

Case No. 3,694b.
[Hempst. 50.]²

DEADRICK v. HARRINGTON.

Superior Court, Arkansas Territory.

Oct., 1827.

JUSTICE JUDGMENT—REVERSAL—FORMAL DEFECTS.

1. Unless it appears that a jury was required, and refused by the justice, the judgment will not be reversed.
2. The expression, "I give judgment," includes the technical and formal words of a judgment, and is sufficient.

Certiorari to Arkansas circuit court.

{This was a suit by J. G. Deadrick against John Harrington.}

Before JOHNSON and TRIMBLE, Judges.

OPINION OF THE COURT. This case was brought, before the circuit court of Arkansas county, and certified to this court because the judge of that court had previously appeared as attorney for the plaintiff before the justice of the peace. We think it necessary to notice only two points in this case. The first point was, that it does not appear that the parties dispensed with a trial by jury. To authorize this court to reverse the judgment of the justice, we think, under the statute, it ought to appear that the plaintiff required a jury, and that it was refused. Secondly, the court are satisfied that the judgment entered by the justice is substantially good. The parties are identified, the sum is certain; and the only objection is, that the justice has said, "I give judgment," instead of saying, "It is considered that the defendant have and recover of the plaintiff." In using the word "judgment," the justice has included the more technical and formal words. His language is sufficiently certain, at least, as much so, as if a jury should say, "We find for the defendant." Judgment affirmed.

² [Reported by Samuel H. Hempstead, Esq.]