

DOW et al. v. UNITED STATES.

(Circuit Court of Appeals, Eighth Circuit. June 21, 1897.)

No. 922.

CERTIORARI TO PERFECT RECORD.

In Error to the District Court of the United States for the District of Colorado. Motion for a writ of certiorari. Denied.

Greeley W. Whitford and Henry V. Johnson, for the motion.

Before SANBORN, Circuit Judge, and LOCHREN, District Judge.

PER CURIAM. The motion of the defendant in error for a writ of certiorari to the court below for the purpose of perfecting the record herein is denied, (1) because it does not appear from the moving papers that the portions of the evidence which the defendant in error seeks to have returned to this court form a part of the bill of exceptions in the case; (2) because it appears from the motion papers that the absence of the evidence can be of no disadvantage to the defendant in error, since it seeks to sustain the ruling of the court admitting the evidence, which is omitted, and submitting the case to the jury, and the appellate court will presume that the ruling of the trial court upon these questions was right, unless the evidence admitted by its ruling appears in the printed record.

FARMERS' LOAN & TRUST CO. v. OREGON IMP. CO. (Circuit Court of Appeals, Ninth Circuit. June 1, 1896.) No. 234. Appeal from the Circuit Court of the United States for the District of Oregon. Dolph, Mallory, Simon & Strahan and Dolph, Nixon & Dolph, for appellant. A. F. Burleigh, Zera Snow, and Milton W. Smith, for appellee. No opinion. Dismissed after argument.

FARMERS' LOAN & TRUST CO. v. OTIS. (Circuit Court of Appeals, Ninth Circuit. June 1, 1896.) No. 279. Appeal from the Circuit Court of the United States for the Northern Division of the District of Washington. Dolph, Mallory & Simon, for appellant. Zera Snow and H. M. Herman, for appellee. No opinion. Dismissed by agreement, pursuant to the twentieth rule.

FRANKLIN v. UNION LOAN & TRUST CO. (Circuit Court of Appeals, Ninth Circuit. October 29, 1894.) No. 129. Appeal from the Circuit Court of the United States for the Southern District of California. Charles D. Houghton, for appellant. Edwin Lamme, R. E. Houghton, and W. J. Curtis, for appellee. No opinion. By consent the decree entered upon the appeal in Southern California Motor-Road Co. v. Union Loan & Trust Co., 29 U. S. App. 110, 12 C. C. A. 215, and 64 Fed. 450, stands against the appellant in this appeal.

GILLINGHAM et al. v. MILLIGAN et al. (Circuit Court of Appeals, Sixth Circuit. May 17, 1897.) No. 496. Appeal from the Circuit Court of the United States for the Eastern District of Tennessee. Templeton & Cates, for appellant. No opinion. Dismissed for failure to print record, pursuant to the twenty-third rule.

GREEN et al. v. AMERICAN SODA-FOUNTAIN CO. (Circuit Court of Appeals, Third Circuit. March 4, 1897.) Appeal from the Circuit Court of the United States for the Eastern District of Pennsylvania. Counsel for appellants

requested to have taxed, as part of the costs for printing, the bill of Alfred M. Slocum Company for reprinting complainant's record; and under rule 23 this was disallowed, to which order counsel for appellants duly excepted. Strawbridge & Taylor, for appellants. Joshua Pusey, for appellee.

PER CURIAM. Under the circumstances of the case, which we do not think it necessary to state, as counsel have not differed respecting the facts, we are of opinion that the conclusion reached by the clerk of this court upon the contested question of costs is right, and accordingly his taxation of the costs is confirmed.

HUNT v. FARMERS' LOAN & TRUST CO. (Circuit Court of Appeals, Ninth Circuit, June 4, 1896.) No. 269. In Error to the Circuit Court of the United States for the District of Oregon. William L. Brewster, for plaintiff in error. L. L. McArthur, for defendant in error. No opinion. Dismissed by agreement, pursuant to the twentieth rule.

INTERSTATE COMMERCE COMMISSION v. ATCHISON, T. & S. F. R. CO. (Circuit Court of Appeals, Ninth Circuit, June 1, 1896.) No. 93. Appeal from the Circuit Court of the United States for the Southern District of California. No opinion. Dismissed on motion of Henry S. Foote, United States attorney, for appellant. See 50 Fed. 295.

LEAVENWORTH COAL CO. v. UNITED STATES. (Circuit Court of Appeals, Eighth Circuit, March 1, 1897.) No. 628. Appeal from the Circuit Court of the United States for the District of Kansas. Robert Crozier, Lucien Baker, and William C. Hook, for appellant. W. C. Perry, U. S. Dist. Atty. No opinion. Reversed in part and affirmed in part, by consent of parties, pursuant to compromise.

MCPECK v. CENTRAL VERMONT R. CO. (Circuit Court of Appeals, First Circuit, June 19, 1897.) No. 187. In Error to the Circuit Court of the United States for the District of Massachusetts. This was an action by Henry McPeck against the Central Vermont Railroad Company to recover damages for personal injuries. The court directed a verdict for defendant, and plaintiff sued out a writ of error. The judgment of the circuit court was affirmed (79 Fed. 590), and plaintiff now petitions for the right to file in the circuit court a motion for a new trial, and to be heard thereon, etc. Before COLT and PUTNAM, Circuit Judges, and WEBB, District Judge. No opinion. Petition denied.

MARKHAM et al. v. DAISY MANUF'G CO. (Circuit Court of Appeals, Sixth Circuit, May 18, 1897.) No. 487. Appeal from the Circuit Court of the United States for the Eastern District of Michigan. James Whittemore and Edward Rector, for appellants. Charles H. Fisk, for appellee. No opinion. Decree reversed and bill ordered dismissed.

NATIONAL HARROW CO. v. HENCH et al. (Circuit Court of Appeals, Third Circuit, March 24, 1897.) Appeal from the Circuit Court of the United States for the Eastern District of Pennsylvania. No opinion. Dismissed pursuant to the twenty-third rule. See 76 Fed. 667.