

**Dunn Vs. Clarke**

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**SooperKanoon Citation :** [sooperkanoon.com/79420](http://sooperkanoon.com/79420)

**Court :** US Supreme Court

**Decided On :** 1834

**Appeal No. :** 33 U.S. 1

**Appellant :** Dunn

**Respondent :** Clarke

**Judgement :**

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**Dunn v. Clarke**

**33 U.S. (8 Pet.) 1**

*APPEAL FROM THE CIRCUIT COURT OF THE*

*UNITED STATES FOR THE DISTRICT OF OHIO*

## **SYLLABUS**

Jurisdiction. The complainants filed their bill in the circuit Court of Ohio, praying for an injunction to a judgment in an ejectment and for a conveyance of the premises. All the complainants were residents in the State of Ohio, and so were the

defendants. The judgment was obtained in the circuit court by G., a citizen of Virginia, and the defendant Clark holds the land recovered under the will of G. in trust.

No doubt is entertained that jurisdiction may be sustained so far as to stay execution at law against D. He is the representative of Graham, and although he is a citizen of Ohio, yet this fact, under the circumstances, will not deprive this court of an equitable control over the judgment. But beyond this the decree of this Court cannot extend.

Of the action at law, the circuit court had jurisdiction, and no change in the residence or condition of the parties can take away a jurisdiction which has once attached. If G. had lived, the circuit court might have issued an injunction to his judgment at law without a personal service of process, except on his counsel, and as D. is his representative, the court may do the same thing as against him. The injunction bill is not considered an original bill between the same parties, as at law, but if other parties are made to the bill and different interests involved, it must be considered, to that

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extent at least, an original bill, and the jurisdiction of the circuit court must depend upon the citizenship of the parties.

Several persons are made defendants who were not parties or privies to the suit at law, and no jurisdiction as to them can be exercised by this or the circuit court. But as there appear to be matters of equity in the case which may be investigated by a state court, it would be reasonable and just to stay all proceedings on the judgment until the complainants shall have time to seek relief from a state court.

This case was submitted to the Court as a question whether the Court had jurisdiction in the same.

MR. JUSTICE Mc LEAN delivered the opinion of the Court.

The complainants in the court below filed their bill praying for an injunction to a judgment recovered against them in an action of ejectment, and to obtain a decree for a conveyance of the land in controversy. All the complainants are residents of the State of Ohio, and so are the defendants.

The judgment at law was obtained by Graham, a citizen of Virginia, but who has since deceased, and the defendant, Walter Dunn, holds the land recovered in trust under the will of Graham.

On this state of facts a question is raised whether this Court have jurisdiction of the cause. This question seems not to have been made in the circuit court.

No doubt is entertained by the Court that jurisdiction of the case may be sustained so far as to stay execution on the judgment at law against Dunn. He is the representative of Graham, and although he is a citizen of Ohio, yet this fact, under the circumstances, will not deprive this Court of an equitable control over the judgment.

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But beyond this, the decree of this Court cannot extend.

Of the action at law the circuit court had jurisdiction, and no change in the residence or condition of the parties can take away a jurisdiction which has once attached. If Graham had lived, the circuit court might have issued an injunction to his judgment at law without a personal service of process except on his counsel, and as Dunn is his representative, the court may do the same thing as against him. The injunction bill is not considered an original bill between the same parties as at law, but if other parties are made in the bill and different interests involved, it must be considered, to that extent at least, an original bill, and the jurisdiction of the circuit court must depend upon the citizenship of the parties.

In the present case, several persons are made defendants who were not parties or privies to the suit at law, and no jurisdiction as to them can be exercised by this or the circuit court. But as there appear to be matters of equity in the case which may

be investigated by a state court, this Court thinks it would be reasonable and just to stay all proceedings on the judgment until the complainants shall have time to seek relief from a state court. And the court directs that all proceedings be thus stayed and that the decree of the circuit court be modified so as to conform to this view of 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 District of Ohio, and was argued by counsel, on consideration whereof it is the opinion of this Court that in the present case, several persons are made defendants who were not parties or privies to the suit at law, and that no jurisdiction can be exercised by this or the circuit court; but as there appear to be matters of equity in the case which may be investigated by a state court, this Court thinks it would be reasonable and just to stay all proceedings on the judgment until the complainants shall have time to seek relief from a state court, and it so orders and decrees. And the Court further orders that the decree of the circuit court be reformed so as to conform to the opinion of this Court.