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ingle Vs. Coolidge

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Court : US Supreme Court

Decided On : 1817

Appeal No. : 15 U.S. 363

Appellant : ingle

Respondent : Coolidge

Judgement :

Ingle v. Coolidge - 15 U.S. 363 (1817)
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Ingle v. Coolidge

15 U.S. (2 Wheat.) 363

ERROR TO THE SUPREME JUDICIAL

COURT OF MASSACHUSETTS

SYLLABUS

No writ of error lies to the highest court of law or equity of a state court under the twenty-fifth section of the Judiciary Act of 1789 unless there is something apparent on the record bringing the case within the appellate jurisdiction of this Court.

The report of the judge who tries the cause at *nisi prius,* containing a statement of the facts, is not to be considered as a part of the *record,* the judgment being rendered upon a general verdict, and the report being mere matter *in pais* to regulate the discretion of the court as to the propriety of granting a new trial, the writ of error, in such a case, will be dismissed.

The Court does not give costs when a cause is dismissed for want of jurisdiction.

This was a writ of error upon a judgment of the Supreme Judicial Court of Massachusetts, rendered in an action of assumpsit. The declaration contained three counts, to which the general issue was pleaded, and upon two of these counts the jury found a general verdict for the defendant (the plaintiff in error), and upon the third count a general verdict, with damages for the original plaintiff. The cause was then continued, as the record states, "for the opinion of the whole court upon the law of the case, as reported by the judge who tried the same." At a subsequent term, judgment was rendered by the whole court for the plaintiff upon the verdict found in his favor. The report of the judge who tried the cause came up in the record annexed to the writ of error, with other proceedings and exhibits in the cause.

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MR. JUSTICE STORY delivered the opinion of the Court, and after stating the case, proceeded as follows:

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A motion has been made to dismiss the writ of error upon the ground that there is nothing apparent upon the record which brings the case within the appellate jurisdiction of this Court, under the 25th section of the Judiciary Act of 1789. It is conceded on all sides that this is entirely correct unless the report of the judge who tried the cause, which contains a statement of the facts, is to be considered as a part of the record. And we are unanimously of opinion that it cannot be so considered. It is not like a special verdict or a statement of facts agreed of record,

upon which the court is to pronounce its judgment. The judgment is rendered upon a general verdict, and the report is mere matter *in pais,* to regulate the discretion of the court as to the propriety of granting relief, or sustaining a motion for a new trial.

The writ of error must therefore be

Dismissed.

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