

LONDON *v.* KENNEDY.

Opinion delivered February 4, 1929.

APPEAL AND ERROR—PRESUMPTION—VENUE.—It will be presumed that the trial court properly denied a petition for change of venue in proper form, where the bill of exceptions contains no reference to it, though it appears in the body of the transcript.

Appeal from Sebastian Circuit Court, Fort Smith District; *J. Sam Wood*, Judge; affirmed.

*I. S. Simmons* and *L. E. Lister*, for appellant.

*George W. Dodd*, for appellee.

SMITH, J. Appellant seeks by this appeal to reverse a judgment against him, and the assignment of error relied upon for that purpose is that the court improperly denied his motion for a change of venue.

There appears in the body of the transcript a motion for change of venue in proper form, but the bill of

exceptions contains no reference to it. It will therefore be conclusively presumed that the court properly disposed of this motion.

In the case of *Estes v. Chesney*, 54 Ark. 463, 16 S. W. 267, it was said: "The appellants insist that the judgment should be reversed because the court improperly denied their motion for a change of venue. This is a question which we cannot consider, for the reason that the petition for a change of venue and supporting affidavits are not brought upon the record by bill of exceptions."

The case of *Addisson v. State*, 142 Ark. 34, 218 S. W. 167, is to the same effect.

The judgment must therefore be affirmed, and it is so ordered.

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