

Gordon Vs. Caldcleugh

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Court : US Supreme Court

Decided On : 1806

Appeal No. : 7 U.S. 268

Appellant : Gordon

Respondent : Caldcleugh

Judgement :

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ERROR TO THE JUDGES OF THE COURT OF

EQUITY OF THE STATE OF SOUTH CAROLINA

SYLLABUS

This Court has not jurisdiction upon a writ of error to a state court under the twenty-fifth section of the Judiciary Act of 1789 if the decision of the state court be in favor of the privilege claimed under an act of Congress.

James Gordon, "of the City of Charleston in the state aforesaid," filed a bill in equity against Caldcleugh & Boyd, "of London, in the Kingdom of Great Britain," William Muir, "of Hamburgh," and John Gillespie, George McKay, and Joseph Reid, whose residence is not mentioned in the bill. At the return of the subpoena, Caldcleugh, Boyd, and Reid appeared and filed a petition stating themselves to be aliens and subjects of the King of Great Britain and that the complainant was a citizen of the State of South Carolina and praying that the cause might be removed to the Circuit Court of the United according to the 12th section of the Judiciary Act of 1789. To which petition Gordon, the complainant, answered that the prayer thereof ought not to be granted because Gillespie and McKay, two of the defendants, were citizens of the State of South Carolina. But the court,

"after observing that the parties defendants to the suit, residing in this state, were stakeholders, and not materially concerned in the determination of the cause, ordered that it be transferred to the federal court, agreeable to the prayer of the petition."

The complainant immediately, in the same court, assigned errors, in the following form:

"Whereupon the said James Gordon comes and says that in the

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giving of the final judgment in the cause aforesaid upon the construction of the 12th clause or section of the statute of the United States entitled 'An act to establish the judicial courts of the United States,' passed 24 September, 1789, and 2d section of the 3d article of the Constitution of the United States, and the 12th article of the amendment of the Constitution, there is manifest error in this, to-wit, that the judgment aforesaid was given in form aforesaid, for the said Caldcleugh, Boyd, and Reid upon their petition for the removal of the said cause for trial into the Circuit Court of the United States to be held for the District of South Carolina, whereas judgment should have been given for the said James Gordon against the removal aforesaid, and this he is ready to verify."

Caldcleugh, Boyd, and Reid joined in error, and thus the case came up.

The writ of error did not state that the Court of Equity of the State of South Carolina, to the judges of which it was directed, was "the highest court of equity of the state in which a decision in the suit could be had," so as to bring the case within the provisions of the 25th section of the Judiciary Act of 1789, nor did that fact in any other manner appear.

MR. CHIEF JUSTICE MARSHALL, after stating the case, delivered the opinion of the Court.

This Court has no jurisdiction, under the 25th section of the Judiciary Act of 1789, but in a case where a final judgment or decree has been rendered in the highest court of law or equity of a state in which a decision in the suit could be had where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States and the decision is against their validity, &c.;, or where is drawn in question the construction of any clause of the Constitution or of a treaty or statute of or commission

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held under the United States and the decision is against the title, right, privilege, or exemption specially set up or claimed by either party under such clause of the said Constitution, treaty, statute, or commission.

In the present case, such of the defendants as were aliens filed a petition to remove the cause to the federal circuit court under the 12th section of the same act. The state court granted the prayer of the petition and ordered the cause to be removed; the decision therefore was not against the privilege claimed under the statute, and therefore this Court has no jurisdiction in the case.

The writ of error must be dismissed.