

Case No. 4,525.

{Hempst. 703.}¹

ERWIN v. CUMMINS.

Circuit Court, D. Arkansas.

April, 1855.

MARSHAL'S COMMISSIONS—COSTS.

1. Where property is not sold, nor money made nor received by the marshal on execution, he is not entitled to half commissions.
2. Taxation of costs reformed on motion.

{This was a suit by James Erwin, to the use of James Shelby, against Ebenezer Cummins, as administrator of William Cummins, deceased.} Heard on motion to retax costs.

P. Trapnall, for motion.

RINGO, District Judge. There was no legal authority for any charge of half commissions by the marshal when no property was sold or money made or received by him on execution, at any time from the 26th of February to the second Monday of April, 1849. Therefore the item of one hundred and two dollars and eighty cents charged by and taxed in favor of the marshal, on the execution, as half commissions on ten thousand and eighty dollars, the amount of the judgment and interest specified in the execution, as improperly and illegally charged and taxed as costs, and must be disallowed and stricken from the bill of costs, and the taxation thereof reformed in that respect. Ordered accordingly.

¹ [Reported by Samuel H. Hempstead, Esq.]