CITY OF ANNISTON v. SAFE-DEPOSIT & TRUST CO. OF BALTIMORE.

(Circuit Court of Appeals, Fifth Circuit. February 1, 1898.)

No. 612.

1. CODE PLEADING—DEMURRER—WAIVER.
Under the Alabama Code, when a complaint is amended after the overruling of a demurrer thereto, a failure to refile the demurrer is a waiver thereof, so that no advantage can be taken of it on appeal.

2. APPEAL—ASSIGNMENTS OF ERROR.
Where a demurrer based on several different grounds is overruled, a mere general assignment that the court erred in overruling the demurrer, without specifying any particular ground of demurrer as wrongly ruled, is not sufficiently specific.

In Error to the Circuit Court of the United States for the Northern District of Alabama.

This was an action at law by the Safe-Deposit & Trust Company of Baltimore against the city of Anniston to recover on interest coupons of municipal bonds. There was judgment for plaintiff in the court below, and the defendant sued out this writ of error.

John Pelham and Thomas W. Coleman, for plaintiff in error.

J. J. Willett, for defendant in error.

Before PARDEE and McCORMICK, Circuit Judges, and SWAYNE, District Judge.

PER CURIAM. The question sought to be presented in this case is one of pleading under the Alabama Code. The plaintiff below filed a shorthand complaint to recover on 147 past-due coupons for semiannual interest on bonded indebtedness of the city of Anniston. To this complaint the defendant demurred on nine different grounds, principally complaining of misjoinder and general want of description of the instruments sued on. This demurrer was overruled, and thereupon the plaintiff took leave to amend by the addition of a second count, which was a declaration on 225 other coupons, for which judgment was also claimed against the city of Anniston. Without refiling the demurrer to the complaint, the defendant pleaded the general issue. On the trial there was no defense offered, and a judgment for the plaintiff was entered on full proof and without opposition. The error assigned and relied on in this court is that the trial court erred in overruling the defendant's demurrer, the assignment not specifying any particular cause of demurrer as wrongly ruled. The demurrer was properly overruled. It was waived because not refiled after amendment to the complaint, and by pleading over without objection reserved. The assignment of error is not sufficiently specific to be in accordance with our rule 11, and an inspection of the record fails to show any meritorious defense to the action. The judgment of the circuit court is affirmed.

UNITED STATES ex rel. HALLETT v. GREEN.

(Circuit Court, D. Colorado. March 23, 1898.)

1. DISBARMENT OF ATTORNEY—LIBEL IN BRIEF—POWER OF CIRCUIT COURT.
An attorney who writes, files, and publishes in the court of appeals a brief containing that which amounts, in law, to a false, scandalous, and malicious libel upon presiding judges of the circuit court, may be disbarred therefor by the circuit court.

2. SAME—REAFFIRMING LIBEL—ADEQUATE PUNISHMENT.
Where an attorney, in his official character, has written and published a false, scandalous, and malicious libel upon a judge of the court of which he is a sworn officer, and, when called upon to show cause why he should not be disbarred therefor, reaffirms such libel both in written answer and oral argument, there is no punishment the court can inflict that will afford an adequate remedy but disbarment.

3. SAME—STATE AND FEDERAL COURTS.
When the highest court of a state has revoked an attorney's license to practice, it ought to follow, as a matter of course, that his license should be revoked in the federal courts of that state.

Henry V. Johnson and Greeley W. Whitford, U. S. Atty., for complainant.

Thomas A. Green and J. M. Washburn, for defendant.

CARLAND, District Judge. This is a proceeding to disbar the defendant, Thomas A. Green, from practicing as an attorney at law or solicitor in chancery in the circuit court of the United States for the district of Colorado. The information filed by the relator charges that the said defendant, Thomas A. Green, did, on the 5th day of February, A. D. 1896, file in this court an amended bill of complaint in a case wherein Thomas D. Kelley et al. were complainants and Charles Boettcher et al. were defendants, in which said amended bill there was scandalous and contemptuous matter. The matter set forth in the information as being scandalous and contemptuous in said amended bill of complaint will be found in the case of Kelley v. Boettcher, 27 C. C. A. 177, 82 Fed. 795, and in Kelley v. Boettcher, 85 Fed. 55, and no useful purpose can be served by again repeating the same in this opinion. The information also charges that the defendant, on the 31st day of July, 1897, filed two certain briefs in two certain causes pending in the United States circuit court of appeals for the Eighth circuit, numbered, respectively, on the docket of said court, "870" and "871," and entitled, respectively, "Thomas D. Kelley et al. vs. Charles Boettcher et al.," "Michael Curran et al. vs. John F. Campion et al.," and on August 11, 1897, filed a brief in a certain other cause in said circuit court of appeals, numbered "872," and entitled "James H. Donovan et al. vs. John F. Campion et al.," in which said briefs said Thomas A. Green inserted certain scandalous and contemptuous matter, which is set out in full in said information. The language set out in the information as having been inserted in the briefs filed in the court of appeals for the Eighth judicial circuit is referred to and characterized in Kelley v. Boettcher, 27 C. C. A. 177, 82 Fed. 796. For the insertion of the scandalous and contemptuous matter in the amended bill filed in this court, this court struck the bill from the files, and in its action in so doing was