephraim Robinson	Hawke	Jonathan French
Atkinson	Peter Clement	Hensington	Abraham Sanborn
Brintwood	Robert Row	Kingston	Samuel Woodman
Candia	Samuel Foster	Londonderry	Daniel McKeen
Chester	Richard Brown	Pelham	Daniel Richardson
Deerfield	Joseph Mills	Plastow	Moses Harriman
Eastkingston	Philip Tilton	Poplin	Stephen Sleeper
Epping	Jeremiah Sanborn	Raymond	Jonathan Swain
Epsom	James Gray	Southampton	
Hampstead	Hezekiah Hutchins	Windham	John Davidson

Returns of Petit Jurors

Exeter	Benjamin Connor	Brintwood	Richard York
	Joseph Osborne		Samuel Wormall
	William Hale	Candia	Walter Clay
Atkinson	Moses Guenough	Deerfield	Richard Jenness

for the defendant Costs of Court. Whereupon judgment was rendered that the said Simeon Ladd should recover against the said Samuel Plumer Cost of Suit taxed at one pound ten shillings and eight pence. From which judgment the said Samuel Plumer appealed to the Superior Court of Judicature holden at Portsmouth within and for the County of Rockingham on the fourth tuesday of April anno domini 1795 when and where the appeal was entered and the action continued till this term. And now the Appellee being three times solemnly called doth not appear but makes default. And the Appellant appearing and proving his declaration. And it appearing to the Court that the premises demanded by the Appellant were mortgaged by the Appellee to secure the payment of two hundred pounds with interest. It is therefore considered by the Court that the said Samuel Plumer recover against the said Simeon Ladd seizin and possession of the premises demanded and costs of Courts taxed at twenty three dollars thirty six cents unless the said Simeon Ladd shall within two months from this time pay to the said Samuel Plumer the sum of seven hundred forty four dollars and costs taxed as aforesaid upon which payment the said Mortgage shall be void and discharged otherwise the Appellant to have his writ of possession.

John Gile of Nottingham in the County of Rockingham Gile vs
 esquire plaintiff against Richard Hilton of Newmarket in the county Hilton
 aforesaid gentleman defendant in a plea of Trespass on the case for that
 whereas Jonathan Cilley of said Nottingham esquire at Gilmantown
 wit in said Exeter on the ninth day of September AD 1793 had before that
 time purchased out of the Office of the Clerk of the Court of Common Pleas
 in said County of Strafford a writ of attachment in his the said Cilley's favor
 against William French of Lee in said County of Strafford husbandman
 directed to any Sheriff in this State or his deputy returnable to the Court
 of Common Pleas then next to be holden at Gilmantown within and for
 the County of Strafford aforesaid on the third tuesday of November anno
 domini 1793 wherein the said Cilley declared that the said French was
 indebted to him in certain sums and that the said French had not
 paid the same which writ of attachment was afterwards delivered to
 the said Hilton who was then and ever since a deputy Sheriff in said
 Counties of Rockingham and Strafford aforesaid and the said Hilton
 on the said tuesday of November AD 1793 returned said writ of attach-
 ment into said Court of Common Pleas holden at said Gilmantown
 that bring the Court time and place to which the same was returnable

Exec issued
 Nov 22. 1795

and then and there on said writ falsly and fraudulently and with an intent to injure and damage the said Cilley returned that pursuant to said writ he had on the 9. day of September anno domini 1793 attached a peice of Land in Nottingham in the county of Rockingham in the lot number one in the second Range in Cross Street being one half of the lot in said Town and the property of said French and the said Cilley afterwards at said Court entered said process suit or action aforesaid and there afterwards by the Consideration of the Justices of our Court of Common pleas holden at Gilmantown within and for the county of Strafford aforesaid on the third tuesday of November anno domini 1793 recovered judgment against the said French upon the demand in the writ and declaration aforesaid mentioned for the sum of five pounds eleven shillings debt or damage and one pound sixteen shillings and six pence cost of suit as by the Record thereof in said Court remaining appears and Execution there afterwards on the 26th day of November AD 1793 issued upon said Judgment in favor of the said Cilley and against the said French for the sums aforesaid together with one shilling more for said Writ of Execution which Execution thereafterwards to wit at said Nottingham the said Cilley on the 16. day of December AD 1793 delivered to the said Hilton then being a deputy Sheriff in said County of Rockingham - which said 16. day of December aforesaid was within thirty days after the said Judgment aforesaid was rendered upon said suit in favor of the said Cilley against the said French that being the time by law property that is attached is held to respond the Judgment that may be given in any suit and the said Hilton afterwards to wit at Nottingham aforesaid on said 16. day of December AD 1793 levied said Execution on a part of said lot of land aforesaid to wit on sixteen acres and two thirds of an acre of said Lot to be taken off of the said Lot at the northwesterly end the whole width of said Lot and to extend towards the southeasterly end thereof carrying the whole width of said lot untill it shall contain said sixteen acres and two thirds and the said Hilton then and there caused said sixteen acres and two thirds of an acre as aforesaid to be appraised and delivered Seizin and possession of the same to the said Cilley in full satisfaction of the said Execution & the costs of the service and levy which the said Hilton then and there taxed at another sum of two pounds twelve shillings and seven pence and there afterwards to wit at Durham in said County of Strafford the said Hilton on the 20. day of February AD 1794 returned said Execution

with his doings therein aforesaid into the Office of the Clerk from whence the same issued which said Execution with the return thereon was then and there recorded in said Clerk's Office. Now the said Gile avers that he on the 2^d day of October AD 1793 was the true sole and lawful owner of the said land that the said Hilton returned as attached on the writ aforesaid and returned as appraised and levied on by and on the Execution aforesaid and that the said Hilton had not at any time before the 13th day of October AD 1793 attached the same land or any Part thereof by virtue of the writ aforesaid in favor of the said Cilley against the said French but that the return of attachment aforesaid by the said Hilton on said writ made was an untrue false and deceitful Return and that the same was by the said Hilton antedated by reason of all which false and deceitful proceedings and doings of the said Hilton the said Gile was afterwards to wit on the 25th day of July AD 1794 compelled to pay to the said Cilley the sum of Ten pounds one shilling and one penny lawful money to redeem his land aforesaid from the said Cilley and has also been obliged to lay out and expend other large sums of money and been put to much trouble and suffered great Injury amounting in all to thirty pounds And also for that the said Gile thereafter on the 2^d day of October AD 1793 was then the true sole & lawful Owner of the one half of another lot of Land in Nottingham aforesaid being number one in the second Range in Cross Street laid out originally to Madrack Walton to wit the westerly end of said Lot and whereas Jonathan Cilley of said Nottingham Esquire had on the third tuesday of November AD 1793 before that time purchased out of the Clerk's Office of the Court of Common Pleas for the said County of Stafford another writ of Attachment or process in the the said Cilley's favor against William French of See aforesaid husbandman directed to any Sheriff of this State or his deputy returnable to the said Court of Common Pleas then next to be holden at said Gilmantown on the third tuesday of November AD 1793 in which writ and the declaration therein contained the said Cilley demanded of the said French a certain sum or sums of money which writ aforesaid the said Cilley before the time to which the same was returnable delivered to the said Hilton to be served and returned to the said Court. And the said Hilton thereafter to wit on the said third tuesday of November AD 1793 returned said writ to said Court of Common Pleas then sitting at said Gilmantown and on the same writ the said Hilton not regarding the duties of his Office as deputy Sheriff aforesaid but contriving and wickedly intending to injure deceive and defraud the said Gile falsely and fraudulently.

certified and returned on the back of said Writ that on the 9th day of September anno domini 1793 Pursuant to said writ or precept he had attached said lot of land aforesaid as the said French's property whereas in truth and in fact the said Hilton had not on said 9th day of September aforesaid or at any time prior to the said third day of October anno domini 1793 attached said lot of land or any Part thereof by virtue of the said Gilley's writ aforesaid. that the said Gilley afterwards at Gilmantown in said County of Strafford (to wit) at Exeter aforesaid on the the third tuesday of November AD 1793 entered said suit or action against the said French and then and there by the consideration of the Justices of the said Court of common pleas recovered Judgment against the said French for the sum of five pounds eleven shillings debt or damage and one pound sixteen shillings and six pence cost of the same suit and Execution thereafrwards on the 26th day of November anno domini 1793 issued from the Clerk of said Court said Judgment in favor of the said Gilley against the said French for the sums aforesaid which said Execution was afterwards to wit at said Nottingham on the 16th day of December the day last mentioned being within thirty days after the rendition of said judgment levied on sixteen acres & two thirds of an acre to be taken off of the said lot at the northwesterly end of said lot the whole width of said lot and to extend towards the southeasterly end thereof carrying the whole width of said lot untill it should contain sixteen acres and two thirds. which said sixteen acres and two thirds of an acre the said Gile avers is a part of that half of said land that the said Gile on said second day of October AD 1793 then owned which Execution with a Return of the Levy on said Land by said Hilton made was afterwards in due time returned into the Clerks office from whence the same issued and was there recorded. by reason of which false deceitful and fraudulent return and doings of the said Hilton as aforesaid the said Gile was deprived of his said sixteen acres and two thirds of an acre aforesaid, was compelled to pay and has actually paid to the said Gilley a large sum of money, to wit, ten pounds one shilling and one penny to redeem said land, and has been obliged to expend divers other large sums, and put to much trouble & vexation in the premises all which is to the damage of the said Gile as he says the sum sixty pounds. This action was commenced by the said Gile against the said Hilton at the court of common pleas for said County of Nottingham August term 1794 and continued till November term 1794 And the said Hilton by Edward Livermore Esquire his attorney comes and defends &c and says he is not guilty

in manner and form as the plaintiff hath declared against him and thereof put himself on the Country. And the plaintiff by Williams Turner esquire his attorney joined said issue. After a full hearing of the Parties the cause was committed to a Jury duly sworn to try the issue who made Return of their verdict thereon upon oath and said The Jury find for the plaintiff sixteen pounds ten shillings damage and costs of court. Whereupon judgment was rendered that the said John Gile should recover against the said Richard Hilton the sum of sixteen pounds ten shillings damage and cost of Suit taxed at five pounds thirteen shillings and two pence. From which Judgment the said Richard Hilton appealed to the Superior Court of Judicature holden at Portsmouth within and for the county of Rockingham on the fourth Tuesday of April anno domini when and where the appeal was entered and the action continued till this term. And now the parties appear and being fully heard by their counsel learned in the law the cause is committed to a jury sworn according to law to try the issue who make return of their verdict thereon upon oath and say The Jury find for the Appellant Costs of Courts. It is therefore considered by the Court that the said Richard Hilton recover against the said John Gile Costs of Courts taxed at Eighty two dollars fifty five cents.

Caleb James of Sanborntown in the County of Strafford yeoman
 Plaintiff against Samuel Sherburne of Portsmouth in the county of Rockingham Gentleman defendant in a plea of the Case for that the said Samuel at Portsmouth aforesaid on the day of the date hereof being indebted to the plaintiff in the sum of two pounds ten shillings and six pence according to the account annexed to balance the same then Wherein consideration thereof promised the plaintiff to pay him the same on demand. Yet said Sherburne tho requested has not paid the same but neglects it. Also for this, that the said Sherburne at said Portsmouth on the day of the date of this writ in consideration that the plaintiff had before that time at the special Instance & request of the said Sherburne done and performed Services and laid out and expended sums of money similar to, but other than these mentioned in the account annexed for the said Sherburne - promised the plaintiff to pay him for the same as much money as he deserved to have. which the plaintiff avers to be another sum of two pounds ten shillings and six pence. Yet said Sherburne tho requested has not paid the same but neglects it. To the damage of the said James as he says the sum of Ten pounds. This action was commenced by the said Caleb James against the said Samuel Sherburne at the Court of Common Pleas for said County of Rockingham February.

James vs
 Sherburne

Winkhope Row
 Josiah Tilton
 Gould French
 Jos. R. Field
 Jon. L. Webster
 Supt. Bellows
 Jon. A. Keary
 Nath. Brown
 Jos. H. Kimball
 John Hagellins
 Thos. Collins
 John French

Ex. in issued
 Sept. 25. 1775
 returned Sept.
 fled in full