

RUSSELL MINUS, Appellant, vs. J. J. ROSS, Appellee.

LRSC 3; 1 LLR 168

[January Term, A. D. 1883.]

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

Injunction.

This case is an appeal from the Court of Common Pleas and Quarter Sessions, Sinoe County. After this case was called and assigned for hearing the appellant withdrew it.

Without commenting elaborately on a subject so clear and well defined in law, we say this court is of opinion that any appellant before it may at any stage of the proceedings, before it is called up and assigned for hearing, withdraw his appeal; but if he attempts to do so after the court has taken the case within its embraces, the court will determine what such an act amounts to in law. The annunciation of the appellant that he has withdrawn his appeal after it had been called and assigned for hearing is a retraxit and by this the appellant forever loses his action.

The court therefore adjudges that the appellant is forever barred from bringing this action. The appellant is ruled to pay all costs incurred in this action.

**Key Description: Appeal and Error (Voluntary dismissal or withdrawal)**