

TOWN vs. WILSON.

Where the affidavit for an appeal to this court is insufficient, the case will be dismissed for want of jurisdiction.

Requisites of affidavit for appeal prescribed.

It is to the affidavit that this court looks for its jurisdiction, and its defects must therefore be regarded by the court, though attention be not called to it by motion.

Appeal from Washington Circuit Court.

THIS case having been disposed of by the court upon a question not argued, or involving the facts, a statement of facts is deemed unnecessary.

JOHNSON, C. J. The statute requires that in order to enable a party to prosecute an appeal to this court, the appellant or his agent shall, during the term at which the judgment or decision complained of is given, file in the court an affidavit, stating that such appeal is not made for vexation or delay, but because the affiant verily believes that the appellant is aggrieved by the decision or judgment of the court. No exception has been taken to the sufficiency of the affidavit filed in this, but inasmuch as the court must look to it for its jurisdiction, we are not at liberty to disregard its defects. The affidavit filed in this case is defective in a most essential particular. The only true and substantial ground upon which an appeal is allowed is, that the party considers himself aggrieved by the decision of the inferior court. He merely states that he does not ask for the appeal for vexation or delay, but wholly fails to allege that he is aggrieved by the decision. In the absence of this expression or some other of equal import we consider the pretended affidavit nothing more than a piece of blank paper; and consequently wholly insufficient to confer any jurisdiction upon this court. The affidavit being radically defective and that in a matter of substance, we think it clear that the case ought to be dismissed for the want of jurisdiction. Dismissed for want of jurisdiction.