**The San Pedro**

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**Court** : US Supreme Court

**Decided On :** 1817

**Appeal No.** : 15 U.S. 132

**Appellant** : The San Pedro

**Judgement** :

The San Pedro - 15 U.S. 132 (1817)
U.S. Supreme Court The San Pedro, 15 U.S. 132 (1817)

**The San Pedro**

**15 U.S. 132**

*ERROR TO THE SUPERIOR COURT*

*OF THE MISSISSIPPI TERRITORY*

## SYLLABUS

Under the Judiciary Act of 24 September, 1789, ch. 20, and the Act of 3 March, 1803, ch. 93, causes of admiralty and maritime jurisdiction or in equity cannot be removed by writ of error from the circuit court for reexamination in the Supreme Court.

The appropriate mode of removing such causes is by appeal, and the rules,-regulations and restrictions contained in the twenty-second and twenty-third sections of the Judiciary Act respecting the time within which a writ of error shall be brought and in what instances it shall operate as a supersedeas -- the citation to the adverse party, the security to be given by the plaintiff in error for prosecuting his suit, and the restrictions upon the appellate court as to reversals in certain enumerated cases -- are applicable to appeals under the act of 1803, and are to be substantially observed, except that where the appeal is prayed at the same term when the decree or sentence is pronounced, a citation is not necessary.

This was a libel of information filed in that court against the schooner *San Pedro* and cargo, alleging 1st, that the *San Pedro* departed, on 1 February, 1813, from Mobile for the Island of Jamaica, a colony of Great Britain, in violation of the Embargo Act of 22 December, 1807, and the several acts supplementary thereto, of the nonintercourse act of 1 March, 1809, and of the laws of the United States; 2d, that sundry goods, wares, and merchandise were imported in the *San Pedro* into

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the District of Mobile on 1 May, 1813, from the said Island of Jamaica in violation of the nonintercourse act; 3d, that sundry goods, wares, and merchandise "were intended to be imported in the *San Pedro,* from the said Island of Jamaica into the United States and into the District of Mobile, contrary to the provisions of the nonintercourse act," &c.;

The *San Pedro* was originally a vessel of the United States, called the *Atlas,* and the property of Mr. Philip A. Lay, of New Orleans, but had given up her register, and (as alleged) was transferred to Mr. Valverde, a Spanish subject, resident at Pensacola. On 1 February, 1813, she sailed from Mobile with a cargo of cotton and tobacco for Jamaica which was disposed of there, and on 10 April, 1813, she sailed from Jamaica with a cargo, on her return voyage for the coast of Florida. On 23 April, she was captured and brought into Mobile by an American gunboat, and on the 29th of the same month was liberated by the commander of

the flotilla and seized by the collector of the port, in whose name the libel was filed. It was contended by the libellants that the transfer of the vessel was collusive and fraudulent, and that she, together with the cargo, belonged to citizens of the United States.

A claim was interposed on behalf of Mr. Valverde, and the vessel and cargo were decreed to be restored in the court below, from which decree the cause was brought by writ of error to this Court.

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MR. JUSTICE WASHINGTON delivered the opinion of the Court.

This is an admiralty case brought into this Court from the Superior Court of the Mississippi Territory by writ of error, and a preliminary question has been made, and is now to be decided, whether this is the proper process for removing a cause of admiralty and maritime jurisdiction into this Court for reexamination? A similar objection has been taken in a number of equity cases standing on the docket removed into this Court by similar process from the circuit courts. The questions which these objections have given rise to resolve themselves into the two following:

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1. Whether the decree or sentence of a circuit court, in cases of equity and of admiralty and maritime jurisdiction, can be removed into the Supreme Court for reexamination, by writ of error?

2. If they cannot, then by what rule are appeals in those cases to be governed?

In deciding these questions, our attention is confined to a few sections of the Act of 24h September, 1789, ch. 20., and to the 2d section of the Act of March 3, 1803, ch. 93.

The 22d section of the former of these laws declares that from any final judgment or decree in civil actions and suits in equity brought in a circuit court by original process, or removed there from a state court, or by appeal from a district court, a writ of error may be brought to the Supreme Court at any time within five years, the citation being signed by a judge of such circuit court or by a justice of the Supreme Court, and the adverse party having at least thirty days' notice. This section, then, provides that the judge who signs the citation shall take sufficient security that the plaintiff in error shall prosecute his writ to effect and answer all damages and costs if he fail to do so. The 23d section declares under what circumstances a writ of error shall operate as a supersedeas.

The act of 1803 declares that from all final judgments or decrees in a circuit court in cases of equity, of admiralty and maritime jurisdiction, and prize or no prize, an appeal shall be allowed to the Supreme Court; that a transcript of the libel, bill, answers, depositions, and all other proceedings in the cause

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shall be transmitted to the Supreme Court, and that no new evidence shall be admitted on such appeal except in admiralty and prize causes. The act then provides that such appeals shall be subject to the same rules, regulations, and restrictions as are prescribed by law in cases of writs of error, and it repeals so much of the 19th and 22d sections of the act of 1789 as comes within the purview of this act.

1. The first question depends upon the meaning attached by the legislature to the word "purview." It is contended by the plaintiff in error that it ought to be confined to such parts of the 19th and 22d sections as are inconsistent with the provisions of the act of 1803. If this be the correct interpretation of the term, it is then insisted that there is no incongruity between the two remedies, by appeal and writ of error, even in admiralty and equity cases, and consequently that the former remedy is to be considered as merely cumulative.

But the Court does not yield its assent to that interpretation. Wherever this term is used, it is manifestly intended to designate the enacting part or body of the act, in contradistinction to the other parts of it, such as the preamble, the saving, and the proviso. And an attentive consideration of the subject matter of the two laws to which our inquiries are confined will lead very strongly to the conclusion that Congress meant to use the term in this sense. It is obvious that the 22d section of the act of 1789 was so intimately connected with the 19th section so far as it respected the appellate jurisdiction of the Supreme Court in admiralty and equity cases that the remedy

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provided by the former would have been, in most cases, inoperative without the aid of the latter. Had the law merely provided the remedy by writ of error in those cases, nothing but the proceedings, together with the sentence or decree, would have been open to the inspection and reexamination of the Supreme Court. But, as in a great majority of those cases, the correctness or incorrectness of the decision of the inferior court would depend upon the evidence given in the cause, the remedy by writ of error, without some further legislative provision for carrying before the appellate court the facts or the evidence, would have been altogether defective and illusory. We find accordingly that the 19th section provides that the circuit courts, in cases of equity and of admiralty and maritime jurisdiction, shall cause the facts on which they found their sentence or decree fully to appear upon the record, either from the pleadings and decree itself or a case agreed by the parties or their counsel, or if they disagree, by a stating of the case by the court. Thus, upon a writ of error in equity and admiralty cases, the Supreme Court was furnished with the facts upon which the inferior court decided, though not with the evidence, and might therefore correct the errors of that court, so far as they existed in wrong conclusions of law, from the facts stated.

Now the 19th section contains but the single provision which has been just mentioned, and consequently if any part of it be repealed by the act of 1803, the whole must be, and if the whole, then the writ of error provided by the 22d section in admiralty

and equity cases would be rendered, as before observed, altogether ineffectual for the purpose for which it was intended in every case where the error complained of in the sentence or decree existed in wrong conclusions from the evidence or the facts.

Even the provisions of the 29th section were, in the view of Congress, defective, and must appear so to every person conversant with the practice of courts proceeding according to the forms of the civil law. The error of the inferior court may frequently consist not in wrong conclusions of law from the facts, but in wrong conclusions of fact from the evidence. We are warranted in saying that this defect in the former law was perceived by the legislature, and was intended to be remedied by the provision in the act of 1803 that the evidence (instead of the facts) should accompany the record into the appellate court.

Upon the whole, it is manifest that the subject of the two laws is the same -- namely the appellate jurisdiction of the Supreme Court and the manner of exercising it. The manner of exercising it, as prescribed by the act of 1789, is essentially changed by the act of 1803, and is consequently repealed by it because it is within the purview of the latter law, being provided for in a different way. By this construction, the appellate jurisdiction of the Supreme Court is made to conform with the ancient and well established principles of judicial proceedings. The writ of error, in cases of common law, remains in force and submits to the revision of the Supreme



Court only the law. The remedy by appeal is confined to admiralty and equity cases, and brings before the Supreme Court the facts as well as the law.

2. The second question is attended with much less difficulty. The act of 1803, after requiring that the libel, bill, answers, depositions, and all other proceedings in the cause shall be transmitted to the Supreme Court and that no new evidence shall be admitted on such appeal except in admiralty and prize causes, provides that

such appeals shall be subject to the same rules, regulations, and restrictions as prescribed in cases of writs of error. These rules, regulations, and restrictions are contained in the 22d and 23d sections of the act of 1789, and respect the time within which a writ of error may be brought and in what instances it shall operate as a supersedeas: the citation to the adverse party, the security to be given by the plaintiff in error for prosecuting his suit, and the restrictions upon the appellate court as to reversals in certain enumerated cases. All these are, in the opinion of a majority of the Court, applicable to appeals under the act of 1803, and are to be substantially observed, except that where the appeal is prayed at the same term when the decree or sentence is made, a citation is not necessary. *Reily v. Lamar,* 2 Cranch 344. It follows that an appeal in admiralty, equity, and prize causes may be taken at any time within five years from the final decree or sentence being pronounced, subject to the saving contained in the 22d sec. of the act of 1789, which is one of the points that was discussed at the bar.

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This opinion is consistent with the case of *United States v. Hooe,* 3 Cranch 73, although from the report of that case it would seem to be otherwise. The record has been examined, from which it appears that that case came up upon an appeal, and not upon a writ of error.

The writ of error in this case must therefore be

*Dismissed.*