

ADAMS ET AL. vs. THOMPSON, USE, &C.

Where a justice of the peace fails to render a judgment upon the verdict of a jury, in a case tried before him, at the time when the verdict is returned, he or his successor in office may render such judgment at any subsequent time, *nunc pro tunc*, and until the judgment is rendered no appeal lies to the Circuit Court.

Appeal from Searcy Circuit Court.

CONWAY B., for the appellants.

BYERS & PATTERSON, contra.

Mr. Justice SCOTT delivered the opinion of the Court.

These proceedings were regularly instituted before Shaw, a justice of the peace, on the 13th July, 1848, and progressed regularly until a jury rendered a verdict in favor of the original plaintiff on the fifth of August of the same year. But no judgment was in point of fact ever entered up upon this verdict until the 5th day of November, 1849, when, in obedience to an order of the Circuit Court, Parks, a justice and the successor of Shaw, entered up a judgment as of the date of the 5th of August, 1848. From this judgment so entered up, an appeal was regularly taken to the Circuit Court, on the 17th November, 1849, where both parties appeared at the April term, 1850, and after having the transcript of the justices' proceedings corrected, the cause was regularly tried and a verdict and judgment given for the original plaintiff: from which an appeal was taken to this Court.

There was no motion for a new trial or in arrest of judgment, and no exceptions taken to the proceedings of the Circuit Court touching the appeal.

It is perfectly clear that the Circuit Court had rightful jurisdiction of the cause, and there is nothing in the record to indicate any thing else than that this jurisdiction was properly exercised.

It was competent for the justice, Shaw, to have entered up the judgment *nunc pro tunc*, on motion, at any time after the verdict and before he went out of office, and it was equally competent for his successor, without having been stimulated to do so, as he was by the Circuit Court. Until the rendition of the judgment, no appeal lay to the Circuit Court.

Finding no error in the record, the judgment of the Circuit Court must be affirmed with costs.