

Olney Vs. the Steamship Falcon

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Court : US Supreme Court

Decided On : 1854

Appeal No. : 58 U.S. 19

Appellant : Olney

Respondent : The Steamship Falcon

Judgement :

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Olney v. The Steamship Falcon

58 U.S. (17 How.) 19

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

Where it was alleged in a libel, that the libellant was "entitled to recover from the vessel the damages by him sustained, which amount to the sum of eighteen

hundred dollars and upwards," the sum was not sufficient to bring the case within the jurisdiction of this Court.

Interest, not being specially claimed, cannot be computed, for it is considered as a part of the damages, being merged in that claim, and is not estimated as a distinct item.

A libel was filed in the district court by Olney, alleging the shipment and nondelivery of a box of merchandise, in consequence of which he was entitled to recover the damages by him sustained, which amounted to the sum of eighteen hundred dollars and upwards.

The district court dismissed the libel, and the circuit court affirmed the decree. The libellant appealed to this Court.

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

A motion is made by defendants' counsel to dismiss the appeal, for want of jurisdiction.

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In the libel, the shipment of a box of merchandise, which was not delivered to the consignee &c.;, is alleged, and that "the libellant is entitled to recover of said vessel the damages by him sustained, which amount to the sum of eighteen hundred dollars and upwards," &c.;

The district court dismissed the libel, from which decision an appeal was taken to the circuit court, and that court affirmed the decision of the district court. From this last decision an appeal has been taken to this Court.

On the part of the appellant it is stated that the claim was for eighteen hundred dollars and upwards, besides the interest; that, on the hearing, the libellant

claimed the said principal and interest, amounting to two thousand two hundred and fifty dollars, and that he was entitled to recover, on his proofs and allegations, that sum. That this was the claim at the time of the appeal, and that another year's interest has since accrued. And it is contended that the sum sworn to, being eighteen hundred dollars and upwards, was intended to cover the accruing interest.

The right of appeal from the circuit to the Supreme Court is given "where the matter in dispute exceeds the sum or value of two thousand dollars, exclusive of costs." The defendant can appeal where the judgment or decree against him exceeds the sum or value of two thousand dollars, but an appeal may be taken by the plaintiff where his claim of damages, in the declaration or libel, exceeds the above sum, or where the value of the thing claimed exceeds it, as this is held to be the matter in dispute.

The appellant in this case claims in his libel, which is sworn to, eighteen hundred dollars and upwards. The words "and upwards," it is said, were intended to embrace the interest, and that if this be calculated from the time of filing the libel up to the time of the trial, the sum would exceed two thousand dollars.

The interest, in an action of this kind, if taken into view, is considered as a part of the damages, being merged in that claim, and is not estimated as a distinct item. The claim of more than eighteen hundred dollars, is too indefinite to give jurisdiction under the act of Congress, and the interest not being specially claimed, for the reason stated, cannot be computed. The appeal is therefore dismissed, for want of jurisdiction. [Gordon v. Ogden](#), 3 Pet. 34; [Scott v. Lunt's Administrator](#), 6 Pet. 349.

ORDER

This cause came on to be heard, on the transcript of the record, from the Circuit Court of the United States for the Southern District of New York, and was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this Court that this cause be, and the same is hereby

Dismissed for the want of jurisdiction.

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