

Steever Vs. Rickman

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Court : US Supreme Court

Decided On : Oct-23-1888

Appeal No. : 109 U.S. 74

Appellant : Steever

Respondent : Rickman

Judgement :

Steever v. Rickman - 109 U.S. 74 (1888)

U.S. Supreme Court Steever v. Rickman, 109 U.S. 74 (1883)

Steever v. Rickman

Submitted October 22, 1883

Decided October 23, 1888

109 U.S. 74

MOTION TO USE PRINTED RECORD

WITHOUT PAYING CLERK'S FEE

SYLLABUS

If, through fault of the party prosecuting a cause in this Court, printed copies of the record are not furnished to the Justices or parties, the writ on appeal will be dismissed for want of prosecution unless good cause be shown to the contrary. The fees of the clerk of this Court must be paid in advance when demanded.

Motion to use printed record without paying clerk's fee.

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

By the act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1884, c. 143, 22 Stat. 631, the clerk of this Court is required to pay into the Treasury the fees and emoluments of his office over and above his own compensation as fixed by law, and his necessary clerk hire and incidental expenses. It is proper, therefore, that, for his protection, his fees should be paid in advance, if demanded.

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Under Rule 10, it is the duty of the clerk to have the record printed, and a fee has been fixed for preparing the record for the printer, indexing the same and supervising the printing. Ordinarily this fee is to be paid, in the first instance, by the party who prosecutes the cause. If he fails to make the payment when demanded in time to enable the clerk to cause the printing to be done in due course, he fails in the orderly prosecution of his suit, and may be dealt with accordingly. Consequently if, through the fault of a plaintiff in error or appellant, printed copies of the record are not furnished to the Justices or the parties when required in the due prosecution of the cause, the writ or appeal will be dismissed for want of prosecution unless sufficient cause be shown to the contrary.

In the present case, the record has been printed but the clerk has not furnished the necessary copies to the justices because his fee for preparing the record for the printer, etc., has not been paid by the appellant, although demanded. As this is the first time the question has arisen, and the practice has not heretofore been authoritatively announced, it is ordered that unless the appellant pay to the clerk,

within twenty days from the entry hereof, what is due him for this fee, the appeal be dismissed for want of prosecution. If the payment is made, the clerk shall at once notify the opposite party, and the cause may thereafter be brought on for hearing under paragraph 7 of Rule 26 as a case that has been passed under circumstances which do not place it at the foot of the docket.

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