

Minor Vs. Tillotson

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Court : US Supreme Court

Decided On : 1843

Appeal No. : 42 U.S. 287

Appellant : Minor

Respondent : Tillotson

Judgement :

Minor v. Tillotson - 42 U.S. 287 (1843)

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Minor v. Tillotson

42 U.S. (1 How.) 287

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF LOUISIANA

SYLLABUS

Whether or not a record contains a bill of exceptions or statement of facts by the court, according to the practice in Louisiana, by which any question of law is brought up for revision in such a form as to enable this Court to decide upon it,

and whether or not there is a mass of various and conflicting testimony in relation to facts upon which no jurisdiction can be exercised upon a writ of error are questions to be decided only upon the final hearing of the cause.

The court will not go into this inquiry upon a motion to dismiss the writ of error before the cause is taken up for argument.

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

A motion has been made to dismiss the writ upon the ground that the record contains no bill of exception nor statement of facts by the court, according to the practice in Louisiana, by which any question of law is brought up for revision in such a form as to enable this Court to decide upon it, and that there is a mass of various and conflicting testimony in relation to facts upon which no jurisdiction can be exercised upon a writ of error.

Assuming this statement to be correct, it does not follow that advantage can be taken of it upon a motion to dismiss. The record shows that a judgment was rendered in the circuit court over which this Court undoubtedly have jurisdiction upon a writ of error. The plaintiffs allege that there is error in law in this judgment, and have brought it here for the revision of this Court. And upon the argument of the case, it will be incumbent upon

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them to show that the record presents, in some form or other, a statement of facts upon which a question of law arose in the circuit court and which was there erroneously decided. And if he fails to do this, the judgment must be affirmed. But he is entitled to be heard in order that he may show, if he can, that the error of which he complains appears in the record, and whether it does so appear or not is a matter which cannot be inquired into in the form in which the case is now brought before us.

The motion must therefore be

Dismissed.

ORDER

On consideration of the motion made in this cause on a prior day of the present term of this Court, to-wit, on Saturday, the 18th ult., by Mr. Webster, to dismiss this writ of error for the want of jurisdiction, and of the arguments of counsel thereupon had as well in support of as against the said motion, it is thereupon now here considered and ordered by this Court that the said motion be and the same is hereby dismissed.

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