

Opinion of the Court.

WATERVILLE *v.* VAN SLYKE.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF KANSAS.

Submitted November 2, 1885.—Decided November 9, 1885.

In order to get a decision on a motion to dismiss, made before printing, the motion papers must present the case in a way which will enable the court to act understandingly without reference to the transcript on file.

*National Bank v. Insurance Co.*, 100 U. S. 43, followed.

This was a motion to dismiss made before the printing of the record.

*Mr. S. E. Brown* for the motion.

*Mr. E. Stillings* opposing.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

The judgment in this case is for less than five thousand dollars, but the record contains a certificate of division. The motion to dismiss is "on the ground that this court has no jurisdiction upon such a certificate as is filed herein." The record has not been printed, and in *National Bank v. Insurance Co.*, 100 U. S. 43, we announced the rule that to get a decision on a motion to dismiss before printing, the motion papers must present the case in a way which will enable us to act understandingly without referring to the transcript on file. In this case we have not been furnished either with a copy of the certificate on which the motion depends or with an agreed statement of what it contains. In fact, there is nothing on which we can act unless we go to the transcript.

*The further consideration of the motion is consequently postponed until the case is for hearing on its merits.*