

Overton Vs. Cheek

Overton Vs. Cheek

SooperKanoon Citation : sooperkanoon.com/80847

Court : US Supreme Court

Decided On : 1859

Appeal No. : 63 U.S. 46

Appellant : Overton

Respondent : Cheek

Judgement :

Overton v. Cheek - 63 U.S. 46 (1859)

U.S. Supreme Court Overton v. Cheek, 63 U.S. 22 How. 46 46 (1859)

Overton v. Cheek

63 U.S. (22 How.) 46

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF WEST TENNESSEE

SYLLABUS

Where a writ of error was allowed in open court in the circuit court, but this writ had no seal and was not returned to this Court with the transcript of the record, and two terms afterwards a paper was filed in the clerk's office, in form of a writ of

error, but without a seal, and having no authenticated transcript annexed, the cause must be dismissed on motion.

Page 63 U. S. 47

MR. JUSTICE Mc LEAN delivered the opinion of the Court.

By reference to the transcript, it appears that the judgment of the circuit court was rendered the sixteenth of April, 1857. At the ensuing term of the Supreme Court, the transcript was filed.

It appears that a writ of error in the circuit court was allowed, in open court, and signed by the clerk the seventeenth day of April, 1857, which was returnable to the Supreme Court on the first Monday of December, 1857. But this writ had no seal, nor was it returned with the transcript to the

Page 63 U. S. 48

Supreme Court. But on the twenty-seventh of December, 1859, a paper was filed in the clerk's office, in form of a writ of error, but without a seal, and having no authenticated transcript annexed.

From this it appears that no writ of error has been certified with the transcript, and that the paper purporting to be a writ of error, which was filed in December last, being without seal, was void. Two terms of this Court have intervened, not including the present term, since the transcript was certified, without a writ of error.

The cause must therefore be dismissed for these irregularities, without noticing others apparent on the record.