

CASES
ARGUED AND DETERMINED
IN
THE SUPREME COURT
OF THE
STATE OF ARKANSAS,
IN JANUARY TERM, 1838—BEING THE 62d YEAR OF OUR INDEPENDENCE.

JEFFERY *against* MARSHALL.

APPEAL *from* Lawrence Circuit Court.

A recognizance in appeal, conditioned "for the prosecution of the appeal," is not sufficient.

The appellee moved to dismiss this appeal, for want of a sufficient recognizance.

HAGGARD and TAYLOR, for the motion.

FOWLER, *contra*.

DICKINSON, *Judge*, delivered the opinion of the court: The appellant in this case prayed an appeal from the Lawrence Circuit Court, which was granted; and thereupon *William F. Denton* and *James Pope*, acknowledged themselves justly bound with the plaintiff in the sum of One Hundred Dollars, "*for the prosecution thereof.*"

The appellee moves to dismiss this case upon the ground that the recognizance is not sufficient. The statute requires that the plaintiff, if he appeal, shall enter into a recognizance with one or more sufficient sureties, in a sum sufficient to cover the costs in the Circuit Court and the costs of such appeal, conditioned that he will pay the costs in case the judgment of the Circuit Court shall be confirmed by the Supreme Court. See *Digest*, page 334.

It is evident that the recognizance given by the appellant in this case is not in conformity with the statute, for it contains no condition whatever. Therefore the motion to dismiss must be sustained.

Appeal dismissed, with costs.