

**Southwick Vs. Postmaster General**

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**Court :** US Supreme Court

**Decided On :** 1829

**Appeal No. :** 27 U.S. 442

**Appellant :** Southwick

**Respondent :** Postmaster General

**Judgement :**

Southwick v. Postmaster General - 27 U.S. 442 (1829)

U.S. Supreme Court Southwick v. Postmaster General, 27 U.S. 2 Pet. 442 442 (1829)

**Southwick v. Postmaster General**

**27 U.S. (2 Pet.) 442**

*ERROR TO THE CIRCUIT COURT OF*

*THE SOUTHERN DISTRICT OF NEW YORK*

## **SYLLABUS**

A district Court of the United states, performing the appropriate duty of a district court, is not sitting as a circuit court because it possesses the powers of a circuit

court also.

This suit was commenced originally by the Postmaster General in the District Court of the Northern District of New York in May, 1822, against Solomon Southwick and his co-defendants, who were his sureties, to recover \$6,000, the penalty of a bond given by them for the faithful discharge of his duties as postmaster of the City of Albany. In 1824, judgment was rendered in favor of the Postmaster General, and a writ of error was thereupon brought, and the record certified to the Circuit Court of the Southern District of New York. The judges of the circuit court divided in opinion upon several points which arose in the case, and the same were certified to this Court, where they were considered and decided at January term, 1827. The decision of this Court having been certified to the circuit court, the judgment of the district court was affirmed by the circuit, in May term 1828.

Upon this judgment this writ of error was prosecuted, and now Mr. Wirt, the Attorney General of the United States, moved to dismiss the same.

Page 27 U. S. 446

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

Page 27 U. S. 447

This is a motion to dismiss a writ of error to a judgment rendered in the Court of the United States for the Seventh Circuit and Southern District of New York in favor of the Postmaster General. The foundation of the motion is that this Court has no jurisdiction of the cause.

The original judgment was rendered in the Court for the Northern District of New York, on which Congress had conferred jurisdiction as a circuit court also. That judgment was removed into the circuit court sitting in the Southern District by writ of error, and was affirmed in that court.

In May, 1826, Congress enacted

"That appeals and writs of error shall lie from decisions in the District Court for the Northern District of New York, when exercising the powers of a circuit court, and from decisions which may be made by the circuit court for the southern district of said state, in causes heretofore removed to said circuit court from the said district court sitting as a circuit court, to the Supreme Court of the United States, in the same manner as from circuit courts."

The doubt respecting the jurisdiction of the court is produced by this act.

By the Judicial Act, the district courts have cognizance concurrent with the circuit court of all cases where the United States sue. By the Act of 3 March, 1815, Vol. IV, p. 855, it is enacted that the district courts of the United States shall have cognizance, concurrent, &c.;, of all suits at common law where the United States or any officer thereof under the authority of any act of Congress, shall sue, &c.; This act gave the district court jurisdiction of all suits brought by the Postmaster General. It has been construed by this Court to give the circuit courts cognizance of the same causes.

The district courts which exercise circuit court jurisdiction do not distinguish in their proceedings whether they sit as a circuit or a district court. That is determined by the subject matter of their judgments. Their records are all kept as the records of a district court. If the court for the Northern District of New York sat as a circuit court when the original judgment was rendered against the

Page 27 U. S. 448

plaintiff in error, this Court can take jurisdiction of the judgment affirming it, which was rendered in the circuit court; if the original judgment was rendered by a district court, no writ of error lies to the judgment of affirmance pronounced in the circuit court.

Had the Court for the Northern District of New York possessed no circuit court powers, it could still have taken cognizance of this cause. By conferring on it the

powers of a circuit court, Congress has added nothing to its jurisdiction in this case. In taking cognizance of it, a district court has exercised the ordinary jurisdiction assigned to that class of courts. No extraordinary powers were brought into operation. We cannot say that a district court, performing the appropriate duty of a district court, is sitting as a circuit court because it possesses the powers of a circuit court also.

*The writ of error must be dismissed, this Court having no jurisdiction in the case.*

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the Southern District of New York, and on the motion of the Attorney General made in this cause at a prior day of this terms, to-wit, February 7, 1829, to dismiss this cause for want of jurisdiction, and was argued by counsel, on consideration whereof, it is considered, ordered and adjudged by this Court that the writ of error in this cause be and the same is hereby dismissed for want of jurisdiction.

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