

TERRAL *v.* BENNETT.

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4-6033

144 S. W. 2d 722

Opinion delivered November 11, 1940.

1. **BILLS OF EXCEPTIONS.**—Bills of exceptions must be presented to and approved by the presiding judge within the time allowed by the trial court for that purpose.
2. **APPEAL AND ERROR.**—Where the bill of exceptions was never, at any time, presented to the trial judge for his approval and signature, the appellate court can consider such errors only as appear on the face of the record.
3. **BILLS OF EXCEPTIONS.**—Where the purported bill of exceptions was never presented to the trial judge for his approval, it cannot be said that he failed or refused to sign it so as to make a bill of exceptions by bystanders necessary or proper. Pope's Dig., § 1547.

Appeal from Logan Circuit Court, Northern District; *J. O. Kincannon*, Judge; affirmed.

Arnett & Shaw, for appellant.

G. L. Grant and *E. B. White*, for appellee.

SMITH, J. The questions discussed in appellant's brief are such only as could be brought to our attention for decision by a bill of exceptions.

A purported bill of exceptions appears in the record which was not presented to nor approved and signed by the presiding judge. It is stated by appellant, who is, himself, an attorney, that he had depended upon one of the attorneys who represents him in this appeal and has filed a brief in his behalf to attend to the presentation of the bill of exceptions to the presiding judge. But, even so, this does not dispense with the requirements of the law and the rules of this court that bills of exceptions must be presented to the presiding judge for approval within the time allowed by the trial court for that purpose. The purported bill of exceptions was never presented to the trial judge at any time.

There is no bill of exceptions by bystanders, nor was there occasion for one, as the trial judge did not fail or refuse to sign and approve the bill of exceptions appearing in the transcript. Sections 1546 and 1547, Pope's Digest.

As no error appears upon the face of the record, the judgment must be affirmed, and it is so ordered.

HUMPHREYS and MEHAFFY, JJ., dissent.
