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United States Vs. Briggs

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Court : US Supreme Court

Decided On : 1847

Appeal No. : 46 U.S. 208

Appellant : United States

Respondent : Briggs

Judgement :

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United States v. Briggs

46 U.S. (5 How.) 208

ON CERTIFICATE OF DIVISION IN OPINION FROM THE CIRCUIT

COURT OF THE UNITED STATES FOR THE DISTRICT OF MICHIGAN

SYLLABUS

When a case is brought up to this Court on a certificate of division in opinion, the point upon which the difference occurs must be distinctly stated.

Where there was a demurrer upon three grounds to an indictment, it is not enough to certify that the court was divided in opinion whether or not the demurrer should be sustained.

The circumstances of the case are thus stated by THE CHIEF JUSTICE, as introductory to the opinion of the Court.

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The defendant was indicted under the Act of Congress of March 2, 1831, ch. 66, 4 Stat. 472, for unlawfully cutting timber upon certain lands of the United States, called the Wyandotte Reserve. He demurred to the indictment upon the following grounds:

First. Because the offense stated and set forth in the indictment is not an offense under the statute of the United States, punishable criminally by indictment.

Second. Because, under the statutes of the United States, trespass on the public lands of the United States is, in no case, an offense punishable criminally by indictment; but is either a mere trespass, punishable by action of trespass at common law, or by action of debt in the statute.

Third. For that the said indictment is in other respects informal, insufficient, and defective.

The United States joined in demurrer; and the record states, that the demurrer coming on to be heard, and having been argued by counsel on either side, the opinions of the court were opposed as to the point whether said demurrer should be sustained, and thereupon it was ordered that the cause be certified to this Court on the indictment, demurrer, and joinder thereto.

MR. CHIEF JUSTICE TANEY, after stating the case as above, proceeded to deliver the opinion of the Court.

The Act of Congress of April 29, 1802, ch. 31, 6, provides that whenever a question shall occur before a circuit court upon which the opinions of the judges shall be opposed, the point on which the disagreement shall happen, upon the request of either party, shall be stated, and certified to this Court, to be finally decided. It is this act alone that gives jurisdiction to the Supreme Court in cases of division of opinion in the circuit court, and the jurisdiction thus given must of course be exercised in the manner pointed out in the law. Consequently, we are not authorized to decide in such cases, unless the particular point upon which the judges differed is stated and certified. *United States v. Bailey,* 9 Pet. 272; *Adams v. Jones,* 12 Pet. 213; *White v. Turk,* 12 Pet. 238.

Now in the case before us, the question upon which the disagreement took place is not certified. The difference of opinion is indeed stated to have been on the *point* whether the demurrer should be sustained. But such a question can hardly be called a point in

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the case, within the meaning of the act of Congress; for it does not show whether the difficulty arose upon the construction of the act of Congress on which the indictment was founded -- or upon the form of proceeding adopted to inflict the punishment -- or upon any supposed defect in the counts in the indictment. On the contrary, the whole case is ordered to be certified upon the indictment, demurrer, and joinder, leaving this Court to look into the record, and determine for itself whether any sufficient objection can be made in bar of the prosecution, and without informing us what questions had been raised in the circuit court, upon which they differed.

Neither can this omission in the certificate be supplied by the causes of demurrer assigned by the defendant. The judges do not certify that they differed on the points there stated, or on either of them, and indeed the third ground there taken is as vague and indefinite as the certificate itself, and could not therefore help it, even if it could be invoked in its aid.

But we are bound to look to the certificate of the court alone for the question which occurred, and for the point on which they differed, and as this does not appear, we have no jurisdiction in the case, and it must be

Remanded to the circuit court.

ORDER

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Michigan, and on the point and question on which the judges of the said circuit court were opposed in opinion, and which was certified to this Court for its opinion, agreeably to the act of Congress in such case made and provided, and was argued by counsel, and it appearing to this Court, upon an inspection of the said transcript, that no point in the case, within the meaning of the act of Congress, has been certified to this Court, it is thereupon now here ordered and adjudged by this Court, that this cause be and the same is hereby dismissed, and that this cause be and the same is hereby remanded to the said circuit court, to be proceeded in according to law.

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