

MILLS v. JONES & REED.

SUPREME COURT—*Practice on appeals.*—Exceptions taken to the rulings of the court below, but not made the grounds for the motion for a new trial, will be considered waived and not subject to review in this court.

APPEAL FROM MONROE CIRCUIT COURT.

HON. JOHN E. BENNETT, *Circuit Judge.*

Watkins & Rose, for Appellant.

Wassell & Moore, for Appellees.

We submit there is no question of law before this court. All exceptions not incorporated in the motion for a new trial are waived. *Collier vs. State*, 20 Ark., 360; *Graham vs. Roark*, 23 Ark., 19. That the scope of review in this court is limited by the grounds taken in the motion. *Hopkins et al. vs. Dowd*, 11 Ark., 627.

SEARLE, J.—This suit was brought to the November term, 1868, of the Monroe Circuit Court. The trial was by jury; finding and judgment for plaintiffs, from which this appeal was taken.

From the transcript of the record before us, it appears that the only exceptions taken, on the trial of the cause, were to the instructions of the court to the jury. But these exceptions were not made the ground for the motion for a new trial. They were therefore waived. *Collier vs. State*, 20 Ark., 36; *Graham vs. Roark*, 23, Ark., 19. No rule is better settled than that the scope of review, in this court, is limited to the grounds upon which the motion for a new trial was based. *Hopkins et al. vs. Dowd*, 11 Ark., 627. There is, therefore, no question of law before the court. If errors of law were committed on the trial, they have been waived.

We will remark, further, that it does not appear from the transcript that the overruling of the motion for a new trial was excepted to, and the motion is not, in fact, any part of the record of the case.

Finding no errors in the proceedings of the court below, from the transcript before us, let the judgment be affirmed.

BENNETT, J., did not sit in this case.

HON. W. I. WARWICK, *Special Supreme Judge*.