

Houston Vs. Moore

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Court : US Supreme Court

Decided On : 1818

Appeal No. : 16 U.S. 433

Appellant : Houston

Respondent : Moore

Judgement :

Houston v. Moore - 16 U.S. 433 (1818)

U.S. Supreme Court Houston v. Moore, 16 U.S. 3 Wheat. 433 433 (1818)

Houston v. Moore

16 U.S. (3 Wheat.) 433

ERROR TO THE SUPREME

COURT OF PENNSYLVANIA

SYLLABUS

The Court has no jurisdiction under the twenty-fifth section of the Judiciary Act of 1789, ch. 20, unless the judgment or decree of the state court be a final judgment or decree. A judgment, reversing that of an inferior court and awarding a *venire*

facias de novo is not a final judgment.

This was an action of trespass, brought by the plaintiff in error against the defendant in error, for levying a fine ordered to be collected by the sentence of a court martial under an act of the Legislature of the State of Pennsylvania which was alleged to be repugnant to the Constitution and laws of the United States. The suit was commenced in the Court of Common Pleas for the County of Lancaster, in which court a trial was had, and the jury, under the charge of the court, found a verdict for the plaintiff, on which

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judgment was rendered. The cause was carried to the Supreme Court of the State of Pennsylvania by writ of error, where the judgment of the court of common pleas was reversed, and the cause remanded to that court with directions to award a *venire facias de novo*. The plaintiff then sued out of a writ of error, to bring the cause to this Court.

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

The appellate jurisdiction of this Court under the 25th section of the Judiciary Act, ch. 20, extends only to a final judgment or decree of the highest courts of law or equity in the cases specified. This is not a final judgment of the Supreme Court of Pennsylvania. The cause may yet be finally determined in favor of the plaintiff in the state court.

Writ of error dismissed.

JUDGMENT. This cause came on to be heard on the transcript of the record of the Supreme Court of the Commonwealth of Pennsylvania for the Lancaster District. On examination whereof it is adjudged and ordered that the writ of error in this cause be and the same is hereby dismissed, this Court not having

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jurisdiction in said cause, there not having been a final judgment in said suit, in the said Supreme Court of the Commonwealth of Pennsylvania.

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