

Opinion of the Court.

Service was had on the attorneys for Crabtree on September 16, 1885. The time intervening between the date of service and the return of the citation was less than thirty days, and the notice to the defendant in error, Crabtree, was not sufficient. Rev. Stat. § 999.

Mr. O. D. Barrett opposing: The facts stated in the motion show that plaintiffs in error have fully complied with the fifth section of the eighth rule of this court, which simply provides that the citation be served *before* the return day of the writ. It was so served.

MR. JUSTICE MILLER: This is a motion to dismiss, the ground for which is that the citation was served and made returnable less than thirty days after the writ was granted. We do not think that is a sufficient ground to dismiss the writ of error, whatever may be the ground for relief.

HUNT *v.* BLACKBURN.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

No. 199. Submitted April 2, 1888. — Decided April 9, 1888. — Motion to reinstate submitted April 26, 1888. — Ordered continued April 30, 1888.

A cause under submission having been dismissed by the court of its own motion for want of jurisdictional amount, the appellant moves to reinstate and submits affidavits. The court orders the motion continued, with leave to each party to file further affidavits.

THE case is stated in the opinion.

Mr. J. B. Haskell for appellant.

No appearance for appellee.

MR. JUSTICE MILLER: After an examination of the record in this case, which was submitted on printed arguments, we

Syllabus.

have not been able to find any evidence of the value of the land in controversy, which is the subject of this suit. It is therefore

Dismissed for want of jurisdiction.

Mr. Haskell, on the 26th April, 1888, submitted a motion to reinstate the cause, accompanied by affidavits of the value of the property in dispute.

No appearance for opposition.

MR. JUSTICE MILLER: This case was dismissed by the court on April 9, 1888, because there was no evidence of there being a sufficient amount in controversy to give this court jurisdiction. A motion is now made to reinstate it, and affidavits submitted on the part of the appellant intended to show that the value of the land in controversy is over \$5000. Although notice was given to the opposite party by telegraph, there has been no sufficient opportunity or time for them to produce counter affidavits, nor are we entirely satisfied with the sufficiency of those produced by the appellant. This motion to reinstate the case is, therefore, continued until the next term of the court, with leave for either party to file additional affidavits on this subject.

MARCHAND *v.* LIVANDAIS.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

No. 1077. Submitted January 4, 1888.—Decided April 16, 1888.

A *feme covert* was sued in Louisiana to recover upon notes said to have been executed by her with the authority and consent of her husband. The husband was made a party to the suit under the Code, although without interest in the suit. Judgment being given for defendant, the plaintiff sued out a writ of error against the wife only, but serving it on the husband also. On motion by defendant in error to dismiss the writ: *Held*, that the motion should be denied.