

*New Jersey Court of Errors and Appeals  
in the last resort in all causes of law.*

JOHN HAWKINS,  
vs.  
THE STATE OF NEW JERSEY, } In Error to Supreme Court.

STATE OF THE CASE.

On the 14th day of March, 1842, an affidavit was duly made by one Sarah Stickler, a single woman, before Isaac Andrus, Esq., a justice of the peace for the county of Essex, charging John Hawkins, of the city of Newark, in said county, with being the father of a male bastard child of her then lately born, and that said child was likely to become chargeable to the city of Newark: whereupon a warrant was duly issued by said justice to apprehend said Hawkins, and afterwards he having been duly summoned to answer to the charge before Isaac Andrus and Stephen Dod, two of the justices of the peace in and for said county of Essex, the case was duly heard before them, and on the second day of April, 1842, a certain order of filiation and maintenance was made by them under their hands and seals, of which the following is a copy:

STATE OF NEW JERSEY, }  
ESSEX COUNTY. } ss.

10 The order of Isaac Andrus and Stephen Dod, Esqrs., two of the justices of the peace in and for said county of Essex, made this second day of April, in the year of our Lord one thousand eight hundred and forty-two, concerning a male bastard child, lately born of the body of Sarah Stickler, a single woman.

WHEREAS, it hath appeared unto us, the said Justices, as well upon the complaint of David Ball, overseer of the poor of the city of Newark, in the said county of Essex, as upon the oath of the said Sarah, that the said Sarah Stickler, on the seventh day

of February, in the year of our Lord one thousand eight hundred and forty-two, was delivered of a male bastard child in the city of New-York, that the said child is now living and chargeable to the said city of Newark, and is likely so to continue, and further, that John Hawkins of the said city of Newark, tailor, did beget the said bastard child on the body of the said Sarah Stickler; and it also appearing to us, the said justices, that the said Sarah Stickler at the time the said bastard child was begotten upon her body as aforesaid was residing in the family of the said John  
 10 Hawkins, in the city of Newark aforesaid, and that she continued to reside in the family of the said John Hawkins in said city of Newark after she was pregnant of said bastard child; and that the said John Hawkins, before said bastard child was born, took and conveyed the said Sarah Stickler to the city of New-York, and caused her to be placed in the Bellevue Hospital in said city for the purpose of being there delivered of said bastard child; and that the said bastard child was there born, and that the said Sarah Stickler shortly after the said bastard child was born as aforesaid, to wit, about the fourteenth day of  
 20 March now last past, returned to said city of Newark, and that the said bastard child has there become chargeable as aforesaid.

And whereas the said John Hawkins hath appeared before us in pursuance of our summons for that purpose, but hath not shown any sufficient cause why he the said John Hawkins shall not be adjudged the reputed father of the said bastard child, we therefore upon examination of the matter of and concerning the premises as well upon the oath of the said Sarah Stickler as otherwise, do hereby adjudge him the said John Hawkins to be the reputed father of the said bastard child. And thereupon  
 30 we do order as well for the better relief of the said city of Newark as for the sustenance and relief of the said bastard child, that the said John Hawkins shall and do forthwith upon notice of this our order, pay or cause to be paid to the said overseer of the city of Newark the sum of one dollar and twenty-five cents for and towards the maintenance of the said bastard child to the time of making this our order. And we also do hereby further order that the said John Hawkins shall likewise pay or cause to be paid to the Overseer of the Poor of

the said city of Newark for the time being, the sum of one dollar and twenty-five cents weekly and every week from the day of the date of this present order for and towards the keeping, sustenance, and maintenance of the said bastard child, for and during so long time as the said bastard child shall be chargeable to the said city of Newark.

And we do further order that the said Sarah Stickler shall also pay or cause to be paid to the said Overseer of the Poor of the said city of Newark for the time being, the sum of one dollar 10 weekly and every week, so long as the said bastard child shall be chargeable to the said city of Newark, in case she shall not nurse and take care of the said child herself.

Given under our hands and seals the day and year first above written.

ISAAC ANDRUSS, [L. s.]  
*Justice of the Peace.*

STEPHEN DOD, [L. s.]  
*Justice of the Peace.*

20 From this order the said John Hawkins appealed to the next Court of General Quarter Sessions, in and for said county, at their June term 1842. The Quarter Sessions affirmed said order.

Subsequently a writ of certiorari was issued and returned to the November term, 1842, of the Supreme Court, by which writ were removed all the proceedings in the cause, both before the Justices and Quarter Sessions; and the Attorney of said Hawkins and of the city of Newark, at whose instance the prosecution of the complaint was carried on, agreed upon 30 and filed the following statement of the case:

## NEW JERSEY SUPREME COURT.

ESSEX COUNTY.

THE STATE OF NEW JERSEY,	} Certiorari to Essex Quarter Sessions, an order of filiation and maintenance.
vs.	
JOHN HAWKINS.	

### STATE OF THE CASE.

It is agreed by and between the Attornies of the respective parties in this cause that the following shall be annexed to the

original papers returned with the writ of certiorari, and together with said papers be submitted to the Supreme Court as the state of the case on the hearing of this certiorari, viz :

At the June term of the Court of General Quarter Sessions of the Peace, in and for the county of Essex, the order of Isaac Andruss and Stephen Dod, two of the justices of the peace for the said county, adjudging John Hawkins to be the putative father of a male bastard child lately born of the body of Sarah 10 Stickler, a single woman, and made the second day of April, A.D. 1842, came on to be heard on appeal therefrom, and

SARAH STICKLER being duly sworn, testified that she is in the seventeenth year of her age, that she then lived in the Poor-house of the city of Newark, was an English girl, came to this country about four years ago, came with her aunt, Mrs. Evans, of Newark, landed in the city of New-York, lived with her aunt in said Newark about nine months, then about the same time with a Mrs. Miles, in said city, then with John Hawkins, in Lombardy-street, Newark, was mother of a male bastard child, 20 which was begotten by John Hawkins, in his house, while she was living in his family; the child was born in the Bellevue Lying-in Hospital, in the city of New-York, on the seventh day of February, A.D. 1842. She first discovered her pregnancy about a week before she went to New-York. First informed Mr. Hawkins of it, he observed he could not believe it was so, and said he wished he could get something to give her. A Mrs. Moore first intimated it to her; then her aunt, Mrs. Evans, charged her with it; she told her aunt that [the father of the child was a young Englishman whom she did not know, that she 30 had met him one evening about dusk when going of an errand; it was rainy, he invited her to use his umbrella, and in conversation with her promised to take her back to England if she would meet him the night afterwards, towards the green at the top of Lombardy-street, and give him his will of her; this she did, and once afterwards, when she had connexion with him. Further told her aunt that this Englishman had gone to England. This story she further testified was given her by Hawkins, to tell her aunt, a day or two before she went to see her. Hawkins took her to New-York. Mr. Ball, the overseer of the poor

came up to Hawkins's and questioned her, and said she must go to New-York, for she was settled there. Mr. Hawkins told her to say when Mr. Ball, the overseer, came, that she did not know the father of the child, and that he was gone to England.—Hawkins took her to New-York—they went first to the Alms-house and then to the Office of the Commissioners of the Alms-house, at the Park, there she was questioned, and told them the story she told her aunt—got a ticket there with which she went  
10 to another Police Office, in the Bowery; when going up the steps of one of the offices, Hawkins told her she must swear the child on some man by name: she said she did not know any name, and he gave her the name of John Thompson. She then did make affidavit that one John Thompson was the father of the child of which she was then pregnant. Never knew any such individual. As they came out of the office, Hawkins said they would look long enough for him before they would find him. After doing this she went with Hawkins to the Alms-house, where he left her. Before he left her he told her not to  
20 tell of him, and promised to give her money—never did; but owes her wages. She went to Mr. Hawkins's to learn the tailor's trade—worked in the same room with him and at the same board: there were sometimes two beds in the back room, and she sometimes slept in the same room with Hawkins and his wife, and when Mrs. Hawkins was once absent in New-York and staid all night, she slept in the same room with Hawkins—had connection with her several times during the absence of his wife in the day time—did not pass the night with her.

The witness further testified that when the child was about  
30 five weeks old she came out to Newark, to her aunts, Mrs. Evans's, and staid there about two weeks; then went to Mr. Ball's, the overseer of the poor, and was sent by him to the Newark Poorhouse. Never had sexual intercourse with any person but John Hawkins: and the story about the Englishman was a story which he instructed her to tell.

DAVID BALL, overseer of the poor of the city of Newark testified, being sworn, that the first he heard of the affair, John Hawkins called upon him and told him about the girl and wished him as overseer, to take charge of her; witness first enquired

as to her place of settlement, found on inquiry that she first landed in New York and had no legal settlement in Newark. Witness told Hawkins that he would come up and see her, did go to Hawkins's house and questioned her in presence of Hawkins and his wife. They both expressed great surprise at the situation of the girl and said they had been very careful of her, and had never let her go out alone; when witness asked her where the child was begotten, she said "there," and then Hawkins interrupted her and said her story was, that she went out on the Park and that an Englishman met her and promised to take her to England, and so seduced her. Hawkins and wife further said that she had never had any visitors and kept company with no one since she lived with them. Witness told Hawkins her legal settlement was not in Newark, and that he could do nothing for her. Hawkins inquired where her legal settlement was, and he told him in New York; he asked further, how she was to be got to New York, and requested witness to give him assistance; witness declined giving him any money but handed him a car or ferry ticket and he took it; Hawkins was particular in his inquiry what course was to be pursued in New York. Witness told him where the Alms-house Commissioners could be found; thinks he might have asked him for a letter to the Commissioners, but gave him none. After the child was born, witness on coming home one day, found her and the child at his house; that he sent her to the Justice to have her examination taken, and then took her to the Alms House where she has been since.

HARRIET EVANS being sworn, testified that she was aunt of Sarah Stickler, brought her from England; her mother had a large family there, and she thought she could do better for her than her mother could; landed in New York. When this affair first came out, Hawkins sent to her to take charge of the girl, but she declined doing so.

Other evidence was given, but Sarah Stickler was not corroborated as to any sexual connection between her and John Hawkins; other witnesses corroborated her as to the situation of the premises of Hawkins in Newark; that Mrs. Hawkins once was absent from home nearly a week, during which time

Sarah and Mr. Hawkins were alone in the lower part of the house, the upper part of the house being occupied by another family; as to the length of Mrs. Hawkins's absence, there was some varying testimony.

It was further proved, for the purpose of showing the defendant's age, that he had several grown up sons, the eldest of whom was forty-five years old.

The defendant offered to prove that hitherto he had borne an irreproachable character for morality and decency, but the Court refused to admit the evidence.

CORTLAND PARKER,

*Attorney of John Hawkins, Prosecutor.*

ASA WHITEHEAD,

*Attorney for the City of Newark.*

The said Hawkins duly filed in said Supreme Court, the following reasons in certiorari:—

NEW JERSEY SUPREME COURT.

20 THE STATE, )  
vs. ) Certiorari to Essex County Quarter Sessions  
JOHN HAWKINS. ) removing order of filiation and maintenance.

REASONS IN CERTIORARI.

ESSEX COUNTY, ss.—John Hawkins who prosecutes this writ of Certiorari by Cortland Parker his attorney, hereby assigns to the Justices of the Supreme Court of Judicature of the State of New Jersey, the following reasons why the said Court should quash, set aside and reverse the order of filiation and maintenance made by Isaac Andruss and Stephen Dod, two of the Justices of the Peace of the County of Essex, touching a bastard child therein mentioned, and the proceedings had thereon by the Justices of the Quarter Sessions of the Peace of said County, and their Order affirming the same by said writ of certiorari removed, to wit:—

30 *First*—Because said Justices had not by law any jurisdiction to make the said order of filiation and maintenance by said writ removed, nor had the said Quarter Sessions any jurisdiction to affirm the same.

*Second*—Because said Justices were not at the time of making said order by them, Justices of the Peace of the County, within which, said bastard child mentioned therein was born.

*Third*—Because the said Justices did not by their said order, take order for the better relief of the township in which said bastard child mentioned therein was born.

*Fourth*—Because the said bastard child mentioned in said order, appears by the same to have been born in the City and  
10 State of New York and not in the State of New Jersey or in any County or Township therein.

*Fifth*—Because the said John Hawkins the Prosecutor of this writ did not as stated in the order of filiation and maintenance thereof “take and convey the said Sarah Stickler, the mother of said bastard child, to the city of New York and cause her to be placed in the Bellevue Hospital in said city for the purpose of her being there delivered of said bastard child.”

*Sixth*—Because said bastard child was not, at the time of making said order, chargeable to the city of Newark, nor likely  
20 so to continue.

*Seventh*—Because said bastard child had by law, its legal settlement in the city and state of New York.

*Eighth*—Because said bastard child had by law, no legal settlement in the city of Newark, for the relief of which city, said orders were made.

*Ninth*—Because said Sarah Stickler, the mother of said bastard child, who was examined as a witness before the said Justices of the Quarter Sessions, and who alone testified as to any sexual connexion between herself and the said John Hawkins; admitted  
30 that she had sworn contrary to the testimony then by her given, at a time previous thereto with regard to the same matter then in dispute, to wit, the point as to whether the said John Hawkins was the father of said bastard child of her begotten, and that she had made affidavit that one John Thompson was the father of said child, and therefore ought not by law to be believed unless corroborated in the material point of her testimony, in which said material point of her testimony, the evidence of the said Sarah Stickler was wholly uncorroborated by any other testimony given at the hearing of the matter

before the said Justices of the Quarter Sessions; wherefore, the said Justices adjudged said John Hawkins by their order of affirmance to be the reputed father of said bastard child on testimony forbidden by law to be believed, and therein erred.

*Tenth*—Because the Justices of the Quarter Sessions erred in this; that when the said John Hawkins offered to show by competent evidence, that he had for a long time borne an irreproachable character for morality and decency; they overruled  
10 the said evidence and refused to permit the same to be given before them.

*Eleventh*—Because the proceedings in relation to the said John Hawkins, removed by the said writ of certiorari are otherwise in many respects illegal, without jurisdiction and void; wherefore said prosecutor prays that the same may be reversed, set aside, quashed, and for nothing holden.

CORTLAND PARKER, *Att'y.*

At the Term of May, A. D. 1843, in the Supreme Court of Judicature, sitting Chief Justice Hornblower and Justices Nevius and Elmer, the cause came on to be heard, and in May  
20 term A. D. 1844 the said Supreme Court made the following order, the Chief Justice dissenting.

THE STATE OF NEW JERSEY,	}	On certiorari to the Court of
VS.		General Quarter Sessions of the
JOHN HAWKINS.	}	Peace of the County of Essex.

This cause having been argued at a former term of this Court and held under advisement until the present term, it is now ordered by the Court that the order and proceedings brought up by the writ of certiorari in this cause, be in all things  
30 confirmed with costs.

On motion of

ASA WHITEHEAD,

*Attorney for the Plaintiff.*

The judgement of said Supreme Court being now before this Court on writ of error, the plaintiff in error has filed the following :—

### ASSIGNMENT OF ERRORS,

*New Jersey Court of Errors and Appeals in the last resort in all causes.*

10 JOHN HAWKINS,  
vs. } On Error to Supreme Court.  
THE STATE OF NEW JERSEY. }

Afterwards, that is to say, on the third Tuesday of July, in the year of our Lord one thousand eight hundred and forty-five, before the Judges of the said Court of Errors and Appeals, comes the said Plaintiff in Error by Cortland Parker, his attorney, and says, that in the record and proceedings aforesaid, and in giving judgment aforesaid, there is a manifest error in this, that the said judgment and order of the said Supreme Court by  
20 the record aforesaid appears to have been that the order and proceedings brought up by the writ of certiorari in the said cause should be in all things confirmed. Whereas the said judgment and order of said Court, by the law of the land, ought to have been that the said order and proceedings should in all things be reversed, annulled, and for nothing holden. And the said Plaintiff prays that the said judgment and order aforesaid, for the error aforesaid, and for other errors in said record and proceedings being, may be reversed, annulled, and for nothing  
30 holden, and that he may be restored to all things which he has lost by occasion of said judgment and order.

CORTLAND PARKER,

*Attorney for Plaintiff in Error.*

NEW JERSEY, ss.

John Hawkins puts in his place Cortland Parker, his attorney, against the State of New Jersey, in Error.

*In the Court of Appeals and Errors in the last resort in  
all causes of law.*

THE STATE OF NEW JERSEY, }  
vs. }  
JOHN HAWKINS, }

And hereupon the Defendant in Error, by John Chetwood, his attorney, comes and says that there is no error either in the  
10 record and proceeding aforesaid, or in giving of judgment aforesaid; and he prays that the said Court here may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid assigned for Error, and that the judgment of the Supreme Court aforesaid, in manner aforesaid given, may in all things be affirmed, &c.

JOHN CHETWOOD,

*Attorney for Defendant in Error.*

NEW JERSEY, ss.

The State of New Jersey put in their place John Chetwood, their attorney, at the suit of John Hawkins, in Error.

## POINTS RELIED UPON.

1.—It appearing that Sarah Stickler, mother of the bastard child mentioned in the original order of filiation, disclosed in her examination, wherein she charged the Plaintiff in Error with being its father, that she had sworn at a previous time contrary to what she then swore in regard to the paternity of her child, having made affidavit that one John Thompson was its father, she was not by law to be believed, if not corroborated as to this material point of her testimony. And it further appearing that she was not so corroborated, the Court of Quarter Sessions in making their order thereupon, erred in law.

2.—It appearing by the order and case that the said bastard child was born in the city of New-York, the order of filiation, and therefore that of the Quarter Sessions, was void, for want of jurisdiction in the two Justices making the same, because,—

*First*—They were not Justices of the Peace of the County wherein such child was born, who alone, by the Statute, have the right to take order.

20

*Secondly*—The order was not made for the relief of the Township within which such child was born, which Township alone they have the right to relieve.

*Thirdly*—The mother and child were neither of them chargeable to the city of Newark, both having their legal settlement in New-York; wherefore no order could be made to relieve said city.

[ 30 ] *Fourthly*—The Plaintiff in Error did not, as stated in the order of filiation, take and convey the mother of the child to the city of New-York, and cause her to be placed in the Bellevue Hospital in said city, for the purpose of her being there delivered of said child.

3.—The Court of Quarter Sessions rejected evidence of his good character when offered to be shown by the Plaintiff in Error, and therein erred.