

JANE ELLIS, ADMINISTRATRIX, &amp;c. against SAMUEL G. McHENRY.

LITTLE  
ROCK,  
July, 1838.  
ELLIS  
vs.  
McHENRY.

## ERROR to Conway Circuit Court.

In a case originally commenced before a Justice of the Peace, if no appeal was prayed or granted, the Circuit Court has no authority to take or exercise jurisdiction thereof.

This case was argued upon the merits, but disposed of upon a preliminary question. The facts of the case, therefore, need not be stated.

TRAPNALL and COCKE, for the plaintiff in error.

FOWLER, *contra*:

DICKINSON, *Judge*, delivered the opinion of the court:

This suit was instituted before a Justice of the Peace of Conway county, and judgment entered in favor of the administratrix, on the 17th of February, 1835. At the Circuit Court in May following, it appears to have been placed upon the docket of that court, and then, on motion of *McHenry*, dismissed, because the warrant of the Justice was insufficient and defective.

The plaintiff excepted to the opinion of the court, and now presents her writ of error, to reverse the judgment against her.

In looking into the proceedings, we find no authority whatever, for the Circuit Court to have taken and exercised any jurisdiction in this case, as there is no evidence in the record, of an appeal having ever been granted to, or prayed for by, either party.

The judgment of the Circuit Court must, therefore, be reversed with costs, with instructions that the case be stricken from the docket, and no other or farther proceedings to be had therein.