

HICKS vs. WILSON.

Where there is no exception to the decision of the court overruling a motion for new trial, the party making the motion will be regarded as acquiescing in the decision.

Writ of Error to Marion Circuit Court.

HON. ELIAS HARRELL, Circuit Judge.

GARLAND & NASH, for plaintiff.

Mr. Justice CLENDENIN delivered the opinion of the court.

This is a writ of error to the circuit court of Marion county. The defendant in error, Wilson, brought his suit against the plaintiff in error before a justice of the peace. At the appearance of the parties, on motion of the defendant before the justice, the suit was dismissed, and Wilson appealed to the circuit court. In the circuit court, the case was submitted to the court sitting as a jury and judgment was given for the plaintiff, (Wilson.) The defendant moved for a new trial, which was overruled; and the defendant did not except to the ruling of the court.

The uniform doctrine of this court has been that where there has been no exception taken to a refusal of the court to grant a new trial, the supreme court cannot revise the decision on the motion, and the party making the motion will be regarded as acquiescing. See *Moss adm'r. vs. Smith*, 19 Ark., 683.

The judgment of the circuit court is affirmed.