

Ex Parte Hoyt

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Court : US Supreme Court

Decided On : 1839

Appeal No. : 38 U.S. 279

Appellant : Ex Parte Hoyt

Judgement :

Ex Parte Hoyt - 38 U.S. 279 (1839)

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Ex Parte Hoyt

38 U.S. (13 Pet.) 279

PETITION FOR MANDAMUS

SYLLABUS

Mandamus. The Supreme Court will not issue a mandamus to the District Judge of the Southern District of New York, in a case in which the district judge decided that the custody of goods, wares, and merchandise, proceeded against after a seizure by the collector of the port of New York, was in the marshal of the district, after process had issued by order of the court against the goods. The mandamus was asked for, after an argument before the Supreme Court to show that the custody of

the goods was to continue in the collector of the port. The Court said

"This is neither more nor less than an application for an order to reverse the solemn judgment of the district judge, in a matter clearly within the jurisdiction of the court, and to substitute another judgment in its stead."

A writ of mandamus is not a proper process to correct an erroneous judgment or decree rendered in an inferior court. That is a matter which is properly examinable on a writ of error or on an appeal to the proper appellate tribunal. Nor can the Supreme Court issue a mandamus to the district court on the ground that it is necessary for the exercise of its appellate jurisdiction, for if there is any appellate jurisdiction in this case, it is direct and

immediate to the Circuit Court of the Southern District of New York. It has been repeatedly declared by this Court that it will not, by mandamus, direct a judge to make a particular judgment in a suit, but will only require him to proceed to render judgment.

By the sixty-ninth section of the Collection Act of 1799, chapter 128, the goods or merchandise seized under that act are to be put into and remain in the custody of the collector or such other persons as he may appoint for that purpose no longer than until the proper proceedings are instituted under the 89th section of the same act to ascertain whether they are forfeited or not, and as soon as the marshal seizes the goods under the proper process of the court, the marshal is entitled to the sole and exclusive custody thereof, subject to the future orders of the court.

On 22 December, 1838, an information was filed by the district attorney, on behalf of the United States, in the District Court of the United States for the Southern District of New York alleging that the goods therein described had been seized by the collector as forfeited to the use of the United States for violation of the revenue laws, &c., and prayed the usual process and monition of the court, and the condemnation of the said goods.

By a standing rule of the court, adopted on the 19th of October, 1801, it was ordered

"That whenever the attorney of the district shall, in behalf of the United States, file a libel or information with the clerk of this court against any vessel, goods, or property seized as forfeited to the use of the United States for breach of any act of the said United States, it shall be the duty of the clerk to cause, of course, a monition to issue to the marshal of the district directing the said marshal to attach the said vessel, goods, or property, and to detain the same in his custody, until the further order of the court in the premises, and to cause due notice to be given or published of such seizure."

Pursuant to this rule, and the uniform practice of the court since its adoption, the clerk, on filing the information in this cause, issued a monition and warrant directing the marshal to attach the property specifically described in the information, and to detain the same in his custody until the further order of the court respecting the same, and to give notice, &c.;

The collector of New York. Mr. Hoyt, denying the authority of

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the marshal to execute such warrants in respect to seizures made by him or by the officers of the customs and to prevent the enforcement of the process issued in this case, filed in the district court the following paper:

"The United States"

"v."

"Sundry packages of goods"

"Motion by Jesse Hoyt, collector of customs for the port of New York, that the clause of the monition issued in this cause, by which the marshal is directed to detain the goods, attached by virtue of said monition, in his custody, until the further order of the court respecting the same, be quashed and stricken out on the ground that the said clause is repugnant to the 69th section of the act 'to regulate the collection of duties on imports and tonnage,' approved March 2, 1799, and is therefore illegal and void, or that the said monition be so reformed and amended

that the said goods, &c., remain in the custody of the said collector or such person as he shall appoint for that purpose until the proceedings commenced for the forfeiture of the said goods shall be determined and it be judicially ascertained whether the same have been forfeited or not, as required by the said 69th section of the act above named."

By the consent of Mr. Butler, the district attorney of New York, the motion was submitted to the district court for its decision.

The district court, on the 8th of January, 1839, denied the motion of the collector.

On 17 January, 1839, the following agreement was entered into by the collector of New York and the marshal of the Southern District, with the assent and approbation of the district judge:

"It is agreed that a motion for a mandamus, to be directed to the District Judge of the United States for the Southern District of New York, commanding him:"

"1. To vacate the order entered in the said district court on the eighth day of January instant denying the motion of the above named relator, referred to in the said order, and"

"2. To grant the prayer of said motion, or so much thereof and in such form as this Court shall adjudge and direct, be brought on to be argued in the Supreme Court of the United States on any motion day when counsel can be heard, without any rule to show cause or any application for such rule on the facts stated in the opinion of the district judge delivered on the eighth day of January instant. "

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MR. JUSTICE STORY delivered the opinion of the Court.

This is the case of a motion made by the collector of New York for a mandamus to be directed to the District Judge of the Southern District of New York under the following circumstances. The collector, on 26 December last, made a motion in a certain cause of seizure then depending before the said judge that the clause of

the common monition, issued in that cause, by which (according to the common practice in such cases) the marshal is directed to detain the goods attached by virtue of the said monition in his custody until the further order of the court, be quashed and stricken out on the ground that the said clause is repugnant to the sixty-ninth section of the act of 1799, ch. 128, entitled, "An act to regulate the collection of duties on imports and tonnage," or that the said monition be so reformed and amended that the said goods remain in the custody of the said collector or such person as he shall appoint for

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that purpose until the proceedings commenced for the forfeiture of the said goods shall be determined and it be judicially ascertained whether the same have been forfeited or not, as required by the said sixty-ninth section of the act. The district judge, after a full hearing, pronounced an elaborate opinion reviewing the whole series of laws on the subject and refused to grant the motion. The present motion is for a mandamus to compel him to vacate the order denying the original motion of the collector.

We are of opinion that this is in no just sense a case for a writ of mandamus. This Court has authority given to it by the thirteenth section of the Judiciary Act of 1789, ch. 20, to issue writs of mandamus in cases warranted by the principles and usages of law to any courts appointed under the authority of the United States. The present application is not warranted by any such principles and usages of law. It is neither more nor less than an application for an order to reverse the solemn judgment of the district judge in a matter clearly within the jurisdiction of the court, and to substitute another judgment in its stead. Now a writ of mandamus is not a proper process to correct an erroneous judgment or decree rendered in an inferior court. That is properly matter which is examinable upon a writ of error or an appeal, as the case may require, to the proper appellate tribunal. Neither can this Court issue the writ upon the ground that it is necessary for the exercise of its own appellate jurisdiction, for the proper appellate jurisdiction, if any in this case, is direct and immediate to the Supreme Court for the Southern District of New York. It has been repeatedly declared by this Court that it will not by mandamus direct a

judge what judgment to enter in a suit, but only will require him to proceed to render judgment. The case of *Life & Fire Insurance of New York v. Adams*, [33 U. S. 8](#) Pet. 291, and [34 U. S. 9](#) Pet. 573, is directly in point.

But as there appears to have been some diversity of construction in the different districts of the United States of the laws on this subject, and as it is a matter of general concern throughout all the commercial districts, and applicable to the daily practice of the courts, and the point has been fully argued, we think it right to say that we are of opinion that the construction of the laws of the United States maintained by the district judge in his opinion is the correct one, to-wit, that by the sixty-ninth section of the Collection Act of 1799, ch. 128, the goods, wares, and merchandise seized under that act are to be put into and remain in the custody of the collector or such other persons as he shall appoint for that purpose no longer than until the proper proceedings are had under the eighty-ninth section of the same act to ascertain whether they are forfeited or not, and that as soon as the marshal seizes the same goods under the proper process of the court, the marshal is entitled to the sole and exclusive custody thereof, subject to the future orders of the court.

The motion for the mandamus is

Denied.

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MR. JUSTICE BALDWIN concurred with the Court in the opinion that this is not a case for a mandamus. The result of this is that the case is *coram non judice*. Any opinion which may be given on other points in the case cannot be binding in any case. He was not willing to decide a question when it was not properly before the Court.