

13823

No. _____

Supreme Court of Illinois

Gurley

vs.

Aiken

Supreme Court of the State of Illinois
Of the April Term 1860

Jason Gentry, Appellants }
+ William W King }
Edmund Aiken & }
John D Horton } Appellees }
Superior Court
of Chicago

And the said Appellees by Jesse B Thomas
their attorney, come, and apply to the Court for
an order permitting the record in said cause to be
filed, as an appeal, and for leave to confess the
errors assigned thereon, and consent to the reversal
of the judgment, and remanding of said cause

Jesse B Thomas
Atty for Appellees

The appeal in the above cause was prayed March 14th
1860, and perfected in accordance with the order of the
Court - but the record sent to the Clerk of this Court
reached here too late to be filed, within the prescribed
time -

The record shows errors, which are assigned thereon, sufficient to reverse the judgment, the Clerk having failed to record the occurring
of a demurrer by the Court - and a default appearing to
have been entered while such demurrer was undisposed of
A dismissal of the appeal would therefore leave the

case open for a writ of error, and supersedeas, and
the appellee be delayed one year in obtaining a
perfect judgment.

The provision of the Statute ~~authorizing~~ requiring
the record to be filed by the appellant by the third
day of the term, ^{or that the appeal be dismissed with damages} is manifestly for the benefit of
the appellee, and he may waive his right to such
dismissal, and consent to the docketing of the appeal,

Scatter Corp., p 264 Sec 48

Any objection based on the rules of this court is obviated by the consent to docketing
^{without a hearing}
The appeal having been here prayed and allowed, and
the appellees thus prevented from obtaining a writ
of error to reverse their judgment at this term, the
negligence of the appellant in filing the record in
time ought not to operate in his own favor,
by delaying the award of the erroneous judgment.

Joseph B. Norman
Atty for Appellees

394

Supreme Court

Jason Gurley
~~vs~~ ^{vs} ~~app~~ ^{app}

vs
C. McKew
~~vs~~ ^{vs} ~~app~~ ^{app}

Application for leave
to file record and
consent to reversal of
judgt

Res. 27th

Filed May 14. 1860.
L. Deland
Clerk

13825
J. P. Morris
atly for appellor