

United States Vs. Dawson

United States Vs. Dawson

SooperKanoon Citation : sooperkanoon.com/80433

Court : US Supreme Court

Decided On : 1853

Appeal No. : 56 U.S. 467

Appellant : United States

Respondent : Dawson

Judgement :

United States v. Dawson - 56 U.S. 467 (1853)

U.S. Supreme Court United States v. Dawson, 56 U.S. 15 How. 467 467 (1853)

United States v. Dawson

56 U.S. (15 How.) 467

*ON CERTIFICATE OF DIVISION OF OPINION BETWEEN THE JUDGES OF
THE*

*CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF
ARKANSAS*

SYLLABUS

In June, 1844, Congress passed an act by virtue of which the Circuit Court of the United States for the District of Arkansas was vested with power to try offenses committed within the Indian country.

In July, 1844, it was alleged that a murder was committed in that country.

In April, 1845, an indictment was found by a grand jury in the Circuit Court of the United States for the District of Arkansas against a person charged with committing the murder.

In March, 1851, Congress passed an act erecting nine of the Western counties and the Indian country into a new judicial district, directing the judge to hold two terms there, and giving him jurisdiction of all causes, civil or criminal, except appeals and writs of error, which are cognizable before a circuit court of the United States.

The residue of the state remained a judicial district to be styled the Eastern District of Arkansas.

This act of Congress did not take away the power and jurisdiction of the Circuit Court of the United States for the Eastern District to try the indictment pending.

Page 56 U. S. 468

The two following questions were certified, *viz.*:

1st. Did the act of Congress entitled "An act to divide the District of Arkansas into two judicial districts," approved the third day of March, in the year of our Lord one thousand eight hundred and fifty-one, whereby the Western District of Arkansas was created and defined, take away the power and jurisdiction of the Circuit Court of the United States for the Eastern District of Arkansas, so that it cannot proceed to hear, try, and determine a prosecution for murder, pending against the prisoner, James L. Dawson, a white man and not an Indian, upon an indictment found, presented, and returned into the Circuit Court of the United States for the District of Arkansas by the grand jury empanelled for that district upon the 16th day of

April, in the year of our Lord one thousand eight hundred and forty-five, against said James L. Dawson, a white man, for the felonious killing of Seaborn Hill, another white man and not an Indian, on the eighth day of July, A.D. 1844, in that country belonging to the Creek nation of Indians, west of Arkansas, and which formed a part of the Indian country annexed to the Judicial District of Arkansas by the Act of Congress approved the seventeenth day of June, A.D. 1844, entitled "An act supplementary to the act entitled *An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, passed thirtieth June, one thousand eight hundred and thirty-four,*" in which cause, so pending, no trial has as yet been had.

2d. Can the District Court of the United States for the Western District of Arkansas take jurisdiction of the case aforesaid upon the indictment aforesaid, so found in the year 1845, in said Circuit Court for the District of Arkansas?

Although the name of Dawson only was mentioned in the question certified, yet the record showed that Baylor was indicted at the same as aiding and abetting in the murder.

A motion was made in the circuit court to quash the indictment upon the ground that this Honorable Court has no jurisdiction or power to hear, try, or determine this case and prosecution, and that all its jurisdiction and power in that behalf ceased and was extinguished on the third day of March, 1851, when that part of the Indian country, in which the offense is charged to have been committed, was severed from this district and made part of a new district under the jurisdiction of the District Court of the United States for the Western District of Arkansas.

It was upon this motion that the judges differed in opinion and certified the two questions above stated to this Court.

Page 56 U. S. 484

MR. JUSTICE NELSON delivered the opinion of the Court.

The defendant was indicted in the Circuit Court of the United States for the District of Arkansas for the alleged murder of one Seaborn Hill in the Indian country west of the State of Arkansas.

The defendant is a white man, and so was Hill, the deceased.

At a circuit court held at the City of Little Rock, on the 28th of April, 1853, the indictment came on for trial before the judges of that court, whereupon a motion was made on behalf of the defendant to quash the indictment, for want of jurisdiction of the court to try the same.

And upon the argument, the judges being divided in opinion,

Page 56 U. S. 485

the following question was certified to this Court for its decision.

1. Did the act of Congress entitled "An act to divide the District of Arkansas into two judicial districts," approved the 3d of March, 1851, by which the Western District of Arkansas was created, take away the power and jurisdiction of the Circuit Court of the United States for the Eastern District to try the indictment pending against the prisoner, James L. Dawson, a white man, found in the Circuit Court of the United States for the District of Arkansas, by a grand jury empanelled on the 16th April, 1845, for feloniously killing Seaborn Hill a white man, on the 8th of July, 1844, in the country belonging to the Creek nation of Indians west of Arkansas, and which formed a part of the Indian country annexed to the Judicial District of Arkansas, by the Act of Congress approved on the 17th of June, 1844, "An act supplementary to the act entitled *An act to regulate trade and intercourse with Indian tribes, and to preserve peace on the frontiers,*" passed 30 June, 1834.

To state the question presented for our decision in a more simple form, it is this: at the time the State of Arkansas composed but one judicial district, in which the federal courts were held, the Indian country lying west of the state was annexed to it for the trial of crimes committed therein by persons other than Indians. In this condition of the jurisdiction of these courts, the crime in question was committed in

the Indian country, and the indictment found in the circuit court, at the April term, 1845, while sitting at the City of Little Rock, the place of holding the court.

Subsequent to this, the state was divided into two judicial districts, the one called the Eastern, the other the Western District of Arkansas. The Indian country was attached to and has since belonged to the Western District. The question presented for our decision is whether or not the circuit court for the Eastern District is competent to try this indictment since change in the arrangements of the districts.

By the 24th section of Act of Congress, June 30th, 1834, 4 Stat. 733, it was provided that all that part of the Indian country west of the Mississippi River, bounded north by the northern boundary of lands assigned to the Osage tribe of Indians, west by the Mexican possessions, south by Red river, and east by the west line of the Territory of Arkansas and State of Missouri, should be annexed to the territorial government of Arkansas for the sole purpose of carrying the several provisions of the act into effect. And the 25th section enacted that so much of the laws of the United States as provides for the punishment of crimes committed within any place within

Page 56 U. S. 486

the sole and exclusive jurisdiction of the United States, shall be in force in the Indian country, provided the same shall not extend to crimes committed by one Indian against the person or property of another Indian.

The Act of Congress, June 7, 1844, 5 Stat. 680, which was enacted after the Territory of Arkansas became a state, provided that the courts of the United States for the District of the State of Arkansas should be vested with the same power and jurisdiction to punish crimes committed within the Indian country designated in the 24th section of the act of 1834, and therein annexed to the Territory of Arkansas, as were vested in the courts of the United States for said territory before the same became a state, and that for the sole purpose of carrying the act into effect, all that Indian country theretofore annexed by said 24th section to the said territory should

be annexed to the State of Arkansas.

As we have already stated, the crime in question was committed in this Indian country after it was annexed, for the purposes stated, to the State of Arkansas, and the indictment was found in the Circuit Court of the United States for the District of Arkansas, which, we have seen, was coextensive with the state. And if no change had taken place in the arrangement of the district before the trial, there could, of course, have been no question as to the jurisdiction of the court.

But by the Act of Congress, 3 March, 1851, it was provided that the Counties of Benton and eight others enumerated, and all that part of the Indian country annexed to the State of Arkansas for the purposes stated, should constitute a new judicial district, to be styled "The Western District of Arkansas," and the residue of said state should be and remain a judicial district, to be styled "The Eastern District of Arkansas."

The 2d section provides that the judge of the district court should hold two terms of his court in this Western District in each year at Van Buren, the county seat in Crawford County. And the third confers upon him, in addition to the ordinary powers of a district court, jurisdiction within the district of all causes, civil or criminal, except appeals and writs of error, which are cognizable before a circuit court of the United States. The fourth provides for the appointment of a district attorney and marshal for the district, and also for a clerk of the court.

It will be seen on a careful perusal of this act that it simply erects a new judicial district out of nine of the western counties in the state, together with the Indian country, and confers on the district judge, besides the jurisdiction already possessed, circuit court powers within the district, subject to the limitation as to appeals and writs of error, leaving the powers and

Page 56 U. S. 487

jurisdiction of the circuit and district courts as they existed in the remaining portion of the state, untouched. These remain and continue within the district after the change, the same as before, the only effect being to restrict the territory over

which the jurisdiction extends. Hence no provision is made as to the time or place of holding the circuit or district courts in the district or in respect to the officers of the courts, such as district attorney, marshal, or clerk, or for organizing the courts for the dispatch of their business. These are all provided for under the old organization. 5 Stat. 50, 51, 176, 177, 178.

We do not, therefore, perceive any objection to the jurisdiction of these courts over cases pending at the time the change took place, civil and criminal, inasmuch as the erection of the new district was not intended to affect it in respect to such cases, nor has it, in our judgment, necessarily operated to deprive them of it.

It has been supposed that a provision in the Sixth Amendment of the Constitution of the United States has a bearing upon this question, which provides, that

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

The argument is that, since the erection of the new district out of the nine western counties in the state together with the Indian country, it is not competent for the circuit court, in view of this amendment, to try the prisoners within the remaining portion of the old district, inasmuch as that amendment requires the district within which the offense is committed and the trial is to be had must be ascertained and fixed previous to the commission of the offense.

But it will be seen from the words of this amendment that it applies only to the case of offenses committed within the limits of a state, and, whatever might be our conclusion if this offense had been committed within the State of Arkansas, it is sufficient here to say, so far as it respects the objection, that the offense was committed out of its limit and within the Indian country.

The language of the amendment is too particular and specific to leave any doubt about it:

"The accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall be committed, which district shall have been previously ascertained by law."

The only regulation in the Constitution, as it respects crimes committed out of the limits of a state, is to be found in the 3d art., sec. 2, of the Constitution, as follows:

"The trial of crimes, except in cases of impeachment, shall be by jury, and such trial

Page 56 U. S. 488

shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."

Accordingly, in the first crimes act, passed April 30, 1790, 8, 1 Stat. 114, it was provided that

"The trial of crimes committed on the high seas or in any place out of the jurisdiction of any particular state shall be in the district where the offender is apprehended or into which he may first be brought."

A crime, therefore, committed against the laws of the United States out of the limits of a state is not local, but may be tried at such place as Congress shall designate by law.

This furnishes an answer to the argument against the jurisdiction of the court as it respects venue, trial in the county, and jury from the vicinage, as well as in respect to the necessity of particular or fixed districts before the offense.

These considerations have no application or bearing upon the question.

In this case, by the annexation of the Indian country to the State of Arkansas, in pursuance of the act of 1844, for the punishment of crimes committed in that country, the place of indictment and trial was in the circuit court of the United

States for that state in which the indictment has been found and was pending in 1851, when the Western District was set off, and as that change did not affect the jurisdiction of the court as it respected pending cases, but remained the same after the alteration of the district as before, it follows that the trial of the indictment in this Court will be at the place and in the court as prescribed by law, which is all that is required in the case of an offense committed out of the limits of a state.

We shall direct, therefore, an answer in the negative, to be certified to the court below to the first question sent up for our decision, as we are of opinion the court possesses jurisdiction to hear and give judgment on the indictment.

The second question sent up in the division of opinion is as follows:

"Can the District Court of the United States for the Western District of Arkansas take jurisdiction of the case aforesaid upon the indictment aforesaid, so found, in the year 1845, in said circuit court for the District of Arkansas?"

As our conclusion upon the first question supersedes the necessity of passing upon the second, it will be unnecessary to examine it, and shall therefore confine our answer and certificate to the court below to the first.

Page 56 U. S. 489

MR. JUSTICE Mc LEAN dissented.

MR. JUSTICE Mc LEAN,

The facts and law of this case, as I understand them, have led me to a different conclusion from that of a majority of the Court. The twenty-fourth section of the Act of 30 June, 1834, after making various provisions defining the limits of the Indian country and imposing penalties for several offenses by white persons, provides

"That for the sole purpose of carrying this act into effect, the Indian country, bounded east by Arkansas and Missouri, west by Mexico, north by the Osage country, and south by Red River, shall be and hereby is annexed to the Territory of

Arkansas."

On the 8th of July, 1844, a murder was committed at the Creek agency, in the Creek country, west of Arkansas, for which the grand jury found a bill of indictment in the circuit court of Arkansas, at April term, 1845.

By an Act of March 3, 1851, it is provided

"That from and after the passage of this act, the Counties of Benton, Washington, Crawford, Scott, Polk, Franklin, Johnson Madison, and Carroll, and all that part of the Indian country lying within the present Judicial District of Arkansas shall constitute a new judicial district to be styled the Western District of Arkansas, and the residue of said state shall be and remain a judicial district to be styled the Eastern District of Arkansas."

After the division of the district, Dawson, the defendant, was arrested for the alleged murder, and the question whether the Circuit Court of the United States sitting within the Eastern District has jurisdiction to try the case has been referred to this Court.

When the offense was committed and the indictment was found, the District of Arkansas included the state and the Indian country described, but when the defendant was arrested and the case was called for trial, the district had been divided, and the question is raised in the Eastern District, the murder having been committed in the Western.

In the act dividing the district, Congress had power to provide that all offenses committed in the district before the division should be tried in the Eastern District. But no such provision being made, the question is whether the jurisdiction may be exercised in that district without it.

Since the division of the district, capital punishments have been inflicted in the Western District for offenses committed before the division. This deprived the accused of no rights which they could claim under the Constitution of the United States or the laws of the Union. The sixth article of the

amendment to the Constitution declares that

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

As the state and district are connected by the copulative conjunction in this provision, the case before us is not technically within it. The crime is alleged to have been committed within the Indian country, which the district includes, but it is not within the state. But the case appears to me to be within the policy of the provision. Nine counties of the State of Arkansas are within the district, and from which the jury to try the defendant might be summoned. This brings the case substantially within the above provision. Had the place of the murder been within one of the above counties, the constitutional provisions must have governed the case. All the rights guaranteed by the Constitution would have been secured to the criminal by a trial in the Western District, but those rights are not realized by him on a trial in the Eastern District. And that is made the place of trial because the alleged murder was not committed within the state.

In the 2d section of the 3d article of the Constitution, it is declared that

"The trials of all crimes except in cases of impeachment shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."

The latter clause of this provision covers the case now before us. The crime charged was not committed within any state, but it was committed within a district within which such offenses are to be tried as "directed by Congress." And there seems to me to be no authority to try such an offender in any other district, or at any other place. The act of 1834 provides that an offender, under the act, when arrested, should be sent for trial to the district where jurisdiction may be exercised.

The punishments inflicted in the Western District of Arkansas for crimes committed before the division of the district were in accordance with the above provision of the Constitution and the principles of the common law, both of which are opposed to a trial of the same offenses in the Eastern District. The tribunal is the same in both districts, except the circuit judge may not be bound to attend the Western District; but the Western District includes the place of the crime, which, by the laws of England and of this country, is the criterion of jurisdiction in criminal cases. This is never departed from where the limits of the jurisdiction are prescribed.

Page 56 U. S. 491

On what ground can jurisdiction be exercised in the Eastern District? Not, I presume, on the ground that the crime was committed before the district was divided. If this be assumed and sustained, the capital punishments which have been inflicted in the Western District for similar offenses have been without authority. The offenders have been tried, and they have had, substantially, the benefits secured by the Constitution. They have had a jury from the district and as near the vicinage as practicable. These privileges they would not have realized had they been tried in the Eastern District. If tried in the Eastern District, the jury must have been summoned from that district, and not from the district in which the offense was committed. The considerations in favor of the Western District as the legal place of trial greatly outweigh, it seems to me, any that can arise in favor of the Eastern District.

There is, however, a fact which may be supposed of great weight in deciding the question, and that is the indictment was found before the division of the district. I will examine this. It is admitted the jurisdiction was in the circuit court for the entire district, when the indictment was found. This gave jurisdiction, but every step taken in the cause subsequent to the findings of the bill is as much the exercise of jurisdiction as the finding of the bill.

The establishment of the Western District in effect repealed the jurisdiction of the Eastern District as to causes of action arising in the Western District as fully as if

the law had declared "no jurisdiction shall hereafter be taken in any case, civil or criminal, which is of a local character, and arises in the Western District." Offenses committed in that district are made local by the acts of Congress. This is not a case where, if jurisdiction once attaches, the court may finally determine the matter. There seems to me to be no reason for such a rule in a criminal case, especially when it is opposed to the policy of the Constitution and to the principles of common law.

A case lately decided in this Court may have some bearing on this question. Under the fugitive slave law of 1793, certain penalties were inflicted for aiding a fugitive from labor to escape. A number of actions were brought in several of the states -- in Ohio, Indiana, and Michigan -- for the recovery of this penalty, but it was set up in defense that this penalty was repealed by repugnant provisions in the law of 1850 on the same subject, and this Court so held. The actions, which had been pending for years, were stricken from the docket. But it may be said the repeal, in the case stated, operated on the right of action. This is admitted. And so, it may be said, the Western District was repugnant to the Eastern so far as causes of

Page 56 U. S. 492

local actions arise in the Western District, and is not this repugnancy as fatal to the trial as the repeal of the penalty in the act of 1793?

All this difficulty arises from an omission of Congress to make, in the law dividing the district, the necessary provision, and it appears to me that we have no power, by construction or otherwise, to supply the omission. This could not be done in an action of ejectment. A writ of possession in such a case could not be issued to the Western District on a judgment entered in the Eastern. And if such a jurisdiction could not be sustained in a civil action, much less could it be sustained in a criminal case.

If a person guilty of a crime in the Indian country before the division could not be indicted and tried in the Eastern District, it follows that the fact of the crime having been committed in the Indian country can afford no ground of jurisdiction in the

present case. It must rest alone, then, it would seem, for jurisdiction, on the ground that, the indictment having been found in the Eastern District, the same jurisdiction may try the defendants, and, if found guilty, sentence them to be executed. This view must overcome the locality of the crime and the right which the defendants may claim to have a jury as near the vicinage as practicable, at least a jury from the district where the crime was committed. These appear to me to be objections entitled to great consideration. A jurisdiction in so important a case should not be maintained under reasonable doubts of its legality.

The cases referred to in the argument to retain the jurisdiction do not, as it appears to me, overcome the objections. Numerous instances are cited where the territory of a judicial district has been changed, provision being made in the act that the jurisdiction should be continued where suits had been commenced. This shows the necessity of such a provision, and is an argument against the exercise of the jurisdiction where no provision has been made. And in those cases, like the present, where a district has been changed without any provision as to jurisdiction, there is no exercise of it shown in a criminal case, especially where the punishment is death.

Where jurisdiction attaches from the citizenship of the parties, a change of residence does not affect the jurisdiction. The case of [Tyrell v. Roundtree](#), 7 Pet. 464, seems to have no bearing upon this question. That action was commenced by an attachment, which was laid upon the land before the division of the county, and this Court said the land remained in the custody of the officer subject to the judgment of the court. An interest was vested in him for the purposes of that judgment.

Page 56 U. S. 493

The judgment was not a general lien on it, but was a specific appropriation of the property itself. And it said the division of the county could not divest this vested interest or deprive the officer of the power to finish a process, which was rightly begun.

There may be cases where counties have been divided after jurisdiction was taken in a local action, and the suit has been carried into judgment, but such cases afford no authority in the present case.

The case relied upon as in point in 4 Wash.C.C. 725, the court said

"At the first or second session of this Court, which succeeded the passage of the act of 1824, which added this and other counties to the western judicial district, we were called upon to decide whether the present action, together with some others then on our docket for trial, together with the papers belonging to them, should be sent to the Western District or retained here. After hearing counsel on the question, the opinion of the court was that those cases were not embraced either by the word or by the obvious intention and policy of the act."

This does not appear to be a well considered case. The counties were annexed to another jurisdiction, and yet the court speaks of "the obvious intention and policy of the act," and on that ground entertains jurisdiction over cases pending in the former district. This was right in regard to transitory actions, but not where the actions were of a local character.

ORDER

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 Arkansas, and on the points or questions, on which the judges of the said circuit court were opposed in opinion and which were certified to this Court for its opinion, agreeably to the act of Congress in such case made and provided, and was argued by counsel. On consideration whereof it is the opinion of this Court that the act of Congress entitled "An act to divide the District of Arkansas into two judicial districts," approved the third day of March in the year of our Lord one thousand eight hundred and fifty-one, whereby the Western District of Arkansas was created and defined, did not take away the power and jurisdiction of the Circuit Court of the United States for the Eastern District of Arkansas, so that it can proceed to hear, try, and determine a prosecution for murder, pending against the prisoner, James

L. Dawson, a white man and not an Indian, upon an indictment, found, presented, and returned

Page 56 U. S. 494

into the Circuit Court of the United States for the District of Arkansas by the grand jury empanelled for that district upon the 16th day of April in the year of our Lord one thousand eight hundred and forty-five, against said James L. Dawson, a white man, for the felonious killing of Seaborn Hill, another white man and not an Indian, on the eighth day of July, A.D. 1844, in that county, belonging to the Creek nation of Indians, west of Arkansas, and which formed a part of the Indian country annexed to the Judicial District of Arkansas by the Act of Congress approved the seventeenth day of June, A.D. 1844, entitled "An act supplementary to the act entitled *An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, passed thirtieth June, one thousand eight hundred and thirty-four,*" in which cause, so pending, no trial has yet been had. And that this answer to the first question supersedes the necessity of any answer to the second question.

Whereupon it is now here ordered and adjudged by this Court that it be so certified to the said circuit court.