In the Matter of Metzger

In the Matter of Metzger

SooperKanoon Citation : sooperkanoon.com/79994

Court : US Supreme Court

Decided On : 1847

Appeal No. : 46 U.S. 176

Appellant : In the Matter of Metzger

Judgement :

In the Matter of Metzger - 46 U.S. 176 (1847)
U.S. Supreme Court In the Matter of Metzger, 46 U.S. 5 How. 176 176 (1847)

In the Matter of Metzger

46 U.S. (5 How.) 176

ORIGINAL

SYLLABUS

The treaty with France made in 1843 provides for the mutual surrender of fugitives from justice, in certain cases.

Where a district judge, at his chambers, decided that there was sufficient cause for the surrender of a person claimed by the French government and committed him to custody to await the order of the President of the United States, this Court has no jurisdiction to issue a habeas corpus for the purpose of reviewing that decision.

Mr. Coxe moved for a habeas corpus, according to the following petition, which he read, and also the decision of the judge below.

"To the Honorable, the Justices of the Supreme Court of the United States:"

"The petition of Nicholas Lucien Metzger respectfully sheweth:"

"That he is restrained from his liberty, and is now a prisoner in jail, and under the custody of the Marshal of the Southern District for the State of New York, and that he has been committed to such jail and custody, and is now confined and detained therein, under and by virtue of a warrant and order of the Hon. Samuel R. Betts, district judge for the Southern District of New York, as an alleged fugitive from justice, pursuant to the provisions of the convention signed between the United States and the French government, on 9 November, 1843."

"That annexed hereto is a copy of the order, under and by virtue of which your petitioner has been apprehended and committed, and is now detained in custody."

"Wherefore your petitioner prays that a writ of habeas corpus may issue from this Honorable Court, to be directed to the Marshal of the Southern District of the State of New York, or to such other persons as may hold or detain your petitioner under and by virtue of said order, commanding him or them to have the body of your petitioner before this Honorable Court, at such time as in said writ may be specified, for the purpose of inquiring into the cause of commitment of your petitioner, and to do and abide such order as this Honorable Court may make in the premises."

"And your petitioner will ever pray &c.;"

"METZGER"

"Sworn to before me this 20 January, 1847."

"GEORGE W. MORTON"

" *United States commissioner for the Southern* "

" *District of New York* "

"In the Matter of Nicholas Lucien Metzger:"

"This case having been heard before me on requisition through the diplomatic agents of the French government that the said Metzger be apprehended and committed for the purpose of being delivered up as a fugitive from justice pursuant to the provisions of the convention signed between the United States and the French government on 9 November, 1843, "

"And exceptions having been taken by the counsel of the said Metzger in his behalf to the competency of a judge of the United States to take cognizance of the subject matter, and to the sufficiency of the evidence to justify any judicial action under the treaty, "

"And these exceptional objections being fully argued before me by Messrs. Blunt and Hoffman, of counsel for Metzger, and by Messrs. Tillon and Cutting in support of the requisition, and by Mr. Butler, United States Attorney, on the part of the United States (in respect to the jurisdiction of the judge, and the period the treaty went into operation), "

"I find and adjudge that a judge of the United States has competent authority, under the laws of the United States now in force, to take cognizance of this case, and to order the apprehension and commitment of the accused, pursuant to the provisions of the said treaty."

"I further adjudge that the said treaty took effect and went into operation on and from the day of the signature thereof."

"I further adjudge that the laws of France are to determine the constituents of the crime of forgery, or *'du faux,'* of which Metzger is accused, and that the facts in evidence adequately prove the commission of that crime by him in France, since

the date of the treaty."

"I further find and adjudge, that Metzger is, within the meaning and description of the treaty, a person accused, 'individual accused,' of the crime of forgery, or *'du faux,'* named in the treaty, and therefore subject to apprehension and commitment under our laws, pursuant to the provisions of the treaty."

"And I find and adjudge, that the evidence produced against the said Metzger is sufficient in law to justify his apprehension and commitment on the charge of forgery, had the crime been committed within the United States."

"Wherefore I order that the said Nicholas Lucien Metzger be apprehended and committed, pursuant to the provisions of the said treaty, to abide the order of the President of the United States in the premises. "

Page 46 U. S. 178

"Given under my hand and seal at the City of New York, this nineteenth day of January, one thousand eight hundred and forty-seven."

"[Signed] SAMUEL R. BETTS"

" *Judge of the United States for the Southern* "

" *District of New York* "

Page 46 U. S. 188

MR. JUSTICE Mc LEAN delivered the opinion of the Court.

This is a petition for a habeas corpus, in which the petitioner represents that he is a prisoner in jail, under the custody of the Marshal for the Southern District of the State of New York, by virtue of a warrant issued by the judge of the United States for said district, as an alleged fugitive from justice, pursuant to the provisions of the convention signed between the United States and the French government on 9

November, 1843.

On a full hearing at chambers, the district judge held

"that the evidence produced against the said Metzger was sufficient in law to justify his apprehension and commitment on the charge of forgery, had the crime been committed within the United States,"

and the prisoner was "committed, pursuant to the provisions of the said treaty, to abide the order of the President of the United States."

In the first article of the convention for the surrender of criminals between the United States and his Majesty, the King of the French, on 9 November, 1843, it was

"agreed, that the high contracting parties shall, on requisitions made in their name, through the medium of their respective diplomatic agents deliver up to justice persons who, being accused of the crimes enumerated in the next following article, committed within the jurisdiction of the requiring party, shall seek an asylum, or shall be found within the territories of the other, provided that this shall be done only when the fact of the commission of the crime shall be so established, as that the laws of the country in which the fugitive or the persons so accused shall be found would justify his or her apprehension and commitment for trial, if the crime had been there committed."

The second article specifies, among other crimes, that of forgery, with which the prisoner was charged.

The third article declares that

"On the part of the government of the United States, the surrender shall be made only by the authority of the executive thereof."

It is contended that the treaty, without the aid of legislation, does not authorize an arrest of a fugitive from France, however clearly the crime may be proved against him; that the treaty provides for a surrender by the executive only, and not through

the instrumentality of the judicial power.

The mode adopted by the executive in the present case seems to be the proper one. Under the provisions of the Constitution, the treaty is the supreme law of the land, and, in regard to rights and responsibilities growing out of it, it may become a subject of judicial cognizance. The surrender of fugitives from justice is a matter of conventional arrangement between states, as no such obligation is imposed by the laws of nations.

Whether the crime charged is sufficiently proved and comes within the treaty are matters for judicial decision, and the executive, when the late demand of the surrender of Metzger was made,

Page 46 U. S. 189

very properly as we suppose, referred it to the judgment of a judicial officer. The arrest which followed and the committal of the accused subject to the order of the executive seems to be the most appropriate, if not the only, mode of giving effect to the treaty.

The jurisdiction of this Court in this matter is the main question for consideration. As this has been argued fully, and as it is supposed that there is a conflict in the decisions of this Court on the subject, a reference will be made to the cases which have been adjudged.

In *United States v. Hamilton,* 3 Dall. 17, a writ of habeas corpus was issued, on which the defendant, who was charged with high treason, was brought into court. He had been committed on the warrant of the district judge. A motion was made for his discharge "absolutely, or at least upon reasonable bail." The court held the prisoner to bail. From the opinion pronounced, it appears the deliberation of the court was chiefly on the subject of appointing a special circuit court to try certain offenses, which, for the reasons assigned, they refused to do.

Here it is said was an original exercise of jurisdiction by the court, as it does not appear that the district judge was holding a court at the time of the commitment.

No objection seems to have been made to the jurisdiction, and the court did not consider it. The defendant was discharged on bail, and this may be presumed to have been one of the main objects of the writ.

The thirty-third section of the Judiciary Act of 1789 provides, that

"upon all arrests in criminal cases, bail shall be admitted, except where the punishment may be death, in which cases it shall not be admitted but by the supreme or a circuit court, or by a justice of the Supreme Court,"

&c.; Hamilton's case was within this section, the charge against him being treason, which was punishable with death. The case is not fully reported. The motion to discharge the prisoner is not noticed in the opinion of the court, and this omission may be accounted for on the ground that they had no power to discharge. But, whether this presumption be well founded or not, it is clear, if this were not the exercise of an original jurisdiction, that the court had a right to admit to bail, under the section, and for that purpose to cause the defendant to be brought before them by a habeas corpus.

Ex Parte Burford, 3 Cranch 448, was a habeas corpus, on which the prisoner, who had been committed by the circuit court of this district, was discharged, there being no sufficient cause for the commitment.

Ex Parte Bollman & Swartwout, 4 Cranch 75, gave rise to much discussion on the power of the court to issue a writ of habeas corpus, and, in their opinion, they consider the subject with great care.

The Chief Justice disclaimed all jurisdiction in the case, "not given by the Constitution or laws of the United States."

He refers to the fourteenth section of the Judiciary Act above cited, in these words:

"That all the before-mentioned courts of the United States shall have power to issue writs of *scire facias,* habeas corpus, and all other writs, not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law. And that either of the Justices of the Supreme Court, as well as judges of the district courts, shall have power to grant writs of habeas corpus, for the purpose of an inquiry into the cause of commitment. Provided that writs of habeas corpus shall in no case extend to prisoners in jail, unless where they are in custody under or by color of the authority of the United States, or are committed for trial before some court of the same, or are necessary to be brought into court to testify."

Bollman & Swartwout had "been committed by the Circuit Court of the District of Columbia, on a charge of treason against the United States."

The Court held, that the proviso limiting the cases in which the writ should issue extends to the whole section, and that they could issue the writ, as it was clearly the exercise of an appellate jurisdiction; that "the revision of a decision of an inferior court, by which a citizen has been committed to jail," is an appellate power.

In *Ex Parte Kearney,* "who was committed by the circuit court of the District of Columbia, for an alleged contempt," 7 Wheat. 38, the court said, that the case of *Bollman & Swartwout* expressly decided, upon full argument, that this Court possessed such an authority, and the question has ever since been considered at rest.

And they held, "that a writ of habeas corpus was not a proper remedy, where a party was committed for a contempt by a court of competent jurisdiction."

The preceding cases were all referred to in *Ex Parte Watkins,* 3 Pet. 193, and the Court said

"Without looking into the indictments under which the prosecution against the petitioner was conducted, we are unanimously of opinion that the judgment of a court of general criminal jurisdiction justifies his imprisonment, and that the writ of habeas corpus ought not to be awarded."

Again, in 32 U. S. 7 Pet. 568, the case of *Ex Parte Watkins* was brought before the Court on a writ of habeas corpus, on the ground that the prisoner

"would not be detained in jail longer than the return day of the process, and he had been brought into court and committed, by the order of the court, to the custody of the marshal."

This committal was required by the law of Maryland, in force in this district, and it not having been ordered, the court discharged the petitioner.

In all the above cases, except in that of Hamilton, this Court

Page 46 U. S. 191

sustained the power to issue the writ of habeas corpus, in the exercise of an appellate jurisdiction under the fourteenth section of the act of 1789, and the case of Hamilton was probably sustained under the thirty-third section of the same act, for the purpose of taking bail. The same doctrine was maintained in *Ex Parte Dorr,* 3 How. 104. In that case, the proviso in the fourteenth section was considered as restricting the jurisdiction to cases where a prisoner is

"in custody under or by color of the authority of the United States, or has been committed for trial before some court of the same, or is necessary to be brought into court to testify."

The case under consideration was heard and decided by the district judge at his chambers, and not in court, and the question arises whether the court can exercise jurisdiction to examine into the cause of commitment under such a state of facts.

There is no pretense that this can be done in the nature of an appellate power. This Court can exercise no power in an appellate form over decisions made at his chambers by a Justice of this Court or a judge of the district court. The argument of the Court in the case of *Bollman & Swartwout* that the power given to an individual judge may well be exercised by the Court must not be considered as asserting an original jurisdiction to issue the writ. On the contrary, the power

exercised in that case was an appellate one, and the jurisdiction was maintained on that ground.

It may be admitted that there is some refinement in denominating that an appellate power which is exercised through the instrumentality of a writ of habeas corpus. In this form, nothing more can be examined into than the legality of the commitment. However erroneous the judgment of the court may be, either in a civil or criminal case, if it had jurisdiction, and the defendant has been duly committed, under an execution or sentence, he cannot be discharged by this writ. In criminal cases, this Court have no revisory power over the decisions of the circuit court; and yet, as appears from the cases cited, "the cause of commitment" in that court may be examined in this, on a writ of habeas corpus. And this is done by the exercise of an appellate power -- a power to inquire merely into the legality of the imprisonment, but not to correct the errors of the judgment of the circuit court. This does not conflict with the principles laid down in *Marbury v. Madison,* 1 Cranch 137. In that case, the court refused to exercise an original jurisdiction by issuing a mandamus to the Secretary of State, and they held, that "Congress have not power to give original jurisdiction to the Supreme Court in other cases than those described in the Constitution."

There is no form in which an appellate power can be exercised by this Court over the proceedings of a district judge at his chambers. He exercises a special authority, and the law has made no provision for the revision of his judgment. It cannot be brought

Page 46 U. S. 192

before the district or circuit court; consequently it cannot, in the nature of an appeal, be brought before this Court. The exercise of an original jurisdiction only could reach such a proceeding, and this has not been given by Congress, if they have the power to confer it.

Upon the whole, the motion for the writ of habeas corpus in this case is

Overruled.

ORDER

Mr. Coxe, of counsel for the petitioner, having filed and read in open court the petition of the aforesaid Nicholas Lucien Metzger, and moved the court for a writ of habeas corpus, as prayed for in the aforesaid petition, to be directed to the Marshal of the United States for the Southern District of New York, commanding him forthwith to produce before this Honorable Court the body of the petitioner, with the cause of his detention -- on consideration whereof, and of the arguments of counsel thereupon had, as well against as in support of the said motion, and after mature deliberation thereupon had, it is now here ordered and adjudged by this Court, that the prayer of the petition be denied, and that the said motion be and the same is hereby overruled.