
Evans v. Walker, Adm'r, etc.[DECEMBER

EVANS v. WALKER, Adm'r, etc.

APPEALS—*When dismissed.*—When, on appeal, the transcript is not filed within the time prescribed by law, the appellee, on filing a certified copy of the judgment and order of appeal, may have the same dismissed.

APPEAL FROM PRAIRIE CIRCUIT COURT.

HON. JOHN WHYTOCK, *Circuit Judge.**Clark & Williams*, for Appellee.

HARRISON, J.—At a former day of the present term, the appellee filed a motion to dismiss the appeal in this case, because no transcript of the record and proceedings had been filed in this case.

He filed with his motion a certified copy of the judgment, and order of appeal, from which it appears that the appeal was taken in the court below, on the 10th day of April, 1869. According to section 862, of the Code, the transcript should have been filed within ninety days after the appeal was granted. None having been filed even up to this time, the motion should be sustained and the appeal dismissed.