Randolph Vs. Donaldson

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Court : US Supreme Court

Decided On : 1815

Appeal No. : 13 U.S. 76

Appellant : Randolph

Respondent : Donaldson

Judgement :

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Randolph v. Donaldson

13 U.S. (9 Cranch) 76

ERROR TO THE CIRCUIT COURT

FOR THE DISTRICT OF VIRGINIA

SYLLABUS

Ifs debtor committed to the state jail under process from the courts of the United States escape, the marshal is not liable.

The act of Congress has limited the responsibility of the marshal to his own acts and the acts of his deputies. The keeper of a state jail is neither in fact nor in law the deputy of the marshal; he is not appointed by nor removable at the will of the marshal. When a prisoner is regularly committed to a state jail by the marshal, he is no longer in the custody of the marshal or controllable by him.

Error to the circuit court for the District of Virginia in an action of debt brought by Donaldson against Randolph, late marshal of that district, for the

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escape of one Baine, who being taken in execution by the deputy marshal, had been delivered over to the jailer of the state prison of Botetourt County, from whose custody he escaped.

The action was in the common form, and the defendant pleaded *nil debet,* upon which issue was joined.

Upon the trial, the defendant below took two bills of exception.

The first bill of exceptions sets forth the judgment and exception of Donaldson against Baine and the marshal's return of the execution in these words:

"Executed, and the defendant imprisoned in the jail of Botetourt 13 November, 1797, as per the jailer's receipt in my possession -- Samuel Holt, D.M. for David M. Randolph M.V.D."

It further sets forth the evidence of the fact that the original debtor, Baine, was seen at large,

"whereupon the counsel for the plaintiff prayed the court to instruct the jury that although the marshal, the defendant, by his deputy, had delivered the said original debtor, Baine, to the jailer of Botetourt County, where he was committed to jail, yet that the defendant was liable to the plaintiff for an escape, upon the discharge of the debtor by the said jailer, unless an escape warrant has been taken out, as the law directs; whereupon the court instructed the jury that in law the marshal would

be liable to the plaintiff if the said Baine escaped out of the said jail with the consent or through the negligence of the said jailer, as the act of the jailer was in that respect the act of the marshal. The court also instructed the jury that if the escape of the said Baine from the jail of the said county of Botetourt had taken place after the expiration of the time when the said David Meade Randolph was marshal of the Virginia district, he would be liable for such escape unless he shall prove that he had assigned over the said Baine to his successor in offense by a deed of assignment, or by an entry on the records of this Court that he had made such assignment according to an act of assembly of the Commonwealth of Virginia upon that subject entitled 'An act to reduce into one all acts and parts of acts relating to the appointment

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and duties of sheriffs.' The section of which act referred to in the instruction is in the following words:"

" XXII, and for removing all controversies touching the manner of turning over prisoners upon a sheriff's quitting his office, be it further enacted that the delivery of prisoners by indenture between the old sheriff and the new or the entering upon record in the county court the names of the several prisoners and causes of their commitment delivered over to the new sheriff shall be sufficient to discharge the late sheriff from all suits or actions for any escape that shall happen afterwards."

"To which opinion and instructions the defendant excepted."

The 2d bill of exceptions stated that

"The defendant offered evidence of the insolvency of Baine at the time of his imprisonment and discharge and moved the court to instruct the jury that if they were satisfied of the insolvency of Baine, and that Donaldson neither resided himself nor had any known agent in the County of Botetourt at the time of Baine's imprisonment and discharge, to whom notice might be given that he was insolvent and that security for the prison fees was required, that in these circumstances the jailer was legally justified in discharging him under the act of the General

Assembly of Virginia in such case made and provided. But the court was of opinion that in the application of this act of assembly to the case of a marshal, the whole District of Virginia was to be considered as his county, and it was sufficient if the said Donaldson had any such known agent in the district of Virginia, and so instructed the jury, to which opinion and instruction the defendant excepted."

The jury found a verdict in the following words:

"We of the jury find that the said Alexander Baine in the declaration mentioned did escape from the jail in the County of Botetourt, with the consent of the defendant, the then marshal of the Virginia District, as in the declaration is set forth, and therefore we find for the plaintiff the debt in the declaration mentioned and assess his damages to one thousand dollars. "

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Upon this verdict, judgment was rendered for the plaintiff and the defendant took his writ of error.

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STORY, J. delivered the opinion of the Court as follows:

This is an action of debt brought against the former Marshal of Virginia for an alleged willful and negligent escape of a judgment debtor. At the trial of the cause in the Circuit Court of Virginia, several exceptions were taken by the plaintiff in error to the opinions of the district judge who alone sat in the cause, and the validity of these exceptions is now to be considered by this Court.

The first exception presents the question whether an escape of a judgment debtor after a regular commitment under process of the United States courts to a state jail be an escape for which the marshal of the United States for the district is responsible.

Congress, by a resolution passed 23 September, 1789, 1 Laws U.S. 362, recommended to the several states to pass laws making it the duty of the keepers of their jails to receive and safe keep prisoners committed under the authority of the United States under like

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penalties as in the case of prisoners committed under the authority of such states respectively, and, by another resolution of 3 March, 1791, 1 Laws U.S. 357, authorized the marshals in the meantime to hire temporary jails. In pursuance of the former recommendation, the Legislature of Virginia, by the Act of 12 November, 1789, ch. 41, Revised Code 43, made it the duty of the keepers of the jails within the state to receive and keep prisoners arrested under the process of the United States, and for any neglect or failure of duty subjected them to like pains and penalties as in cases of prisoners committed under process of the state.

The Act of Congress of 24 September, 1789, ch. 20, § 27 and 28, authorizes the marshals of the several districts of the United States to appoint deputies and declares them responsible for the defaults and misfeasances in office of such deputies. But there is no provision in any act of Congress declaring the keepers of state jails *quoad* prisoners in custody under process of the United States to be deputies of the marshals, or making the latter liable for escapes committed by the negligence or malfeasance of the former. If, therefore, the marshals be so liable, it is an inference from the general powers and duties annexed to their office.

It is argued that the marshals are so liable because, in intendment of law, prisoners committed to state jails are still deemed to be in their custody, and in support of this argument is cited the provision in the act of Congress which makes the marshal, on the removal from on the expiration of his office, responsible for the delivery to his successor of all prisoners in his custody and authorizes him for that purpose to retain such prisoners in his custody until his successor is appointed. And this argument is further supported by its analogy to the case of sheriffs and by the extreme inconvenience which, it is asserted, would arise from a contrary doctrine.

The argument is not without weight, but upon mature consideration we are of opinion that it cannot prevail. The act of Congress has limited the responsibility of the marshal to his own acts and the acts of his deputies.

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The keeper of a state jail is neither in fact nor in law the deputy of the marshal. He is not appointed by nor removable at the will of the marshal. When a prisoner is regularly committed to a state jail by the marshal, he is no longer in the custody of the marshal nor controllable by him. The marshal has no authority to command or direct the keeper in respect to the nature of the imprisonment. The keeper becomes responsible for his own acts, and may expose himself by misconduct to the "pains and penalties" of the law. For certain purposes and to certain intents, the state jail lawfully used by the United States may be deemed to be the jail of the United States, and that keeper to be keeper of the United States. But this would no more make the marshal liable for his acts than for the acts of any other officer of the United States whose appointment is altogether independent. And in these respects there is a manifest difference between the case of a marshal and a sheriff. The sheriff is, in law, the keeper of the county jail, and the jailer is his deputy appointed and removable at his pleasure. He has the supervision and control of all the prisoners within the jail, and therefore is justly made responsible by law for all escapes occasioned by the negligence or willful misconduct of his under keeper.

On the whole, as neither the act of Congress nor the doctrine of the common law applicable to the case of principal and agent affects the marshal with responsibility for the escape of a prisoner regularly committed to the custody of the keeper of a state jail, we are all of opinion that the decision of the circuit court upon this point was erroneous, and that the judgment must be reversed.

This decision renders it unnecessary to consider the other points raised in the bills of exception.

Judgment reversed.