

United States Vs. Ortega

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Court : US Supreme Court

Decided On : 1826

Appeal No. : 24 U.S. 467

Appellant : United States

Respondent : Ortega

Judgement :

United States v. Ortega - 24 U.S. 467 (1826)

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24 U.S. (11 Wheat.) 467

*ON CERTIFICATE OF DISAGREEMENT AMONG THE JUDGES OF THE
CIRCUIT COURT*

OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SYLLABUS

An indictment under the crimes act of 1790, ch. 35, s. 37, for infracting the law of nations by offering violence to the person of a foreign minister is not a case

"affecting ambassadors, other public ministers and consuls" within the second section of the Third Article of the Constitution of the United States.

The circuit courts have jurisdiction of such an offense under the eleventh section of the Judiciary Act of 1789, ch. 20.

Quaere whether the jurisdiction of the Supreme Court is not only original, but exclusive of the circuit court, in "cases affecting ambassadors, other public ministers and consuls" within the true construction of the second section of the third article of the Constitution

MR. JUSTICE WASHINGTON delivered the opinion of the Court.

The defendant, Juan Gualberto de Ortega, was indicted in the Circuit Court of the United States for the Eastern District of Pennsylvania for infracting the law of nations by offering violence to the person of Hilario de Rivas y Salmon, the charge d'affaires of his Catholic Majesty the King of Spain in the United States contrary to the law of nations and to the act of the Congress of the United States in such case provided. The jury having found a verdict of guilty, the defendant moved in arrest of judgment and assigned for cause

"that the circuit court has not jurisdiction of the matter charged in the indictment, inasmuch as it is a case affecting an ambassador or other public minister."

The opinions of the judges of that court upon this point being opposed, the cause comes before this Court upon a certificate of such disagreement.

The questions to which the point certified by the court below gives rise are first, whether this is a case affecting an ambassador or other public minister within the meaning of the second section of the third article of the Constitution of the United States. If it be, then the next question would be whether the jurisdiction of the Supreme Court in such cases is not only original, but exclusive of the circuit courts under the true construction of the above section and article.

The last question need not be decided in the present case, because the Court is clearly of

opinion that this is not a case affecting a public minister within the plain meaning of the Constitution. It is that of a public prosecution instituted and conducted by and in the name of the United States for the purpose of vindicating the law of nations and that of the United States, offended, as the indictment charges, in the person of a public minister by an assault committed on him by a private individual. It is a case, then, which affects the United States and the individual whom they seek to punish, but one in which the minister himself, although he was the person injured by the assault, has no concern, either in the event of the prosecution or in the costs attending it.

It is ordered to be certified to the Circuit Court for the Eastern District of Pennsylvania that that court has jurisdiction of the matter charged in the indictment, the case not being one which affects an ambassador or other public minister.

Certificate accordingly.