

Taylor Vs. Savage's Executor

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Court : US Supreme Court

Decided On : 1844

Appeal No. : 43 U.S. 395

Appellant : Taylor

Respondent : Savage's Executor

Judgement :

Taylor v. Savage's Executor - 43 U.S. 395 (1844)

U.S. Supreme Court Taylor v. Savage's Executor, 43 U.S. 2 How. 395 395 (1844)

Taylor v. Savage's Executor

43 U.S. (2 How.) 395

MOTION TO DISMISS APPEAL

SYLLABUS

The case of [Taylor v. Savage](#), 1 How. 282, examined and confirmed.

This case came before the court at the last term, and is reported in [42 U. S. 1](#)
How. 282.

It was brought up again on a motion to dismiss the appeal.

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MR. JUSTICE STORY delivered the opinion of the Court.

The Court has had this case under consideration, and is of opinion that it is completely governed by the decision made in the same case at the last term of this Court, which is reported in [42 U. S. 1](#) How. 282. An attempt has been made at the bar to distinguish the former decision from that now sought by suggesting that the former proceeded mainly upon the ground that the appeal was irregularly made, and did not directly involve the question now argued. We think otherwise, and that the ground of that decision completely covers all that has been urged upon the present occasion, not as mere incidental suggestions, but as the very hinge on which the case turned. Notwithstanding the opinion of this Court then expressed that the case might be remanded to the district court, for the purpose of making the proper parties, the appellants have neglected, during a whole year, to take a single step for the remanding of the

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case or instituting any proceedings in the court below, which laches certainly ought not to produce any result in their favor.

The appeal is therefore

Dismissed and the cause is remanded to the District Court of the Northern District of Alabama with leave to the appellants to make the proper parties, and to the new administrator, Benham, to become a party to the suit, and that such other proceedings be had as to law and justice shall appertain.

ORDER

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Alabama and was argued by

counsel. On consideration whereof it is ordered and decreed by this Court that this appeal be and the same is hereby dismissed, and that this cause be and the same is hereby remanded to the said district court with leave to the appellants to make the proper parties, and to the new administrator, Benham, to become a party to the suit, and that such other proceedings be had therein as to law and justice shall appertain.

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