

MILLER VS McCULLOUGH.

On certiorari to the judgment of a justice of the peace, the judgment should be quashed or affirmed upon what appears upon the face of the papers, not upon the admissions of parties, as to facts not appearing therein.

Appeal from Columbia Circuit Court.

Hon. Shelton Watson, Circuit Judge.

Watkins & Gallagher, for appellant.

Garland, contra.

Mr. Justice Fairchild delivered the opinion of the court.

This appeal has been argued here as involving the question, whether a judgment of a justice of the peace, rendered upon default of the appearance of the defendant, was void because served in another township than that in which the summons was issued.

Judgment having been given against the defendant, and brought to the Circuit Court on certiorari, the transcript of the proceedings of the justice of the peace does not show that the summons was served out of the township whence it issued; although in the Circuit Court, the plaintiff in the justice's suit admitted such to be the case; whereupon the Circuit Court quashed the judgment of the justice of the peace. Miller, the original plaintiff, appealed.

Upon certiorari, the judgment and proceedings of the justice should have been quashed or affirmed, from what appeared

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upon the papers, not upon the admissions of parties in the Circuit Court.

The judgment of the Circuit Court of Columbia county is reversed with instructions to affirm the judgment of the justice of the peace.
