

EUGENE JARVIS AND NOBLE JARVIS D/B/A JARVIS
LIQUOR STORE *v.* ALCOHOLIC BEVERAGE
CONTROL BOARD AND DAVID HODGES

5-5586

467 S. W. 2d 733

Opinion delivered June 7, 1971

APPEAL & ERROR—INTERLOCUTORY ORDERS—FINALITY & APPEALABILITY—
Order of the circuit court denying a motion for permission to
introduce new evidence is interlocutory and not appealable,
and the appellate court is without jurisdiction irrespective of
whether the issue is raised by the parties.

Appeal from Jackson Circuit Court, *Andrew G.
Ponder*, Judge; dismissed.

Pickens, Pickens & Boyce, for appellant.

David Hodges, Prosecuting Attorney, Third District,
for appellees.

LYLE BROWN, Justice. Appellants own and operate a retail liquor store and a beer outlet at Newport, Jackson County. Appellee, Alcoholic Beverage Control Board, issues retail licenses and polices the business establishments possessing those licenses. Appellee David Hodges is the prosecuting attorney and was granted leave to intervene in his official capacity. The director of ABC found appellants guilty of selling liquor and beer to minors and invoked a thirty day suspension of appellants' licenses. That order was affirmed on appeal to the ABC. An appeal was lodged with the circuit court of Jackson County and the trial court ordered that a transcript of the evidence before the ABC be lodged with that court. Before the scheduled hearing date was reached appellants filed a motion asking for leave to "introduce new evidence before this court in said appeal." That motion was denied and appellants immediately appealed to this court. The single issue advanced is that the court erred in not permitting the introduction of new evidence.

The order denying permission to introduce new evidence was interlocutory and therefore not appealable. We have no jurisdiction irrespective of whether the issue is raised by the parties. *Johnson v. Johnson*, 243 Ark. 656, 421 S. W. 2d 605 (1967); *Allred v. National Old Line Ins. Co.*, 245 Ark. 893, 435 S. W. 2d 104 (1968); *Gaines v. Patton*, 8 Ark. 67 (1847).

Appeal dismissed.