

BAKER, ALIAS BEIQUETT, *against* THE STATE.APPEAL *from Pulaski Circuit Court.*

A judgment is not the determination and sentence of the Judges, but of the law.

The style of it, therefore, is not "It is *ordered*," or "*resolved* by the Court," for then the judgment might be their own; but, "it is *considered*," which implies that the act is none of their own, but the act of the law, pronounced and declared by the Court upon determination and inquiry.

And if the words "it is considered" are wanting, there is no judgment, and no appeal will lie.

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

The defendant was tried at the March term of the Circuit Court of Pulaski county, upon an indictment containing two counts; one for shooting at, with intent to kill, Jacob Faulkner; the other for shooting, wounding, and disabling him.

The jury returned a verdict of guilty upon both counts, and sentenced him to imprisonment in the Penitentiary for five years. After the entry of the verdict, the record proceeds as follows: "On this day came the Attorney for the State, and the said defendant was brought to the bar of this Court, in the custody of the Sheriff, and the Court proceeded to pass the sentence of the law on the said defendant, in accordance with the verdict of the jury in this case, as follows, to wit: *Ordered* by the Court, that the said defendant, Franklin T. Baker, alias Franklin T. Beiquett, be committed to the Jail and Penitentiary house of the State of Arkansas, for the full space and term of five years from the twenty-sixth day of March, A. D., 1841, for shooting with intent to kill; and that he pay all the costs of this prosecution, and stand committed until the sentence of the law is fully complied with."

The record being moved into this Court by appeal, various errors were assigned. But as this Court can take jurisdiction in cases of appeal, or writ of error, only when *final* judgment has been entered in the Court below, it becomes necessary to consider, first, whether there has been such a final judgment in the case.

A judgment, though pronounced or awarded by the Judges, is not their determination and sentence, but the sentence and determination of the law, which depends, not upon the arbitrary opinion of the Judge, but the settled and invariable principles of justice, and is the remedy prescribed by law for the redress of injuries; and the suit or action is the vehicle or means of administering it; and, therefore, the style of the judgment is not "That it is ordered or resolved by the Court," for then the judgment might be their own; but "It is considered"—"*Consideratum est per Curiam*," which implies that the judgment is none of their own, but the act of the law, pronounced and declared by the Court, upon determination and inquiry.

Inasmuch, therefore, as no judgment has been entered below, and consequently no appeal can be taken to this Court, the appeal must be dismissed, and a writ of *procedendo* be issued to the Circuit Court of Pulaski county, to give judgment in this case according to law. 1 *Chitty's Crim. Law*, 701; 8 *B. & C.*, 196, and authorities there quoted; 1 *Chitty's Black.*, 312-13.