

**Stevens Vs. Gladding**

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**Court :** US Supreme Court

**Decided On :** 1856

**Appeal No. :** 60 U.S. 64

**Appellant :** Stevens

**Respondent :** Gladding

**Judgement :**

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**Stevens v. Gladding**

**60 U.S. (19 How.) 64**

*ERROR TO THE CIRCUIT COURT OF THE UNITED*

*STATES FOR THE DISTRICT OF RHODE ISLAND*

## **SYLLABUS**

Where no error appears upon the record in the proceedings of the circuit court, the case having been left to a jury and no instructions asked from the court, the judgment below must be affirmed.

The plaintiff in error, Stevens, was the same person who was the appellant in the case of [Stevens v. Cady](#), reported in 14 How. 529.

In the present suit, he brought an action, being a citizen of Connecticut, against Gladding & Proud, booksellers of Providence, in Rhode Island. It was a *qui tam* action in which he claimed two thousand dollars because the defendants published and sold two thousand copies of his map of the State of Rhode Island, for which he had obtained a copyright.

The defendants pleaded not guilty, and the case went on to trial before a jury, who found a verdict for the defendants. In the progress of the trial, there was no prayer to the court to instruct the jury upon a matter of law, nor any bill of exceptions whatever.

Stevens managed the case for himself, and it would be difficult to conjecture the reason for suing out a writ of error if it were not for the following assignment of error which was attached to the record:

"This was a *qui tam* action at law in debt for the forfeitures and penalties incurred by the defendants for the violation of a copyright granted to the plaintiff in error, on the 23d day of April, 1831, under an Act of Congress entitled 'An act to amend the several acts respecting copyrights, approved 3d February, 1831.'"

"The plaintiff's title to this copyright is set forth in the declaration herein. The principal questions in this case are was the verdict and judgment correct? Was the sale of the engraved plates the sale of a copyright? Did such sale authorize the defendants, or any other person, to print and sell this literary production, still subsisting under a copyright in this complainant?"

"The very learned opinion of the Supreme Court of the United States, delivered by MR. JUSTICE NELSON, in bill in chancery, [James Stevens v. Isaac H. Cady](#), 14 How. 528, is ample and decisive on this subject."

"JAMES STEVENS, *for himself* "

In this Court, the following brief was filed by Mr. Ames, no counsel appearing for the plaintiff in error:

"The record in this case shows that at the November term of the Circuit Court for the District of Rhode Island, 1848, the plaintiff in error brought a *qui tam* action against the defendants in error to recover penalties and forfeitures alleged to have been incurred by them under the Act of Congress passed February 3, 1831, entitled 'An act to amend the several acts respecting copyrights;' that at the June term of said court, 1850, the cause was submitted upon the general issue to a jury, who, in due form, returned a verdict in favor of the defendants in error, of 'not guilty,' whereupon judgment was entered, that they have and recover their costs of suit."

The record discloses no error in law, nor, to the knowledge of the defendants in error or of their counsel, was any error of law brought upon the record by the allowance of a bill of exceptions. The court has no choice, therefore, but to confirm the judgment below, with costs.

"SAMUEL AMES, *for Defendants in Error* "

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

An action was brought by the plaintiff in the circuit court, alleging that he was the author of a topographical map of the State of Rhode Island and Providence Plantations, surveyed trigonometrically by himself, the copyright of which he secured under the Act of Congress of the 3d April, 1831, entitled "An act to amend the several acts respecting copyrights," and he avers a special compliance with all the requisites of said act to vest in him the copyright of said map or chart. And he charges the defendants with having published two thousand copies of his map and sold them within two years before the commencement of the action, in violation of his right, secured as aforesaid, to his damage four thousand dollars.

The defendants pleaded not guilty. The case was submitted to a jury, which returned a verdict of not guilty. A judgment was entered against the plaintiff for costs.

A writ of error was procured, and bond given to prosecute it with effect.

The defendant in proper person assigns for error

"that the verdict and judgment were given against the plaintiff in error, whereas the verdict and judgment should have been given for the plaintiff, and he prays a reversal of the judgment on this ground."

In a very short argument, the plaintiff in error says

"The

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principal questions are was the verdict and judgment correct? Was the sale of the engraved plate, on execution, the sale of the copyright? Did such sale authorize the defendants, or any other person, to print and sell this literary production, still subsisting under a copyright in the plaintiff. And he refers to [55 U. S. 14](#) How. 528, *Stevens v. Cady*. In that case, this Court held that a sale of the copperplate for a map, on execution, does not authorize the purchaser to print the map."

Two or three depositions, not certified with the record, were handed to the court as having been omitted by the clerk in making up the record, but it does not appear that they were used in the trial before the circuit court, and if it did so appear, no instructions were asked of the court to the jury to lay the foundation of error.

It is to be regretted that the plaintiff in error, in undertaking to manage his own case, has omitted to take the necessary steps to protect his interest. There is no error appearing on the record which can be noticed by this Court; the judgment of the circuit court is therefore

*Affirmed with costs.*

