

## MURPHY v. BYRD.

[Hempst. 211.]<sup>1</sup>

Superior Court, Territory of Arkansas. Jan., 1833.

APPEAL—TERRITORIAL COURTS OF  
ARKANSAS—SUM UNDER ONE HUNDRED  
DOLLARS.

An appeal does not lie to the superior court in cases where the sum in controversy is less than one hundred dollars.

Appeal from Conway circuit court.

[This was a suit by Benjamin Murphy against Richard C. Byrd.]

Before JOHNSON, ESKRIDGE, and CLAYTON, JJ.

OPINION OF THE COURT. This is an appeal from the Conway circuit court, and a motion has been made by the appellee to dismiss it on the ground that the sum in controversy between the parties being under one hundred dollars, the appeal was improperly granted, and this court has not jurisdiction. Whether this court has jurisdiction in cases in which the sum in controversy in the court below is under one hundred dollars, depends upon a proper construction of the several acts on the subject. The act of 1807, (Geyer's Dig. § 54, p. 261,) the act of congress of 1812, (Geyer's Dig. p. 34,) and the organic law of Arkansas, (Acts of 1818,) all in substantially the same language, provide that the superior court shall have appellate jurisdiction in all civil cases in which the amount in controversy shall be one hundred dollars or upwards 1033 The language of the several acts cited are too plain to admit of a doubt. It is manifest that this court has not jurisdiction by appeal when the sum in controversy is under one hundred dollars. But it is contended that the act of congress of the 17th of April, 1828 [Bioren & Duane's Laws, vol. 8, p. 34], gives an appeal to

this court in all cases without regard to the amount in controversy. The language of the act is, that “the party aggrieved shall be at liberty, by appeal, writ of error, or certiorari, to remove his suit to the superior court for further trial.” This language, it is true, is very broad, but it is not incompatible with the provisions of the several acts before cited, and cannot be understood as having repealed them. The object of the act of 1828 was to legalize certain acts of the legislature of Arkansas, and to provide for the appointment of a fourth judge for this territory; and though the appellate jurisdiction of this court is provided for, it could not have been the intention of congress to repeal the act of 1807 regulating appeals, nor could it have been designed to repeal the provisions of the acts of 1812 and 1818 fixing the jurisdiction of this court in cases of appeal. This appeal must be dismissed. This court is governed in its proceedings by the rules of the common law and the act of 1807. The act of 1807 expressly allows a writ of error, as a matter of right, Cases in which the sum in controversy is less than one hundred dollars, may be brought to this court by writ of error, but not by appeal. Geyer’s Dig. 263. Appeal dismissed.

{For another action between the same parties, see Case No. 9,947b.}

<sup>1</sup> [Reported by Samuel H. Hempstead, Esq.]

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