

Wallen Vs. Williams

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Court : US Supreme Court

Decided On : 1812

Appeal No. : 11 U.S. 278

Appellant : Wallen

Respondent : Williams

Judgement :

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ERROR TO THE CIRCUIT COURT

FOR THE DISTRICT OF TENNESSEE

SYLLABUS

Error to the Circuit Court of the district of Tennessee to reverse a decree in chancery. The court below had issued a writ of *habere facias possessionem* to enforce its decree. The writ of error was too late to be a supersedeas to the

decree.

Jones, for the Plaintiff in error, now moved to quash the writ of *habere facias* as irregular, and contended that the Court below, sitting as a Court of Chancery under the laws of Tennessee, could only enforce by execution decrees for the payment of money, and cited Tennessee Laws, ed. 1807, p. 158, § 2.

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MR. CHIEF JUSTICE MARSHALL.

The writ of error is to the original decree, which did not award this writ of *habere facias*. It was awarded by a subsequent order of the Court, to which no writ of error issued.

TODD, J.

The attachment to compel a performance of the decree was unavailing, and upon the return of it, the *habere facias* was issued in conformity with the practice in that state, as admitted by the counsel on both sides in the court below. It was ordered as a matter of course, and no objection was made. If this motion should prevail, it will make the writ of error operate as a supersedeas, contrary to the intention of the act of Congress.

Motion overruled.