

STEWART *v.* BOBO.

Opinion delivered December 10, 1906.

APPEAL—INSUFFICIENCY OF ABSTRACT.—A judgment will be affirmed on appeal where appellant asked a reversal on the ground that the verdict was contrary to the evidence, but failed to set out the evidence as required by Rule 9.

Appeal from Carroll Circuit Court; *J. S. Maples*, judge; affirmed.

*Festus O. Butt*, for appellant.

1. This court will reverse where there is a total absence of evidence on a material point. 44 Ark. 259; 46 Ark. 142; 47 Ark. 197; 51 Ark. 467; 52 Ark. 314; 57 Ark. 577.

2. Appellant was entitled to interest on acceptances after maturity. 19 Ark. 16; 36 Ark. 355; 43 Ark. 275; 46 Ark. 87.

3. The verdict is contrary both to the evidence and the law. The evidence is uncontradicted that the acceptances were sold by the Elgin Jewelry Company, in due course of business, to appellant, and before maturity, without notice or knowledge on his part of any claims or defenses against them. 31 Ark. 20; 31 Ark. 125; 40 Ark. 545; 36 Ark. 228; 41 Ark. 242; 49 Ark. 465; 48 Ark. 454; 61 Ark. 81.

MCCULLOCH, J. This is an action brought by appellant, W. H. Stewart, against appellee, C. E. Bobo, to recover the amount of certain bills of exchange drawn by the Elgin Jewelry Company on appellee and accepted by him, the same having been assigned to appellant.

On a trial by jury a verdict was rendered in favor of appellant for a portion only of the amount sued for—the jury finding in favor of the defendant (appellee) as to certain credits claimed by way of setoff. No objection is made here to the instructions of the court, but it is contended that the verdict is contrary to the evidence.

Counsel for appellant does not, however, attempt to set out the evidence. He contents himself with an assertion in the brief, by way of argument, that the evidence is undisputed, and that it fails to establish any defense. In order for the judges to determine whether or not his contention is borne out by the record, it is essential for each of them to explore the transcript. The object of Rule 9 of this court is to obviate that. *Ruble v. Helm*, 57 Ark. 304. There being a palpable failure to comply with the rule, and nothing being shown in the abstract to justify a reversal of the case, we must affirm the judgment. *Shorter University v. Kirby's Digest*, § § 3274, 3275, 3281.

It is so ordered.