Demarrias Vs. Poitra

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SooperKanoon Citation : sooperkanoon.com/103857

Court : US Supreme Court

Decided On : 1975

Appeal No. : 421 U.S. 934

Appellant : Demarrias

Respondent : Poitra

Judgement :

DEMARRIAS v. POITRA - 421 U.S. 934 (1975)
U.S. Supreme Court DEMARRIAS v. POITRA , 421 U.S. 934 (1975)

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Donald DEMARRIAS
v.
Mary POITRA, as mother and surviving parent of Richard A. Primeaux.
No. 74-783.

Supreme Court of the United States

April 21, 1975

On petition for writ of certiorari to the United States Court of Appeals for the Eighth Circuit.

The motion of the Standing Rock Sioux Tribe for leave to file a brief, as amicus curiae, is granted. The petition for a writ of certiorari is denied.

Mr. Justice WHITE, dissenting.

Petitioner and respondent are both enrolled Indians residing on the Standing Rock Sioux Indian Reservation, a reservation which straddles the border of North and South Dakota. Petitioner is resident in the portion of the reservation in South Dakota, and respondent lives within that portion in North Dakota. This ligigation arose from an automobile accident occurring on the Reservation in North Dakota. Respondent's son was injured by a car

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driven by petitioner and died as a result. Respondent brought this wrongful death action based upon North Dakota law in the Federal District Court, invoking its jurisdiction under 28 U.S.C. 1332(a). When petitioner failed to respond, the North Dakota Unsatisfied Judgment Fund appeared and moved to dismiss for lack of subject-matter jurisdiction.

The District Court, basing its decision upon Erie v. Tompkins, 304 U.S. 64 (1938), concluded that it did not have jurisdiction over respondent's suit. The Standing Rock Sioux Tribe had not consented to the jurisdiction of the North Dakota state courts, as required for the exercise of state court jurisdiction in civil suits between Indians under 25 U.S.C. 1322(a), and the state courts would not have jurisdiction over respondent's suit although based upon North Dakota substantive law. See Gourneau v. Smith, 207 N.W.2d 256 (N.D.1973). Viewing itself as another state court in diversity cases, the District Court concluded that it too could not entertain the suit. 369 F.Supp. 257 (N.D. 1973).

The Court of Appeals reversed. It concluded that there was no state policy involved in the absence of state-court jurisdiction over this type of litigation. The lack of jurisdiction arose from the federal requirement of consent by the Indians to such jurisdiction and the failure of the Tribe here to consent. The federal 'consent' statute, 25 U.S.C. 1322(a), was not intended to deprive Indians of state-created

substantive rights, but rather had as its purpose an effort to prevent the States from interfering with Indian affairs. See 502 F.2d 23 (CA8 1974).

The court below acknowledged that the Court of Appeals for the Ninth Circuit had in two decisions held that a district court could not exercise diversity jurisdiction in situations in which the state courts would not exercise

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subject-matter jurisdiction. See Hot Oil Service, Inc. v. Hall, 366 F.2d 295 (1966); Littell v. Nakai, 344 F.2d 486 (1965), cert. denied, 382 U.S. 986 (1966). It distinguished those decisions on the ground that each involved an effort to avoid interference, under the principle of Williams v. Lee, 358 U.S. 217 1959), with tribal self-government. In this case, in contrast, the suit involved a dispute between two Indian litigants, and there were no 'interfering outsiders . . . trying to foist jurisdiction on the Indians.' 502 F.2d, at 29.

The court below, however, misconstrued the role of the discussion of Williams v. Lee, supra, in the Ninth Circuit decisions. When those cases were decided, the question of whether the subject matter of the litigation was essential to tribal self-government was the key to whether state courts could exercise jurisdiction. See 358 U.S., at 223. Since its enactment in 1968, however, the 'consent' statute, 25 U.S.C. 1322(a) and 1326, provides an explicit procedure through which civil jurisdiction over Indians can be obtained by state courts. See McClanahan v. Arizona State Tax Comm'n, 411 U.S. 164 , 177-178d 129 (1973); Kennerly v. District Court of Montana, 400 U.S. 423 , 91 S. Ct. 480 (1971). It is conceded here that the subject matter of this suit, whether or not essential to tribal self-government, cannot be the basis for state-court jurisdiction. Therefore, the significant aspect of the Ninth Circuit decisions is their reliance upon Woods v. Interstate Realty Co., 337 U.S. 535 (1949). Extending that reliance to this case would result in a conclusion that the federal courts did not have jurisdiction.

The decisions of the Court of Appeals for the Eighth and Ninth Circuits are, therefore, squarely in conflict, and resolution of the conflict will require an appraisal

of the roles of the Erie v. Tompkins line of cases

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and of the federal legislation governing jurisdiction by state courts over Indians in this factual situation.

I would grant certiorari.

Mr. Justice DOUGLAS took no part in the consideration or decision of this motion and petition.