

Deneale Vs. Archer

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Court : US Supreme Court

Decided On : 1834

Appeal No. : 33 U.S. 526

Appellant : Deneale

Respondent : Archer

Judgement :

Deneale v. Archer - 33 U.S. 526 (1834)

U.S. Supreme Court Deneale v. Archer, 33 U.S. 8 Pet. 526 526 (1834)

Deneale v. Archer

33 U.S. (8 Pet.) 526

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR

THE COUNTY OF ALEXANDRIA IN THE DISTRICT OF COLUMBIA

SYLLABUS

A writ of error brought in the name of "Mary Deneale *and others* " dismissed for irregularity. A new one in due form may be brought.

Upon the opening of the record in this case, it was found that the writ of error had been issued in the name of Mary Deneale, executrix of George Deneale, *and others*.

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

This was the case of a *scire facias* against devisees to revive a judgment. The *scire facias* is in its form without precedent, and a demurrer was filed to it. Process on the *scire facias* issued against four devisees, and service was made upon two only of them. An office judgment was then taken against all the devisees. The two of them on whom the process was served afterwards appeared, and the office judgment was set aside as to them, and they then pleaded the statute of limitations. There was a demurrer to the replication and judgment against all the devisees.

The present writ of error is brought by Mary Deneale "*and others*," as plaintiffs, but who the others are cannot be known to the Court, for their names are not given in the writ of error,

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as they ought to be. Mary Deneale cannot alone maintain a writ of error on this judgment, but all the parties must be joined and their names set forth in order that the Court may proceed to give a proper judgment on the case. The present writ of error must therefore be

Dismissed for irregularity, but a new one in due form may hereafter be brought to revise the judgment.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Columbia holden in and for the County of Alexandria, and was argued by counsel, on consideration whereof it is the opinion of this Court that this writ of error is irregular and should be dismissed inasmuch as it is in the name of "Mary Deneale and others," without naming who those others are, whereupon it is ordered and adjudged by this Court that this

case be, and the same is hereby dismissed.

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