

Davis Vs. Packard

Davis Vs. Packard

SooperKanoon Citation : sooperkanoon.com/79453

Court : US Supreme Court

Decided On : 1834

Appeal No. : 33 U.S. 312

Appellant : Davis

Respondent : Packard

Judgement :

Davis v. Packard - 33 U.S. 312 (1834)

U.S. Supreme Court Davis v. Packard, 33 U.S. 8 Pet. 312 312 (1834)

Davis v. Packard

33 U.S. (8 Pet.) 312

ERROR TO THE COURT FOR THE CORRECTION

OF ERRORS OF THE STATE OF NEW YORK

SYLLABUS

At a former term of this Court, the judgment of the Court for the

Correction of Errors of the State of New York was reversed in this case, this Court being of opinion that Charles A. Davis, being Consul General of the King of Saxony, was exempted from being sued in the state court, and that by reason thereof, the judgment rendered against him by the Court for the Correction of Errors was erroneous, and ordered and adjudged that the judgment of the Court for the Correction of Errors should be and the same was thereby reversed, and that the cause be remanded to the Court for the Correction of Errors with

directions to conform its judgment to this opinion. A mandate issued in pursuance of this judgment to the Court for the Correction of Errors, and that court declared and adjudged "that a Consul General of the King of Saxony is, by the Constitution and laws of the United States, exempt from being sued in a state court," and that the court further adjudged that the supreme court of the State of New York, from which court this case has been brought, by a writ of error to the Court of Errors of New York, is a court of general common law jurisdiction, and that the Court of Errors has no power, jurisdiction, or

authority for an error in fact or any error than such as appears upon the face of the record in the proceedings of the supreme court, to reverse a judgment of that court; that no other error can be assigned or regarded as a ground of reversal of the judgment of said; supreme court than such as appears upon the record of the proceedings of the said court and which relates to questions actually before the justices of the court by a plea to its jurisdiction or otherwise, and that the Court of Errors is not authorized to notice the allegations of Davis, assigned for error in that court, that he was Consul General of the King of Saxony, or to try or regard said allegation, and there being no error on the face of the record of the proceedings of the supreme court of New York, the defendant in error was entitled to a judgment of affirmance according to the laws of that state, any matter assigned for error in fact to the contrary notwithstanding. The Court of Errors further declared that for any error in the judgment of the supreme court or its proceedings assignable for error in fact, the party aggrieved by such error may sue out a writ of error *coram vobis* returnable to the supreme court, upon which the plaintiff may assign errors in fact, and if such fact is admitted or found by the verdict of the jury, the supreme

court may revoke its judgment, and for any error in the judgment of the supreme court upon the writ of error *coram vobis*, the Court of Errors has jurisdiction upon a writ of error to the supreme court to review the last judgment. The defendants in error having, upon the filing of the mandate to the supreme court, applied to the Court of Errors to dismiss the writ of error to the supreme court of that state, the same was quashed, and the

Page 33 U. S. 313

defendants in error adjudged to recover their costs against the plaintiff in error.

The judgment of the Court of Errors was brought up by a writ of error, and it was argued that the mandate on the former judgment had been disregarded, and that consequently the second judgment ought to be reversed.

By the court:

"The Court has felt great difficulty on this question: the importance of preserving uniformity in the construction of the Constitution, law, and treaties of the United States must be felt by all, and the impracticability of maintaining this uniformity unless the power of supervising all judgments in which the Constitution, laws, or treaties of the United States may be drawn into question be vested in some single tribunal is too apparent for controversy. The people of the United States have vested that power in this tribunal, and its highest duty is to exercise it with fidelity. The point of difficulty in this case is to decide whether the legitimate exercise of this power has been obstructed by the judgment of the Court of Errors for New York now under consideration."

It is not admitted that the court whose judgment has been reversed or affirmed can rejudge that reversal or affirmance, but it must be conceded that the court of dernier resort in every state decides upon its own jurisdiction and upon the jurisdiction of all the inferior courts to which its appellate power extends.

Neither the judgment or mandate of this Court prescribed in terms the judgment which should be rendered by the Court of Errors of New York. This Court

proceeded to order that the cause be remanded to the said Court for the Correction of errors with directions to conform its judgment to the opinion of this Court. The opinion expressed therein was that Charles A. Davis, being Consul General of the King of "Saxony, exempting him from "being sued in the state court.

The judgment rendered in the Court of Errors being thus reversed because of this exemption, it was for the Court of Errors to inquire and decide in what manner it should conform its judgment to this opinion. Had that court reentered its former judgment, the direct opposition of this proceeding to the mandate

would have been apparent. But this was not done. The Court of Errors admitted the exemption of Charles A. Davis from being sued in the courts of a state, but said that the fact did not appear in the record of the proceedings of the supreme court of New York and that its own power did not extend to the reversal of any judgment of that court for an error of fact not apparent on the face of the record, though it should be assigned as error in the Court for the Correction of Errors.

The judgment of the Court of Errors thus affirming the judgment of the supreme court of the state stands reversed, and the writ of error to that judgment is quashed, leaving the defendant in the original action at full liberty to sue out and prosecute his writ of error *coram vobis* for its reversal in the supreme court of New York.

If the jurisdiction of the Court for the Correction of Errors does not, according to the laws by which the judicial system of New York is organized, enable that court to notice errors in fact in the proceedings of the supreme court not apparent on the face of the record, it is difficult to perceive how that court could conform its judgment to that of this Court otherwise than by

Page 33 U. S. 314

quashing its writ of error to the supreme court. Had that been its original judgment, it is not believed that this Court would have reversed it, and we do not think that, as now rendered, it can be held to be erroneous.

The judgment was affirmed.

This case was before the Court on a writ of error at January term, 1832. A motion was made to dismiss the writ of error on the ground that it did not appear on the record of the proceedings in the case before the supreme court of New York, from which court it had been taken to the Court for the Correction of Errors, that the plaintiff in error was consul of the King of Saxony. The court refused the motion, considering that the official character of the plaintiff was sufficiently apparent in the proceedings, [30 U. S. 5](#) Pet. 41. Afterwards, at January term, 1833, [32 U. S. 7](#) Pet. 276, this case came on for argument. The Court decided that

"The record of the proceedings brought up with the writ of error to the Court for the Correction of Errors of the State of New York showed that the suit was commenced in the supreme court of the State of New York against the plaintiff in error, who was consul of the King of Saxony and who did not plead or set up his exemption from such suit in the supreme court, but, on the cause's being carried up to the Court for the Correction of Errors, this matter was assigned for error in fact, notwithstanding which the court gave judgment against the plaintiff in error. The Court of Errors having decided that the character of consul did not exempt the plaintiff in error from being sued in the state court, the judgment is reversed."

The following mandate was issued to the Court for the Trial of Impeachments and Correction of Errors of the State of New York.

"The United States of America, ss. The President of the United States of America, to the President of the Senate of the State of New York, the senators, chancellor and justices of the supreme court of the said state, being the judges of the Court for the Trial of Impeachments and Correction of Errors, holden in and for the said State of New York. Greeting: "

"Whereas lately, in the Court for the Trial of Impeachments and Correction of Errors, holden in and for the State of New

York, before you or some of you in a cause between Charles A. Davis, plaintiff in error, and Isaac Packard, Henry Disdier, and William Morphy, defendants in error, the judgment of the said Court for the Trial of Impeachments and Correction of Errors was in the following words, to-wit:"

" Therefore it is considered by the said Court for the Correction of Errors that the judgment of the supreme court aforesaid be and the same is hereby in all things affirmed. It is further considered that the said defendants in error recover against the plaintiff in error their double costs, according to the statute in such case made and provided, to be taxed in defending the writ of error in this case, and also interest on the amount recovered, by way of damages,"

"as by the inspection of the transcript of the record of the said Court for the Trial of Impeachments and Correction of Errors, which was brought into the Supreme Court of the United States by virtue of a writ of error, agreeably to the act of Congress in such case made and provided, fully and at large appears. And whereas, in the present term of January in the year of our Lord 1833, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and was argued by counsel, on consideration whereof it is the opinion of this court that the plaintiff in error, being Consul General of the King of Saxony, exempted him from being sued in the state court, by reason whereof the judgment rendered by the Court for the Trial of Impeachments and Correction of Errors is erroneous. Whereupon it is ordered and adjudged by this court that the judgment of the said Court for the Trial of Impeachments and Correction of Errors be and the same is hereby reversed, and that this cause be and the same is hereby remanded to the said court with directions to conform its judgment to the opinion of this court."

"You therefore, are hereby commanded that such further proceedings be had in said cause as according to right and justice and in conformity to the opinion and judgment of said Supreme Court of the United States and the laws of the United States ought to be had, the said writ of error notwithstanding."

"Witness the honorable John Marshall, Chief Justice of said

supreme court, the second Monday of January in the year of our Lord one thousand eight hundred and thirty-three."

"WILLIAM THOMAS CARROLL"

" *Clerk of the Supreme Court of the United States* "

At the April session, 1833, of the Court of Errors of the State of New York, the following proceedings took place, as stated in the records of that court.

"The Court for the Correction of Errors having heard the counsel for both parties and diligently examined and fully understood all and singular the premises, and inspected as well the record and proceedings aforesaid as the mandate of the said Supreme Court of the United States, it is thereupon declared and adjudged by this Court that a Consul General of the King of Saxony is, by the Constitution and law of the United States, exempt from being sued in a state court. It is further adjudged and declared that the supreme court of the State of New York is a court of general common law jurisdiction, and that by the laws of this state, this court has no jurisdiction, power, or authority to reverse a decision of the said supreme court for any error in fact or any other error than such as appears upon the face of the record and proceedings of the said supreme court, and that no other errors can be assigned or regarded as a ground of reversal of judgment of the said supreme court, than such as appears upon the record and proceedings of the said supreme court, and which relate to questions which have actually been brought before the justices of that court for their decision thereon, by a plea to the jurisdiction of that court or otherwise, and that this Court was not authorized to notice the allegations of the said Charles A. Davis, assigned for error in this Court, that he was Consul General of the King of Saxony, or to try the truth of the said allegation, or to regard the said allegation as true, and that, by the laws of this state, the replication of the defendant to an assignment of errors, that there is no error in the record and proceedings aforesaid or in the giving of the judgment of the supreme court, was not an admission of the truth of any matter assigned as error in fact, or which was

not properly assignable for error in this Court, and that if there was no error upon the face of the record and the proceedings in the supreme

Page 33 U. S. 317

court, the defendant in error was entitled to a judgment of affirmance according to the laws of this state, any matter assigned for error in fact to the contrary notwithstanding."

"And it is further declared and adjudged that by the laws of this state, if there is any error in a judgment of the said supreme court or in the proceedings which is properly assignable for error in fact, the party aggrieved by such error may sue out a writ of error *coram vobis*, returnable in the said supreme court, upon which the plaintiff in error may assign errors in fact. And if such errors in fact are admitted or are found to be true by the verdict of a jury upon an issue joined thereon, the said supreme court may revoke its said judgment, and that for any error in the judgment of the said supreme court upon the said writ of error *coram vobis*, this Court has jurisdiction and authority upon a writ of error to the said supreme court to review the said last mentioned judgment and to give such judgment in the premises as the said supreme court ought to have given. It is therefore the opinion of this Court that although the said Charles A. Davis, the plaintiff in error in this cause, might have been the Consul General of the King of Saxony, and as such was not liable to be sued in the state court, yet inasmuch as the fact that he was such consul nowhere appeared in the record of the judgment of the said supreme court, the defendant in error is entitled to the judgment of this court affirming the said judgment of the said supreme court. But the defendant in error having, upon the filing of the said mandate of the said Supreme Court of the United States, applied to this court to dismiss the writ of error to the said supreme court of this state, it is therefore ordered and adjudged that the said last mentioned writ of error be quashed, and it is further ordered and adjudged that the said defendants in error recover against the plaintiff in error their costs in this Court according to the statute in such case made and provided, to be taxed, and also interest on the amount of the judgment of the court below, by way of damages, and that the proceedings be remitted to the said supreme court of this state,"

&c.;

The defendant prosecuted this writ of error.

Page 33 U. S. 320

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

The defendants in error had obtained a judgment against Charles A. Davis in the supreme court of New York which was removed by writ of error into the Court for Correction of Errors. In that court the said Davis assigned for error that he was, when the suit was instituted and has ever since continued to be Consul General of his Majesty the King of Saxony in the United States, and ought, according to the Constitution and laws of the United States, to have been impleaded in the said Supreme Court of the United States or in some district

Page 33 U. S. 321

court of the said United States, and that the said Supreme Court had not jurisdiction, and ought not to have taken to itself the cognizance of the said cause. The defendants in error replied that there was no error, and the Court for the Correction of Errors affirmed the judgment of the supreme court.

This last judgment was brought before this Court in conformity with the twenty-fifth section of the Judicial Act, and this Court being of opinion

"that the said Charles A. Davis being Consul General of the King of Saxony, exempted him from being sued in the state court, and that by reason thereof, the judgment rendered by the Court for the Correction of Errors was erroneous; therefore, it was considered, ordered, and adjudged that the judgment of the said Court for the Correction of Errors should be and the same is reversed, and that this cause be remanded to the said Court for Correction of Errors with directions to conform its judgment to this opinion."

The mandate issued in pursuance of this judgment having been received by the Court for the Correction of Errors, that court declared and adjudged "that a Consul General of the King of Saxony is, by the Constitution and law of the United States, exempt from being sued in a state court," and did further adjudge and declare

"that the supreme court of the State of New York is a court of general common law jurisdiction, and that, by the laws of this state, this Court [the Court of Errors] has no jurisdiction, power, or authority to reverse a decision of the said supreme court for any error in fact, or any other error than such as appears upon the face of the record and proceedings of the said supreme court, and that no other errors can be assigned or regarded as a ground of reversal of a judgment of the said supreme court, than such as appear upon the record and proceedings of the said supreme court, and which relate to questions which have actually been brought before the justices of that court for their decision thereon by a plea to the jurisdiction of the court or otherwise, and that this court was not authorized to notice the allegations of the said Charles A. Davis assigned for error in this court, that he was Consul General of the King of Saxony, or to try the truth of the said allegation, or to regard the said allegation as true, and that, by the laws of this state, the replication of the defendant to an assignment of errors that there is no error in the

Page 33 U. S. 322

record and proceedings aforesaid, or in the giving of the judgment of the supreme court, was not an admission of any matter assigned as error in fact, or which was not properly assignable for error in this court, and that if there was no error upon the face of the record and the proceedings in the supreme court, the defendant in error was entitled to a judgment of affirmance, according to the laws of this state, any matter assigned for error in fact to the contrary notwithstanding."

"And it is further declared and adjudged that by the laws of this state, if there be any error in a judgment of the said supreme court or in the proceeding which is properly assignable for error in fact, the party aggrieved by such error may sue out a writ of error *coram vobis*, returnable to the said supreme court, upon which the plaintiff in error may assign errors in fact. And if such errors in fact are admitted or

are found to be true by the verdict of a jury upon an issue joined thereon, the said supreme court may revoke their said judgment, and that for any error in the judgment of the said supreme court upon the said writ of error *coram vobis*, this court has jurisdiction and authority, upon a writ of error to the said supreme court, to review the said last mentioned judgment, and to give such judgment in the premises as the said supreme court ought to have given. It is therefore the opinion of this court that although the said Charles A. Davis, the plaintiff in error in this cause, might have been the Consul General of the King of Saxony, and as such was not liable to be sued in the state court, yet inasmuch as the fact that he was such consul nowhere appeared in the record of the judgment of the said supreme court, the defendant in error is entitled to the judgment of this court affirming the judgment of the said supreme court. But the defendant in error, having, upon the filing of the said mandate of the said Supreme Court of the United States, applied to this Court to dismiss the writ of error to the said supreme court of this state, it is therefore ordered and adjudged that the last mentioned writ of error be quashed, and it is further ordered and adjudged that the defendants in error recover against the plaintiff in error their costs,"

&c.;

This judgment also has been brought before this Court by writ of error, and it has been argued that the mandate on the

Page 33 U. S. 323

former judgment has been disregarded, and that consequently this second judgment ought to be reversed.

The Court has felt great difficulty on this question. The importance of preserving uniformity in the construction of the Constitution, laws, and treaties of the United States must be felt by all, and the impracticability of maintaining this uniformity unless the power of supervising all judgments in which the Constitution, laws, or treaties of the United States may be drawn into question be vested in some single tribunal is too apparent for controversy. The people of the United States have

vested that power in this tribunal, and its highest duty is to exercise it with fidelity. The point of difficulty in this case is to decide whether the legitimate exercise of this power has been obstructed by the judgment of the Court of Errors of New York now under consideration.

It is not to be admitted that the court whose judgment has been reversed or affirmed can rejudge that reversal or affirmance, but it must be conceded that the court of dernier resort in every state decides upon its own jurisdiction and upon the jurisdiction of all the inferior courts to which its appellate power extends. Assuming these propositions as judicial axioms, we will inquire whether the judgment of the Court of Errors for the State of New York is in violation of the mandate of this Court.

The original judgment of the Court of Errors which was brought before this Court was reversed in terms. This reversal was not to depend upon any act to be performed or opinion to be given by the Court of Errors, but stood absolute by the judgment of this Court. So is the law and so was the judgment rendered by this Court. Its language, after expressing the opinion that Charles A. Davis' being Consul General of the King of Saxony exempted him from being sued in a state court is

"Therefore it is considered, ordered, and adjudged by this Court that the judgment of the said Court for the Correction of Errors be and the same is hereby reversed."

On filing the mandate there, the said judgment stood reversed.

Neither the judgment nor mandate of this Court prescribed in terms the judgment which should be rendered by the Court of Errors of New York. This Court proceeded to order that the cause be remanded to the said Court for the Correction of Errors,

Page 33 U. S. 324

with directions to conform its judgment to the opinion of this Court. The opinion expressed therein was that Charles A. Davis, being Consul General of the King of

Saxony, exempted him from being sued in the state court.

The judgment rendered in the Court of Errors being thus reversed because of this exemption, it was for the Court of Errors to inquire and decide in what manner it should conform its judgment to this opinion. Had that court reentered its former judgment, the direct opposition of this proceeding to the mandate, would have been apparent. But this was not done. The court of error admitted the exemption of Charles A. Davis from being sued in the courts of a state, but added that the fact did not appear in the record of the proceedings of the supreme court of New York, and that its own power did not extend to the reversal of any judgment of that court, for an error of fact not apparent on the face of the record, though it should be assigned as error in the Court for the Correction of Errors.

This could only be effected regularly by suing out a writ of error *coram vobis* in the supreme court of the state, whose judgment on that writ might be revised in the Court for the Correction of Errors.

The court also added its opinion that the defendant in error was entitled to its judgment affirming that of the supreme court, but did not give the judgment of affirmance. Upon filing the mandate, the counsel for the defendant in error moved the court to dismiss the writ of error to the supreme court of the state, and the court ordered it to be quashed.

The judgment of the Court of Errors, then affirming the judgment of the supreme court of the state, stands reversed, and the writ of error to that judgment is quashed, leaving the defendant, in the original action, at full liberty to sue out and prosecute his writ of error *coram vobis*, for its reversal in the supreme court of New York.

If the jurisdiction of the Court for the Correction of Errors does which the judicial system of New York is organized, enable that court to notice errors in fact in the proceedings of the supreme court, not apparent on the face of the record, it is difficult to perceive how that court could conform its judgment to that of this Court, otherwise than

by quashing its writ of error to the supreme court. Had that been its original judgment, it is not believed that this Court would have reversed it, and we do not think that as now rendered, it can be held to be erroneous.

The judgment is

Affirmed with costs.

This cause came on to be heard on the transcript of the record from the Court for the Correction of Errors of the State of New York and was argued by counsel, on consideration whereof it is the opinion of this Court that there is no error in the judgment of the said Court for the Correction of Errors of the State of New York, quashing the writ of error from the Supreme Court of Judicature of New York, whereupon it is ordered and adjudged by this Court that the said judgment of the said Court for the Correction of Errors be and the same is hereby affirmed with costs.