

SEARCY v. HOGAN.

[Hempst. 20.]¹

Superior Court, Territory of Arkansas. April, 1823.

APPEALS—EXCEPTIONS TAKEN—COURT NOT OF RECORD.

1. Where it does not appear that exceptions were taken, the appellate court, which tries the case on the record alone, will presume the judgment to be correct.
2. The superior court can only entertain a writ of error issued to, or an appeal from, a court of record.
3. The court of a justice of the peace is not a court of record.

Appeal.

[This was an action by Richard Searcy against Edmund Hogan.]

Before JOHNSON and SCOTT, JJ.

OPINION OF THE COURT. In this case, the court have to be governed exclusively by the record; and as nothing appears on the face of it to show that any exceptions were taken, it is to be presumed that the judgment is regular and correct. The suggestion of counsel, "that this court has exclusive appellate jurisdiction in all cases where the sum in controversy shall amount to one hundred dollars, and that the circuit court cannot take cognizance of such cases," we cannot admit as correct. To adopt that doctrine, would render almost useless an intermediate court between justices of the peace and this tribunal, and would destroy the beneficial effects derivable from an appeal; since we only try upon the record, and the court below upon the merits. This court can only entertain an appeal or writ of error from a court of record, which a justice's court is not. Affirmed.

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

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