

Ray Talk, Plaintiff

In the Circuit Court
Baldwin County, Alabama, Spring Term 1912

VS

John R. Smith, Defendant.

John R. Smith Claimant,

Now comes the Claimant in the above stated case and moves the Court to set aside the verdict and grant a new trial, and for grounds of said motion, sets out the following:

1st. Because the verdict was contrary to the evidence.

2nd. Because the verdict was contrary to the law and the evidence.

3rd. Because the Court erred in admitting in evidence against the objection of the claimant, what purported to be the levy by the ~~execution by the~~ Sheriff of an execution on the property claimed by the claimant.

4th. Because the *Venditioni offonas* ~~Pieri~~ ^{before whom the case was tried} ~~Justice of the Peace~~ issued by the Justice of the Peace on March 18th 1912, on which the Sheriff has made return that he levied the same on the ^{personal property} claimed by the claimant in this case, did not authorize the Sheriff to make such levy.

~~5th. Because the original papers were by the Justice of the Peace shown that the property~~

5th. Because ~~the said return by the~~ the said return by the Sheriff of the levy of said execution, had no existence when this case was tried before Justice George W. Burns on March 30th 1912, when the judgment was rendered by said Justice from ^{Court} whose the appeal was taken in this case.

6th. Because the return of a levy by the Sheriff under an execution issued in the case of *Ray Talk* Plaintiff, VS. John R. Smith, Defendant, on May 18th 1912, was not one of the original papers of the cause, when the Trial of the Right of Property

~~was~~ between the movant in this motion, as Claimant, and *Ray Talk* as plaintiff was tried before said Justice of the Peace, from which the appeal in this case was taken

and it is a fraud upon this claimant for return to be placed in this record as one of the original papers in the cause.

7. *John R. Smith* Claimant.

in each of these Cases
Motion, overruled &
Mortant except, separately
A. E. Gaudin
Judge

Filed May 30th 1912
J. W. L. Clerk

7th. Because the plaintiff should not be allowed to recover in a claim suit, as this is, when it is shown to the Court that the original attachment under which the property was taken from the defendant was void.

8th. Because the Claimant was taken by surprise by the offer in evidence by the plaintiff of the return of the Sheriff of the levy of an execution, on the property involved in the suit, when on the trial of The Right of Property before the Justice of the Peace, from whose judgment the appeal was taken, the only levy appearing in the papers or offered in evidence was the levy of the Attachment.

Leslie Hall Esq.,

Contra.

Wm. H. Stouck
.....
Wm. A. Anderson
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For Motion.

The same motion is made in the cases of

732 Ray Tuck Plaintiff
" John R. Smith Defendant
J. Lacy Smith Claimant

738 John Tuck, Plaintiff
" John R. Tuck Defendant
Phibbe Smith Claimant

739 John Tuck, Plaintiff
" John R. Smith Defendant
J. Lacy Smith Claimant

736 Dolly Mullins Plaintiff
" John R. Smith Defendant
Phibbe Smith Claimant

737 Dolly Mullins, Plaintiff
" John R. Smith Defendant
J. Lacy Smith Claimant

734 John Mullins, Plaintiff
" John R. Smith Defendant
J. Lacy Smith Claimant

735 John Mullins, Plaintiff
" John R. Smith Defendant
Phibbe Smith Claimant

741 W. J. Allen, Plaintiff
" John R. Smith Defendant
J. Lacy Smith Claimant

740 W. J. Allen, Plaintiff
" John R. Smith Defendant
Phibbe Smith Claimant

in each of these cases
motion, overruled &
necant ex cpts, separately.
A. C. Gable,
Judge —