

Wilson Vs. Blair

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Court : US Supreme Court

Decided On : Dec-13-1886

Appeal No. : 119 U.S. 387

Appellant : Wilson

Respondent : Blair

Judgement :

Wilson v. Blair - 119 U.S. 387 (1886)

U.S. Supreme Court Wilson v. Blair, 119 U.S. 387 (1886)

Wilson v. Blair

Submitted November 15, 1886

Decided December 13, 1886

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ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF NEBRASKA

SYLLABUS

When the record in the court below is silent as to the value of the matter in dispute, it is good practice for that court to allow affidavits and counteraffidavits of value to be filed under directions from the court.

The burden of proof is on plaintiff in error, when the record is silent as to the value of the subject matter in dispute, to establish that it is of the jurisdictional value.

This was an action for the possession of real estate. Judgment for plaintiff. Defendant sued out this writ of error. The defendant in error moved to dismiss for want of jurisdictional value in the matter in dispute.

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

Our jurisdiction in this case depends on the value of the matter in dispute. Final judgment was entered in the action May 24, 1884. At that time, there was nothing in the record to show the value. On the 16th of September, 1884, on motion, leave was given the defendant in the court below to file affidavits of value that day, and the plaintiff to file counteraffidavits in twenty days. This was good practice, and, if oftener adopted, would save trouble to parties and to us. Under this leave and others of a similar character which were afterwards granted, a considerable number of affidavits were filed by both parties. The affidavits were contradictory, some having a tendency to prove that the value was more than \$5,000 and others that it was less. On the 5th of May, 1885, the district judge, without formally deciding the question of value, allowed a writ of error, thus sending the

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case here on the affidavits, free from any decision whatever by the court below as to their effect. In this respect the case differs from *Gage v. Pumpelly*, [108 U. S. 164](#) , where the appeal was allowed by the court in session after considering the affidavits, and from *Zeigler v. Hopkins*, [117 U. S. 683](#) , where the value was found as one of the facts in the case.

The burden of showing jurisdiction is on the plaintiff in error. He must establish as a fact by a fair preponderance of testimony that the value of the property in dispute

exceeds \$5,000. This he has not done. Two witnesses swear that the property is worth more than \$6,000, and eight that it is worth \$5,000 "or more." These are for the plaintiff in error, but there are eight on the other side who say it is worth only from about \$3,000 to about \$3,500, and the certificate of the county clerk shows that it was valued for taxation in 1884 at only \$700. Under these circumstances, we think the decided preponderance of the evidence is against our jurisdiction, and the motion to dismiss is therefore granted.

Dismissed.

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