

National Life Insurance Co. v. Scheffer.

Upon the question thus presented the judges differ in opinion. The court, therefore, orders an oral argument upon it.

The submission on briefs is accordingly set aside and the cause restored to its place on the calendar.

Mr. Robert Mott, Mr. Thomas J. Semmes and Mr. Henry B. Kelly for plaintiffs in error. *Mr. E. Howard McCaleb and Mr. Henry C. Miller* for defendants in error.

This case was argued and decided at October Term, 1883. See 109 U. S. 285.

NATIONAL LIFE INSURANCE COMPANY v. SCHEFFER.

ERROR TO THE SUPREME COURT OF THE STATE OF MINNESOTA.

No. 273. October Term, 1881. — Decided April 24, 1882.

A record in a state court which shows a verdict and motion for new trial overruled, but no judgment on the verdict, shows no final judgment to which a writ of error may be directed.

THE case is stated in the opinion.

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

A majority of the court is of opinion that there has been no final judgment below in this case. Upon the trial in the District Court of Ramsey County, a verdict was rendered in favor of the plaintiff. Before any judgment was entered on this verdict, a motion was made for a new trial. This motion was overruled and thereupon an appeal was taken to the Supreme Court of the State from "the order . . . denying the application for a new trial." The judgment on this appeal is as follows: "Pursuant to an order of court duly made and entered in this cause on the 21st of March, 1879, it is here and hereby determined and adjudged that the order herein appealed from, to wit, of the District Court of the second judicial district, sitting within and for the county of Ramsey, be and the same hereby is in all things affirmed." Then follows a judgment for costs in the Supreme Court. No further proceedings appear to have been had in either court, and the record consequently shows a verdict and motion for new trial overruled, but no judgment on the verdict. It follows that the writ of error must be

Dismissed.

Mr. Isaac N. Arnold, Mr. Van H. Higgins and Mr. Leonard Swett for plaintiffs in error. *Mr. E. C. Palmer* for defendants in error.