

Carroll v. Saunders.

CARROLL V. SAUNDERS.

1. BILL OF EXCEPTIONS: When to be filed.
Time cannot be given beyond the term next after the one at which exceptions were taken, to file a bill of exceptions; and a bill of exceptions signed by the judge after the term, where no time was given, or after the next term thereafter when time was given, is a nullity.
2. NEW TRIAL: Motion for must be in bill of exceptions.
A motion for new trial is no part of the record, unless made so by bill of exceptions.

APPEAL from Ashley Circuit Court.

Hon. T. F. SORRELLS, Circuit Judge.

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Carroll & Newton, for Appellant.

HARRISON, J. The trial was had and judgment rendered upon the verdict, which was in favor of the plaintiff, at the February term, 1878. A motion for a new trial filed by the defendant is copied in the transcript, and there is a record entry that such a motion was filed and overruled. It does not appear that time after the term was given to prepare and tender a bill of exceptions, yet there is in the transcript what purports to be one, but which was not filed nor signed by the judge until the August term, 1879, and there is no exception in it to the overruling of the motion for a new trial, or any mention of such a motion.

Time cannot be given beyond the next succeeding term to that at which exceptions were taken, in which to prepare and tender a bill of exceptions, and a bill of exceptions signed by the judge after the term at which they were taken where time has not been given, or after the next term thereafter, though such time were given, is a nullity. Gantt's Digest, Sec. 4694; Garibaldi v. Carroll, 33 Ark., 568.

Unless made so by bill of exceptions, a motion for a new trial is no part of the record. White v. Prigmore, 28 Ark., 450; Nisbett v. Brown & Norton, 30 Ark., 585; Farquharson v. Johnson, 35 Ark., 536.

The record presents no question for our determination.

Affirmed.