

MORRIS v. MAUNEY.

4-9213

230 S. W. 2d 37

Opinion delivered May 29, 1950.

1. APPEAL AND ERROR.—The judgment of the trial court will be affirmed unless appellant's brief shows that a motion for new trial was filed and overruled.
2. APPEAL AND ERROR.—Where there was no motion for a new trial, only errors apparent on the face of the record will be considered.
3. APPEAL AND ERROR.—Since no error appears on the face of the record, the judgment is affirmed for failure to comply with rule 9 of this court.

Appeal from Pike Circuit Court; *Wesley Howard*, Judge; affirmed.

Howard Stone, for appellant.

Tom Kidd, for appellee.

PER CURIAM. On May 1, 1950, we granted appellant until May 8, 1950, to perfect his abstract in response to appellee's motion to affirm for failure to comply with Rule 9 of this court. Neither the original abstract and brief nor the amendment filed by appellant on May 8, 1950, makes any reference to a motion for a new trial. Under Rule 9 a judgment will be affirmed unless appellant's brief shows that a motion for new trial was filed and overruled. *Van Hoozer v. Hendricks*, 143 Ark. 463, 221 S. W. 178.

It is also well settled that only errors apparent on the face of the record will be considered where there is no motion for a new trial. *Miller v. Kansas City Southern Ry. Co.*, 129 Ark. 217, 195 S. W. 354.

No error appears on the face of the record in the instant case and the judgment is accordingly affirmed for failure to comply with Rule 9.