

## HAYS vs. POPE COUNTY.

In revising the judgments of inferior tribunals, this court will not regard the particular reasons upon which the judgment below may have been based, but will inspect the entire face of the proceedings as presented by the transcript, and quash or affirm according to the circumstances of the case. To entitle a sheriff to expenses and charges for arresting and guarding a criminal it should appear upon the face of his account that some offence known to the law has been charged against the party; and that too within the jurisdictional limits of his county.

*Certiorari to the County Court of Pope County.*

At the July term, 1844, of this court, Sam. M. Hays presented a petition for certiorari to the county court of Pope, stating that on the 26th October 1843, he presented to said county court for allowance an account due him as sheriff of the said county for \$426.22, which said county court refused to allow upon the ground that it was barred by the statute of limitation, and he excepted.

From the transcript returned in obedience to the writ, it appears that Hays presented to said court for allowance in October, 1843, an account against the county for \$426.22. The account bears date July 1836, and is made up of a large number of items, such as, "to executing writ on Thomas S. Young \$1.00: summoning guard \$2.50: expense of self and guard from Little Rock to Pope

county \$50.00," &c. &c. The court refused to allow the account upon the ground that it was barred by the statute of limitation as stated in the record. Hays excepted and took a bill of exceptions, from which it appears, that Hays proved by two witnesses that the services charged in said account were rendered by said Hays, and that the several items of money therein charged were paid by him in defraying the necessary expenses of the prisoners mentioned in the account and guard: that the services were rendered by Hays as sheriff of the county in obedience to the command of certain writs issued by justices of the peace of the county of Pope. The account does not show upon its face what offence the prisoners were charged with, nor where the offences were committed; nor is it shown by the evidence contained in the bill of exceptions.

WATKINS & CURRAN. for plaintiff.

COLKETT, contra.

JOHNSON, C. J. This was an application made by Samuel M. Hays, as sheriff of the county of Pope, for an allowance against the county for certain services charged to have been rendered in his official capacity. The county court rejected the claim upon the ground, as shown by the record of its proceedings, that it was barred by the statute of limitations. This court, in correcting and revising the judgments of inferior tribunals, will not regard the particular reasons, upon which the judgments below may have been based, but will inspect the entire face of the proceedings as presented by the transcript, and quash or affirm according to the circumstances of the case. The question here is not simply whether the claim was barred by the statute, but whether the law for any reason would have sanctioned the judgment given by the court. It is indispensably requisite in every case, to entitle a party to an allowance against a county for the costs and charges in a criminal case, to state at least upon the face of his demand that some offence known to the law has been charged against the party; and that, too, within the jurisdictional limit of the county. It is utterly im-

possible for the court to determine whether it is a proper case for an appropriation of the funds belonging to the county unless the offence is specified and charged to have been perpetrated within the jurisdiction of the court. In the case of *Irwin vs. The County of Pulaski*, 4 Ark. R. 473, this court held that each county was liable for the costs and charges of all prosecutions instituted within their limits under such restrictions as were prescribed by law. The circuit court of Phillips county in that case had audited and directed the payment of the claim under the authority of the 207th and 8th sections of the 45th chapter of the Revised Code. In all cases coming before the county court under that statute, they have no discretion, but are absolutely required to allow the claim as other liquidated demands against the county. The case presented here was wholly different as it was a demand brought directly before the court for their investigation, and consequently, it was their province either to allow or reject it. The demand, upon its face, so far from disclosing a case proper for an appropriation of the county funds, wholly fails to charge the commission of any crime or the violation of any law whatever. It is not denied that the claim, in the form presented, was fully sustained by the proof, yet as there is an entire failure to charge any offence as having been committed within the county of Pope, we do not conceive that the court would have been authorized to make the allowance. Under this view of the case we think it clear that the county court of the county of Pope decided correctly in rejecting the claim, and that therefore the judgment ought to be affirmed.

Judgment affirmed.