

**Power Vs. Baker**

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**SooperKanoon Citation :** [sooperkanoon.com/84671](http://sooperkanoon.com/84671)

**Court :** US Supreme Court

**Decided On :** Dec-15-1884

**Appeal No. :** 112 U.S. 710

**Appellant :** Power

**Respondent :** Baker

**Judgement :**

Power v. Baker - 112 U.S. 710 (1884)

U.S. Supreme Court Power v. Baker, 112 U.S. 710 (1884)

**Power v. Baker**

**Submitted November 21, 1884**

**Decided December 15, 1884**

**112 U.S. 710**

IN ERROR TO THE CIRCUIT COURT OF THE UNITED

*STATES FOR THE DISTRICT OF MINNESOTA*

**SYLLABUS**

Motions to vacate a supersedeas and other motions of that kind made before the record is printed must be accompanied by a statement of the facts on which they rest, agreed to by the parties, or supported by printed copies of so much of the record as will enable the Court to act understandingly, without reference to the transcript on file.

This was a motion to vacate a supersedeas.

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

Neither the record in this case nor the part thereof on which this motion depends has been printed, and the appellees have neglected to state in their motion papers the facts as presented by the transcript on which they rely. An affidavit has been filed to the effect that the appellees were not served with a

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citation, nor with a notice of an application for the allowance of an appeal, until after the expiration of sixty days, Sundays exclusive, from the time of the rendition of the decree appealed from. In the same affidavit it is stated, however, that the proctor of the appellees was informed that an appeal bond had been presented to the Circuit Court for approval within the sixty days. It is also stated that on the 10th of January, 1884, an order allowing an appeal was entered *nunc pro tunc* as of the date of the presentation of the bond. An affidavit filed by the appellants shows that on the day the bond was presented to the circuit court, it was approved, allowed, and filed in the cause. As upon this motion it rests on the appellees to show that the bond was not accepted in time, and that has not been done, the motion to vacate the supersedeas is denied. In this connection, we take occasion to say that motions of this kind, made before the record is printed, must be accompanied by a statement of the facts on which they rest, agreed to by the parties, or supported by printed copies of so much of the record as will enable us to act understandingly, without reference to the transcript on file.

*Motion denied.*

