

Ballance Vs. Forsyth

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Court : US Supreme Court

Decided On : 1858

Appeal No. : 62 U.S. 389

Appellant : Ballance

Respondent : Forsyth

Judgement :

Ballance v. Forsyth - 62 U.S. 389 (1858)

U.S. Supreme Court Ballance v. Forsyth, 62 U.S. 21 How. 389 389 (1858)

Ballance v. Forsyth

62 U.S. (21 How.) 389

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE NORTHERN DISTRICT OF ILLINOIS

SYLLABUS

The court again decides that consent of parties cannot give jurisdiction to this Court where the law does not give it, but leave is granted to the plaintiff in error to withdraw the transcript, and use it so as to bring his case legally before this Court.

This action was dismissed and a motion made to reinstate it, under the circumstances stated in the opinion of the Court.

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

This case was dismissed on the 20th of December last because it did not appear that an appeal had been taken in the district court. A motion has now been made to reinstate the case, and in support of that motion a written agreement, signed by the counsel for the appellant and appellee, has been filed consenting to reinstate the case, to waive all irregularities, and to try to the case on the merits.

But the consent of parties cannot give jurisdiction to this

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Court where the law does not give it. And without an appeal taken in the district court, this Court has no jurisdiction, and the consent of parties cannot cure the defect. The motion is therefore overruled.

But if the plaintiff in error desires to supply the omission and take an appeal in the district court and bring his case legally before us, he has leave, in order to save expense, to withdraw the transcript now filed and to use it upon his appeal, leaving a receipt for it with the clerk of this Court.

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