

HAWKINS & GREEN *vs.* NUNNELLY.

In a summary proceeding on a forfeited bond, the court cannot render judgment, by default, without a writ of inquiry.

*Writ of error to the circuit court of Sevier county.*

THIS was a judgment on a forfeited delivery bond, obtained by J. W. Nunnely against B. F. Hawkins, the principal in the bond, and Green, his security, in the circuit court of Sevier county, at the May term, 1842, before the Hon. WM. CONWAY B., one of the circuit judges.

The court rendered the judgment, by default, without a writ of inquiry.

WATKINS & CURRAN, for plaintiffs. The judgment in this case is reversible, in accordance with the decision of this court in the case of *Patton & Stewart vs. Wolcott*, 4 Ark. 579, the record in this case presenting a similar objection.

OLDHAM, J., delivered the opinion of the court.

This was a summary proceeding upon a forfeited delivery bond. The judgment was rendered by default, and the court assessed the damages, without awarding a writ of inquiry. This case comes within the rule laid down in *Patton & Stewart vs. Wolcott*, 4 Ark. 579, and *Jennings vs. Ashley & Beebe*, 5 Ark. 128, and is in violation of it, and must therefore be reversed.

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