

PRAIRIE COUNTY v. VAUGHAN.

Opinion delivered June 19, 1897.

COUNTY CLERK—FEES.—A county is not liable to the county clerk for his fees for filing the accounts of claimants against the county. (Page 204.)

Appeal from Prairie Circuit Court, Northern District.

JAMES S. THOMAS, Judge.

Geo. M. Chapline, for appellant.

The county is not liable for the fees claimed. If any one is, the person who filed the claim is liable, not the county. Sand. & H. Dig., § 3309; 32 Ark. 45; 57 *id.* 487.

BATTLE, J. Emmet Vaughan, who was clerk of the circuit court, and *ex-officio* clerk of the county court, of the county of Prairie, presented to the county court of that county for allowance the following account for services rendered by him in his capacity of clerk:

“Prairie County in account with Emmet Vaughan, Clerk:

To taking 8 affidavits to county accounts	\$ 80
To filing 25 accounts against the court	2 50
To filing 9 affidavits to county accounts	90
To filing 24 accounts against the county	2 40
To filing 74 certificates to witness attendance	7 40
To filing 18 grand jury witness certificates of attendance	1 80
To filing 30 collector's receipts	3 00”

The claim was rejected, and he appealed to the circuit court, where it was submitted to the court, sitting as a jury, upon the following agreed statement of facts:

“It is agreed by Roberts & Willeford, attorneys for plaintiff, and Geo. M. Chapline and J. E. Gatewood, Jr., attorneys for defendant, that the first item in the account of plaintiff is

for taking 8 affidavits to accounts of individuals against the county, and the service was rendered.

"That the second item in plaintiff's account is for filing 25 accounts of individuals against the county, and the service was rendered.

"That the third item in plaintiff's account is for filing 9 affidavits to accounts of individuals against the county, and the service was rendered.

"That the fourth item in plaintiff's account is for filing 24 accounts of individuals against the county, and the service was rendered.

"That the fifth item in plaintiff's account is for filing 74 certificates of witness attendance, and the service was rendered.

"That the sixth item in plaintiff's account is for filing 18 grand jury witness certificates of attendance, and the service was rendered.

"That the seventh item in plaintiff's account is for filing 30 collector's receipts, and the service was rendered."

The court found in favor of Vaughan as to the second and fourth items of the account, rendered judgment against the county therefor, and disallowed the remainder. The county excepted to the finding of the court as to the second and fourth items, filed a motion for a new trial, "took a bill of exceptions," and appealed.

The judgment of the circuit court is questioned only as to the second and fourth items of the account. These items are for fees for filing accounts of claimants for allowance. The filing was at the instance and for the benefit of the claimants, and they alone are liable to appellee for the same. If the county could be held or made liable for costs in such cases, the claimants are the only persons who could recover a judgment or allowance against the county for the fee, and they could only in the event their claims were allowed. There was no contract between the county and appellee, express or implied, or statute, by which the former could be made directly liable therefor to the latter. In no event was he entitled to a judgment against the county for the fee, and his claim therefor should be disallowed, and it is so ordered.

Absent WOOD, J.