

DIXON vs. THE STATE.

It is no error to overrule a motion for a new trial on the ground of a total absence of testimony when any evidence has been introduced supporting the verdict.

Appeal from Jackson Circuit Court.

HON. WILLIAM C. BEVENS, Circuit Judge.

OWEN, for appellant.

HOLLOWELL, Attorney General, contra.

Mr. Justice COMPTON delivered the opinion of the court.

The appellant, Dixon, was convicted and fined in the court below, for gaming; and he brings the case before this court on exception taken to the decision of the Circuit Court overruling his motion for a new trial.

The only error assigned is, that the verdict of the jury is without evidence to support it. But one witness was examined, and he testified, that within twelve months, to the best of his recollection, before the finding of the indictment, he saw Dixon exhibiting *Chuck-a-luck* in the back room of a grocery in Jackson county; that Dixon was dealing, and a number of persons betting; and that *Chuck-a-luck* was a game adapted, designed and devised to play a game of chance, at which money might be won and lost. It would be difficult to imagine how the jury could have found other than a verdict of guilty on this evidence. There is surely no total want of evidence to support the verdict, and unless there was, we could not disturb the finding.

Let the judgment be in all things affirmed with costs.