

MATILDA A. ROBERTS, Appellant, vs. JOHN L. ANDERSON, Appellee.

LRSC 7; 1 LLR 518

Ejectment.

[January Term, A. D. 1884.]

Before His Honor C. L. Parsons, Chief Justice, and the Honorable Associate Justices, H. J. Neyle and Z. B. Roberts.

MOTION TO DISMISS APPEAL.

John L. Anderson, appellee in the above entitled cause, respectfully motions this honorable court to dismiss the case and rule the appellant to pay costs, first, because the appeal in this case was taken before the verdict of the jury in said case was recorded, and also because the appeal has been taken and no final judgment has been rendered in said case; all of which is directly against the law and the ruling of this honorable court. (1 Lib. Stat. p. 61, sec. 6.)

Respectfully submitted,

JOHN L. ANDERSON, Appellee,

By F. J. PAYNE, Atty. at Law.

COURT'S RULING.

The motion of the appellee in this case to dismiss the same is in perfect harmony with law, the rulings and practice of this court, as fully declared in the judgment rendered in the cases. *Minus vs. Crayton*, *Henry Cooper vs. McGill Brothers*, and *Julia Williams vs. McGill Brothers*. . . Because, when a new trial is . granted it wholly destroys the existence of the former trial and verdict thereon. Therefore there can be no legal appeal from the same, and as there has been no final judgment rendered in this case the court proceeds to make the following ruling :

The court rules that no appeal lies from the order of a court granting a new trial upon which there has been no final judgment rendered. Therefore the case is dismissed, and the appellant ruled to pay all costs incurred in the action. Supreme Court, January 24th, 1884.

Key Description: Appeal and Error (Conclusiveness of record; Enforcement of judgment or order; Necessity of formal judgment or order)