

Ex Parte Roberts

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Court : US Supreme Court

Decided On : 1832

Appeal No. : 31 U.S. 216

Appellant : Ex Parte Roberts

Judgement :

Ex Parte Roberts - 31 U.S. 216 (1832)

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Ex Parte Roberts

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SYLLABUS

Motion for a mandamus to the District Judge of the United States for the Southern District of New York to set aside a judgment entered by default on an inquest finding a forfeiture of goods to the United States, against which an information had been filed for violation of the revenue laws. By the Court:

"This is not a proper case for the interposition of this Court by way of mandamus. The application of the district court to set aside the default and inquest was an application to the discretion of the district court."

In the matter of the United States, upon the information of M. M. Noah, Surveyor of the port of New York v. Certain Cases of Cloth, marked F. Joseph, and marked S. Roberts, and George Adshead, claimant, in the District Court of the United States for the Southern District of New York, Mr. Beardsley, of counsel for the claimants, in these cases, in pursuance of written notice to the counsel of the United States in the district court, moved the court for a writ of mandamus, to be directed to the District Court for the Southern District of New York, commanding the said district court to set aside the verdict or judgment taken by default in those causes against a number of the cases of cloth which were the subject of the information, or commanding the said district court to show cause why the said verdict or judgment by default ought not to be set aside, and further moved the court for such other and further relief in the premises as this Court shall deem just and proper.

In the District Court for the Southern District of New York, an information was filed by the district attorney on behalf of the United States upon the information of M. M. Noah, surveyor of the port of New York, against certain cases of cloth seized as forfeited to the United States under the Act of Congress of 28 May, 1830, upon the ground that the invoices under which the same were imported were made by a false valuation, extension, or otherwise, to defraud the United States.

These cloths were claimed by Joseph Roberts and George Adshead, and after various proceedings in the district court,

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they were, on 4 January, 1832, on an inquest by default in the cause, condemned as forfeited to the United States. An application was afterwards made to the district court to set aside the inquest on the ground that regular notice of the day of the trial of the same had not been given to the proctors of the claimants. The court refused to set aside the same, and an affidavit of one of the proctors of the claimants stating the circumstances of the cases and the proceedings of the attorney of the United States in the district court was laid before this Court as the foundation of this motion for a mandamus. The district attorney of the United States also made affidavit of the proceedings, which was presented by Mr. Taney,

Attorney General of the United States.

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

The Court is of opinion that the present is not a proper case for the interposition of this Court by way of mandamus. The application to set aside the default and inquest was an application to the discretion of the district court, and is not distinguishable in principle from applications to grant new trials. This Court has always considered such applications as resting in the sound discretion of the court where the cause is depending, and not a matter for a mandamus or writ of error.

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