

**R. R. JOHNSON, Plaintiff in Error, vs. J. G. GIVENS, Defendant in Error.**

**LRSC 2; 1 LLR 28 (1865)**

[January Term, A. D. 1865.]

*Appeal from the Court of Quarter Sessions and Common Pleas, Sinoe County.*

Where a defendant in a civil suit has been arrested upon a writ of arrest, it is the duty of the sheriff to hold him in custody unless he gives bail for his appearance. But where the writ was issued but not served, the court to which it is made returnable cannot take jurisdiction over the defendant.

The case was duly called and examined on record, and after a careful investigation of the facts and law in the case, it appeared to be fully supported by several points of law as hereinafter referred to.

If the sheriff arrested R. R. Johnson by a writ of arrest issued out of the clerk's office of said court at Sinoe for him the said R. R. Johnson to appear before the Superior Court to answer Givens, as expressed in the writ or declaration, then the said R. R. Johnson was in the custody of the sheriff, and the said Johnson should not have been allowed to go at large unless by giving bail or bond for his appearance at the said term of court; and if the said R. R. Johnson did not appear neither by security nor bond produced by the proper officer, then and in that case the matter was not in a legal form for the said Superior Court to take action. (See 3 Blackstone, p. 290; Liberia Statutes, p. 14, sects. 1, 2 and 3; 3 Blackstone, p. 283.)

If the sheriff did not arrest R. R. Johnson to bring him before the said Court of Quarter Sessions and Common Pleas to answer J. G. Givens as set forth in the complaint, then and in that case the court had no claim upon R. R. Johnson until he had been arrested and duly returned, and the Court of Quarter Sessions should not have given judgment against the said R. R. Johnson.

Therefore, the Supreme Court now decrees that the case as decided against R. R. Johnson, plaintiff in error, in favor of J. G. Givens, defendant in error, is now by this decision dismissed, and the judgment of the Court of Quarter Sessions and Common Pleas in the County of Sinoe is by this decree reversed and dissolved and the defendant in error ruled to pay the costs of court.

**Key Description: Appearance (Failure to appear)**

**Arrest (In civil actions, custody and disposition of prisoner; in civil actions, service of process or order; jurisdiction lacking where service of writ not effected; Sheriff's duty to hold arrestee in custody)**