

## LONG vs. STATE.

Recognizance forfeited, and *sci. fa.* to the parties, but no final judgment—writ of error by the principal, without any reference to the securities—writ of error quashed.

*Writ of Error to Fulton Circuit Court.*

Writ of Error to Fulton Circuit Court, to bring up the record and proceedings, &c., “in a suit, &c., between the State of Arkansas, plaintiff, and Hiram Long, defendant, of a plea of indictment.”

No return is endorsed upon the writ, but a certified transcript is attached to it. From this, it appears that Hiram Long, being indicted in the Fulton Circuit Court, entered into recognizance for his appearance; but failing to appear, a forfeiture was taken against him and his securities, a *sci. fa.* issued, and returned served upon the securities, but not upon him. His counsel afterwards moved to quash the indictment; Long still not appearing, the court overruled the motion, and ordered an *alias sci. fa.* as to Long. In this state of the proceedings, as it appears from the transcript, the writ of error was sued out.

S. H. HEMPSTEAD, for the plaintiff.

CLENDENIN, Attorney General, contra.

Mr. Justice SCOTT delivered the opinion of the Court.

It does not appear that the clerk of the Circuit Court of Fulton county, to whom the writ of error in this was directed, has made any such return of it as he was commanded. The writ is here nevertheless, and there is a certified transcript of a record of the Fulton Circuit Court attached to it with wafers, which falls short

of showing any final judgment against the recognizers in the above entitled case, against whom a forfeiture was taken, and process of *scire facias* sued out, but not determined. And besides, the writ of error is sued out in the name of Hiram Long alone, without any reference to the other two recognizers, in a case where, it seems the said Hiram was "defendant of a plea of indictment."

Let the writ of error be quashed at the cost of the plaintiff in error.

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