

No. 12964

Supreme Court of Illinois

Cole

vs.

Schubley

71641  7

Amirco, J. Cole

⁴⁰
Stems, H. Schumley

to the Supreme Court

M; for Execution.

Suggestions

I am not aware that there is any published rule of Court, or any provision of the Statute prohibiting an Execution issuing immediately upon the Rendition of the Judgment.

The Execution is the fruit of the Judgment, and unless some rule, either of convenience or propriety, intervenes to prohibit it - The Judgment Creditor is entitled to his Execution at once. My impression is, though upon this Subject I am not fully advised; that the practice of withholding the Execution until the adjournment of Court was adopted because of inconvenience to the Clerk in marking up fees during the Session of the Court - for the further Reason that the Judgment might possibly be changed or some new order made therein during the term - Neither of these Reasons

are applicable to a case like this. The
Dismissal of an appeal - and when the
Court is willing to issue the writ &
there is no reasonable probability that
any change can be made in ^{the} Judgment
If so the Execution can be recalled.

The Affidavit states all I know
upon the subject, a few days since
while conversing ~~on~~ ^{with} the subject of
the collection of this claim with a person
from Peoria he told me it was rumored
that Cole was putting his property &c in
a position where no debts could be collected
of him - My attention being called to some
other matter I had no further conversation
upon the subject - I can therefore say nothing
more than I have already stated in the
affidavit - It being as I understand a
matter of discretion purely with the
Court; I do not see how any person
can be injured by allowing the motion,
and hope the Court may be inclined to
do so.

J. M. Puffer

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Almida, C. Cole

James H. Schaubly

Motion for Execution

Suggestions

People

Cole
Mr.

Schaubly

Filed May 2 1860

L. Leland

Clerk

Damages \$84.24

12964