

GRIFFIN vs. McCOY.

The writ was in good form, beyond all question, and the court below erred in quashing it.

Writ of Error to Jackson Circuit Court.

On the 10th April, 1850, John Griffin filed a declaration in assumpsit against Micajah B. McCoy, in the Jackson circuit court. Plaintiff declared on a note made by defendant to one Roper, and by him assigned to plaintiff. The declaration is in the usual form in assumpsit, concluding to the damage of the plaintiff of \$500.

The following summons was issued thereon :

“STATE OF ARKANSAS, }
COUNTY OF JACKSON. } ss.

The State of Arkansas, to the Sheriff of the County of Jackson:

GREETING :

You are hereby commanded to summon Micajah B. McCoy, if he be found within your bailiwick, to appear before the judge of our circuit court of Jackson county, at the court-house in the

county aforesaid, on the first day of our next May term, at a court to be holden on the third Monday in May next, then and there to answer John Griffin of a plea of trespass on the case on promises, to his damage five hundred dollars, and that you make due return of this writ to our said court," &c. The attestation of the clerk is in the usual form, bearing date 10th April, 1850, and the seal of the court is affixed.

The defendant moved to quash the writ, because it "differed from the declaration in this material matter, to wit: the plaintiff in his declaration declares upon a note assigned, by virtue of the statute, to said plaintiff; and the said writ is in a plea of trespass on the case on promises.

The court (Hon. WM. C. SCOTT, presiding) quashed the writ, and the plaintiff brought error.

BEVENS, for the plaintiff.

W. CONWAY B, for the defendant.

Mr. Justice SCOTT delivered the opinion of the court.

We are unable to perceive any valid objection to this writ. It was good, beyond all question. Let the judgment of the circuit court be reversed, and the cause remanded, to be proceeded with.

Defendant's attorney filed a petition for reconsideration, which was overruled.