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Keene Vs. Whittaker

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Court : US Supreme Court

Decided On : 1839

Appeal No. : 38 U.S. 459

Appellant : Keene

Respondent : Whittaker

Judgement :

Keene v. Whittaker - 38 U.S. 459 (1839)
U.S. Supreme Court Keene v. Whittaker, 38 U.S. 13 Pet. 459 459 (1839)

Keene v. Whittaker

38 U.S. (13 Pet.) 459

ERROR RO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF LOUISIANA

SYLLABUS

A case cannot be brought by writ of error from a circuit court of the United States upon an agreed statement of facts.

The rules of the Supreme Court require that the clerk of the circuit court to which any writ of error shall be directed may make return of the same by annexing a true copy of the record and of all the proceedings in the cause, under his hand and the seal of the court. The Court will not, according to the thirty-first rule, hear any cause without a complete copy of the record having been brought up.

This case came up from the Circuit Court of the United States for the Eastern District of Louisiana.

In that court, a statement of the case had been made by the plaintiff, and the counsel for the defendants, upon which the court gave a judgment for the defendants. The plaintiff petitioned the circuit court for a writ of error to the Supreme Court, and the same was allowed. The record as sent up from the circuit court contained nothing but the agreed statement of facts, the judgment of the circuit court on these facts, and the petition of the defendant for a writ of error, together with an allowance of it by the circuit court in December, 1838.

The case was submitted to the Court without argument.

MR. JUSTICE WAYNE delivered the opinion of the Court.

This case has been brought to this Court on an agreed statement of facts, without any of the proceedings in the court below being in the record.

It cannot appear, therefore, that this Court has jurisdiction of the case, which is essential before it can give its judgment in any cause.

We refer also to the eleventh and thirty-first rules of this Court. The eleventh is as follows.

"It is ordered by this Court that the clerk of the court to which any writ of error shall be directed may make return of the same by transmitting a true copy of the record and of all proceedings in the cause under his hand and the seal of the court."

The thirty-first rule is:

"No cause will hereafter be heard until a complete record, containing in itself, without references *aliunde,* all the papers, exhibits, depositions, and other proceedings which are necessary to the hearing shall be filed."

The Court orders this case to be

Dismissed.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the Eastern District of Louisiana, and it appearing upon an inspection of the papers filed in the case that it has been brought here upon an agreed statement of facts without any of the proceedings in the court below being in the record. Whereupon it is adjudged and ordered by this Court that this cause be and the same is hereby dismissed with costs.

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