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Steamer Virginia Vs. West

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Court : US Supreme Court

Decided On : 1856

Appeal No. : 60 U.S. 182

Appellant : Steamer Virginia

Respondent : West

Judgement :

Steamer Virginia v. West - 60 U.S. 182 (1856)
U.S. Supreme Court Steamer Virginia v. West, 60 U.S. 19 How. 182 182 (1856)

Steamer Virginia v. West

60 U.S. (19 How.) 182

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF MARYLAND

SYLLABUS

Where an appeal is taken to this Court, the transcript of the record must be filed and the case docketed at the term next succeeding the appeal.

Although the case must be dismissed if the transcript is not filed in time, yet the appellant can prosecute another appeal at any time within five years from the date of the decree, provided the transcript is filed here and the case docketed at the term next succeeding the date of such second appeal.

Mr. Johnson moved to dismiss the appeal, upon the ground that the record was not filed in time.

MR. CHIEF JUSTICE TANEY delivered the opinion of the Court.

The decree from which the appeal has been taken was passed by the circuit court on the 17th day of November, 1855 and the appeal was prayed on the same day in open court. But it was not prosecuted to the next succeeding term of this Court,

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and no transcript of the record was filed here during that term. But a transcript has been filed at the present term of this Court, and the case docketed. And a motion is made to dismiss it, upon the ground that the appeal is not legally before this Court, according to the act of Congress regulating appeals.

The construction of this act of Congress, and the practice of this Court under it, has been settled by the cases of *Villalobos v. United States,* 6 How. 81, and *United States v. Curry,* 6 How. 106. The transcript must be filed in this Court and the case docketed at the term next succeeding the appeal in order to give this Court jurisdiction. This case must therefore be dismissed.

But the dismissal does not bar the appellant from taking and prosecuting another appeal at any time within five years from the date of the decree, provided the transcript is filed here and the case docketed at the term next succeeding the date of such second appeal.

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