

REEDER *against* MURRAY.

APPEAL from Conway Circuit Court.

A writ without the seal of the Court affixed, is a mere nullity. When a judgment, in a suit brought by attachment, is reversed for an insufficient writ or insufficient service, taking an appeal, or suing out a writ of error to the Supreme Court, is an appearance; and on the return of the case, the party must appear, as if he had been served with a summons.

Murray sued Reeder in the Court below, and issued a writ of attachment. The writ being returned not served, he sued out an alias, which was executed; and Reeder gave bond and retook the property. At the return term, Reeder moved to quash the writ. His motion was overruled, and he making no further defense, judgment went against him. As the case was disposed of upon a point not touched by the arguments of counsel, they are consequently omitted.

FOWLER, for the appellant:

LINTON, *Contra*:

DICKINSON, J., delivered the opinion of the court:

The record sent up is certified to be full and complete. The parties have raised no question as to its correctness, and, consequently, this Court must take it as true. It is of no consequence, in the consideration of this case, what steps were taken subsequent to the issuing of the alias writ of attachment; for, by the record, it appears that the Clerk omitted to seal the writ, as is required by the statute. *Revised Code, p. 777, sec. 2.* And as there was no such appearance by the appellant as cured the want of a seal to the writ, he was not bound to plead or make any defense thereto. Judgment reversed, and case remanded for further proceedings; and the case, upon the return thereof to the Circuit Court, to stand for hearing, as though the appellant had been legally served with a valid writ of summons, more than thirty days prior to the next term of said Court.