VAUGHN *vs.* BROWN.

A writ of summons addressed to the Sheriff of —— county, is void, and no officer is authorized to execute it.

A return by a sheriff that he served a writ by leaving a copy with defendant's wife, a white member of his family, over the age of fifteen years, is not sufficient—the return must also show that the copy was left at defendant's usual place of abode.

Writ of Error to the Circuit Court of Pope County.

DEBT, on a promissory note, brought by Wilson Brown against

Sterling Vaughn to the March Term, 1847, of the Pope circuit court.

The summons issued by the clerk for the defendant, commences as follows:

"STATE OF ARKANSAS, } ss.
County of Pope, }

The State of Arkansas, to the Sheriff of————*County*—Greeting:

You are hereby commanded to summon Sterling Vaughn, if to be found in your bailiwick," &c.; following the usual form of a summons in debt.

The return endorsed on the writ is as follows:

"Came to hand Februrary 17th, 1847; and executed on the 18th instant, by leaving a certified copy of the within writ for Sterling Vaughn, the within named defendant, with his wife, a white member of his family, and over the age of fifteen years, in the county of Pope, Gum Log Township."

"JOHN W. JONES, Sheriff."

At the return term, judgment was rendered against defendant by default, before the HON. SEBRON G. SNEED, judge.

Defendant brought error.

LINTON & BATSON, for plaintiff.

E. CUMMINS, contra.

JOHNSON, C. J. This is a judgment by default rendered against the plaintiff in error. He has assigned two errors in the judgment and proceedings of the circuit court. First, that the original writ itself is illegal and void; and secondly, that the service is insufficient. The writ is not addressed to any officer authorized by law to execute process or to any person whomsoever. The writ is clearly a mere nullity, as the sheriff of the county of Pope himself would have had no authority to execute it. All writs and other process must be directed to some person authorized by law to execute the same, and without such direc-

tion they are wholly void. The return is that it was executed by leaving a certified copy for the defendant below, with his wife a white member of his family and over the age of fifteen years. It is not stated to have been left at his usual place of abode. This is expressly required by the statute, when the service is not upon the person of the defendant. This requisition of the statute cannot be dispensed with, and as a necessary consequence the service is utterly insufficient. For these reasons the judgment must be reversed. The case is remanded to the circuit court and the plaintiff in error considered in court.