as aforesaid by his attorney aforesaid prays that a day may be given to him to join in the errors by the said John Kimberly of Michael above assigned in the record of proceedings aforesaid until the first monday in December next and to him it is granted the same day is also given to the said John Kimberly of Michael.

At which said first monday in December being the seventh day of the said month in the year of our Lord one thousand eight hundred and eighteen which said day was given to the said John Denn lessee as aforesaid to join in the errors by the said John Kimberly of Michael above assigned come again into the court of appeals here the parties aforesaid by their attornies aforesaid; and the said John Denn lessee as aforesaid by his attorney aforesaid says there is no error in the record of proceedings aforesaid nor in the giving of the judgment aforesaid and he prays that the court of appeals here will proceed to the examination as well of the record of proceedings aforesaid as of the matters aforesaid by the said John Kimberly of Michael above for error assigned and that the said judgment may be in all things affirmed, and so forth. But because the court of Appeals here are not advised what judgment to give of and upon the premises day therefore is given to the parties aforesaid before the court of appeals here until the second monday in June next, to hear the judgment of the court of appeals here of and upon the premises, for that the court of appeals now here thereof are not advised and so forth.

At which said second monday in June being the fourteenth day of the said month, in the year of our Lord one thousand eight hundred and nineteen come again into the court of appeals here as well the said John Kimberly of Michael by Roger Perry and Rene S Pigman his attornies as the said John Denn lessee as aforesaid by his attorney aforesaid and because the court of appeals here are not advised what judgment to give of and upon the premises day therefore is further given to the parties aforesaid before the court of appeals here until the first monday in December next there then to hear the judgment of the court of appeals here of and upon the said premises and so forth.

And now at this day, to wit, the said first monday in December being the sixth day of the said month, in the year of our Lord one thousand eight hundred and nineteen come again into the court of appeals here the parties aforesaid by their attornies aforesaid; and the said John Denn lessee as aforesaid by his attorney aforesaid offers himself against the said John Kimberly of Michael of and upon the premises and prays that the court of appeals here, will proceed to the examination as well of the record of proceedings aforesaid as of the matters above for error assigned; and that the said judgment may be in all things affirmed and so forth, and forasmuch as the said John Kimberly of Michael doth not allege to the court of appeals here any matter or thing for the reversal of the Judgment aforesaid nor insist upon the matters aforesaid by him above for error assigned: Therefore it is considered by the court of appeals here, that the Judgment aforesaid in form aforesaid given, be in all things affirmed, and stand in full force and effect the said causes above for error assigned, in any wise notwithstanding; and it is further considered by the court of appeals here that the said John Denn lessee as aforesaid have his possession against the said John Kimberly of Michael for his term aforesaid yet to come of in and to the said lot or parcel of plantable land aforesaid and execution against the said John Kimberly of Michael as well for the damages costs and charges aforesaid so as aforesaid adjudged unto him in the said county court of Allegany as also for the sum of forty three dollars and fifty nine cents adjudged unto him by the court of appeals on his appeal for his costs and charges which he hath sustained by occasion of the delay of the execution of the judgment aforesaid by pretext of the prosecution of the said appeal by the said John Kimberly of Michael for the correcting of errors of and upon the premises as aforesaid prosecuted and so forth.

Memorandum. Judgment affirmed nisi in this case and made absolute on the fifteenth day of December 1819. for possession of in and to that lot or parcel of plantable land situate lying and being in Bealls first addition to Cumberland and known and distinguished on the plot of the Town of Cumberland by lot number thirty two lying and being in the County aforesaid and one cent damages and also the sum of fifty one dollars and fifteen and two thirds cents costs in the County court and the sum of forty three dollars and fifty nine cents costs in the Court of appeals

Test Th Harris clk