

United States Vs. Barker

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Court : US Supreme Court

Decided On : 1827

Appeal No. : 25 U.S. 559

Appellant : United States

Respondent : Barker

Judgement :

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U.S. Supreme Court United States v. Barker, 25 U.S. 559 (1827)

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ERROR TO THE CIRCUIT COURT FOR THE

EASTERN DISTRICT OF PENNSYLVANIA

SYLLABUS

Wherever the government of the United States, through its lawfully authorized agents, becomes the holder of a bill of exchange, it is bound to use the same diligence in order to charge the endorsers as in a transaction between private

individuals.

Where the United States was the holders of certain bills of exchange, and their agent in New York was directed, by a letter from the Secretary of the Treasury, dated Washington, December 7, 1814, to give notice of nonacceptance to the drawer and endorsers, residing in New York, and notice was given to the endorser on the 12th of the same month, the mail which left the 8th having arrived at New York at thirty-five minutes past 10 o'clock A.M. on the 10th, *held* that the endorser was discharged by the negligence of the holders.

So also where the United States was the holder of other bills and its agent in New York was directed by a letter from the Secretary of the Treasury dated Washington, May 8, 1815, to give notice of nonpayment to the drawer and endorsers residing in New York, and notice was given to the endorser on the 12th of the same month, the mail which left Washington on the 8th having reached New York early on the morning of the 11th, *held* that the endorser was discharged by the negligence of the holders.

This was an action of assumpsit brought in the court below by the United States, against the personal representative of A. Barker, deceased, the endorser of several bills of exchange, drawn in the year 1814 by J. Barker in New York on different houses of trade in England. Among the bills, two were protested for nonacceptance, and two for nonacceptance and nonpayment. It appeared in evidence at the trial that the agent of the United States Treasury in New York, where the bills were drawn, and where the drawer and endorsers resided, received a letter from the Secretary of the Treasury dated Washington, December

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7, 1814, requesting him to notify the drawer and endorsers of the nonacceptance of the first set of bills, and that notice was accordingly given to them on 12 December. It was further proved that the mail which left Washington on the 8th of the same month, arrived at New York at 35 minutes past 10 o'clock A.M. on the 10th. It was also proved that the said agent received a letter from the Secretary of

the Treasury, dated at Washington, May 8th, 1815, directing him to give notice of the nonpayment of the second set of bills of exchange to the drawer and endorsers, and that they were notified on the 12th of the same month. It was further proved that the mail which left Washington, containing letters of the 8th of May, reached New York early in the morning of the 11th. But no notice of the nonacceptance of this second set of bills was proved.

The learned judges in the court below instructed the jury that the holders of the bill had not used due diligence. The letter of 7 December, 1814, must be considered as having been written on that day, and ought to have been put into the post office to come by the mail of the 8th, and, if so, it would have reached New York on the morning of the 10th. That the letter of 8 May, 1815, should have been put into the post office to come by the mail of the 9th, and would have reached New York the morning of the 11th. The earliest notice alleged was on the 12th of May and December, respectively, and it seemed clear either that the letters were not put into the post office at Washington in due time or that the agent in New York was guilty of negligence in giving notice to the parties, in either of which cases they were discharged.

A verdict and judgment was rendered upon this instruction in the court below, on which the cause was brought by writ of error to this Court.

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

That whatever doubts might be entertained as to the charge of the court below relating to the transactions in England (which it has not been though necessary to state) in respect to the protest and transmission of the bills, we think there is none as to what took place after their arrival at the Treasury of the United States. The question was whether notice of the dishonor of the bills was transmitted to the party within the time prescribed by the general law in respect to bills of exchange. The court was of opinion that there was negligence either at Washington or New York as to giving such notice, and that the notice actually given was too late to fix him with the responsibility. The letter from the Treasury Department giving the notice was either not sent in due course of mail to New York or there was

negligence at New York in not giving notice there as early as it should have been given after the letter arrived at that city. Whether, therefore, the judge erred or not as to the first part of his charge in respect to the transmission of the bills from England in a reasonable time, there was no doubt that the United States had no right to recover on account of the neglect in giving due notice after the return of the bills.

Upon this ground, the judgment of the circuit court was

Affirmed.

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