

Hampton Vs. Rouse

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Court : US Supreme Court

Decided On : 1871

Appeal No. : 80 U.S. 187

Appellant : Hampton

Respondent : Rouse

Judgement :

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Hampton v. Rouse

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MOTION TO DISMISS WRIT OF ERROR TO THE CIRCUIT

COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

SYLLABUS

In a writ of error to a joint judgment against several, all must join. The omission of one or more is an irregularity for which the writ will be dismissed, a matter often held.

It appeared from the record that Wade Hampton, Wade Hampton, Jr., and J. M. Howell were defendants in the court below to an action of ejectment, and that the bill of exceptions, on which the writ of error was sued out, was tendered by them jointly. The judgment was against the defendant in the singular, but, as the verdict was joint, this Court considered it obvious that this was a mere clerical error, and that the judgment, doubtless, followed the verdict.

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Wade Hampton alone prosecuted the writ of error, and there appeared to have been no summons and severance or other equivalent proceeding. [[Footnote 1](#)]

THE CHIEF JUSTICE:

It has often been held that in a writ of error to a joint judgment against several, all must join, and that the omission of one or more without such proceeding is an irregularity for which the writ will be dismissed. [[Footnote 2](#)] The motion in the present case must therefore be

Granted.

[[Footnote 1](#)]

See [Masterson v. Herndon](#), 10 Wall. 416.

[[Footnote 2](#)]

[Williams v. Bank of the United States](#), 11 Wheat. 414; [Owings v. Kincannon](#), 7 Pet. 399; [The Protector](#), 11 Wall. 82.