

McLAUGHLIN *v.* COFFEY.

1041

293 S. W. 2d 455

Opinion delivered July 2, 1956.

APPEAL & ERROR—APPEALABLE DECISIONS—ORDERS GRANTING NEW TRIAL  
—NECESSITY OF ASSENT BY APPELLANT.—Appellant's appeal from  
an order granting a new trial dismissed for lack of a final judgment  
since he failed to file in the lower court the assent required  
by Ark. Stats. Sec. 27-2101 (2) to the effect that, if the judgment  
were affirmed, a judgment absolute should be rendered against  
him.

Appeal from Garland Circuit Court; *C. Floyd Huff, Jr.*, Judge; appeal dismissed.

*Lloyd Darnell*, for appellant.

*Earl J. Lane*, for appellee.

PER CURIAM: The appellant did not file the assent required by Sub-section 2 of Section 27-2101 Ark.

Stats., and it is too late to file it now. (See *Osborn v. LeMaire*, 82 Ark. 490, 102 S. W. 372.) The appeal is dismissed for lack of final judgment; and the case is still pending in the Garland Circuit Court for new trial on all issues. Mr. Justice ROBINSON dissents because he thinks that the appellant should be allowed to file the assent at this time in this Court.

---