

Florida *v.* Anderson.

TREAT *v.* JEMISON.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

No. 721. October Term, 1874. — Decided April 5, 1875.

When a judgment of affirmance is entered on motion under the rules, it will not be set aside and a rehearing ordered if the court is satisfied that the judgment below would be affirmed on the rehearing, if one were granted.

THIS was a motion to set aside the judgment reported in 20 Wall. 652. The case is stated in the opinion.

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

Before affirming the judgment presented by this record, we carefully examined the arguments submitted by counsel, although not in conformity with Rule 21, and considered the case upon its merits. Being entirely satisfied that the judgment of the court below ought to be affirmed, and not deeming it necessary to discuss in an opinion the several questions presented for our determination, we availed ourselves of the opportunity to call the attention of the bar specially to the new rule as to the form of briefs, which, if adhered to, will, we think, be of great service to counsel as well as the court.

The reason assigned for setting aside the judgment of affirmance and for leave to file a new brief, are such as would certainly have induced us to grant the motion, if it were necessary for a correct decision of the case. The questions involved were all fairly and ably presented by the arguments submitted on both sides. Since this motion we have again examined the case, and are confirmed in our original opinion.

For the reason, therefore, that the judgment must be affirmed if a further hearing is granted, this motion to set aside the order of affirmance already entered, is

*Denied.*

Mr. M. Blair for the motion. No one opposing.

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FLORIDA *v.* ANDERSON.

ORIGINAL.

No. 3. Original. October Term, 1875. A question in the case made October 7, 1876. — Decided December 11, 1876.

The clerk of this court, when money paid into court is put in his custody, is entitled to a fee of one per cent of the amount.

The court orders the balance of the fund paid to the State of Florida.