

The Lucy

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Court : US Supreme Court

Decided On : 1868

Appeal No. : 75 U.S. 307

Appellant : The Lucy

Judgement :

The Lucy - 75 U.S. 307 (1868)

U.S. Supreme Court The Lucy, 75 U.S. 8 Wall. 307 307 (1868)

The Lucy

75 U.S. (8 Wall.) 307

MOTION TO DISMISS APPEAL FROM THE DISTRICT

COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

SYLLABUS

1. An appeal which had been allowed from a district court having circuit court powers dismissed, it having been allowed just after an act had passed which created a circuit court for the same district and which repealed so much of any act as gave to the district court circuit court powers.

2. Appellate jurisdiction in the federal courts depends on the Constitution and the acts of Congress. When these do not confer it, courts of the United States cannot exercise it by virtue of agreements of counsel or otherwise.

3. The fact that no transcript of the record was filed at the next term to that when a decree appealed from was made is, in general, fatal to the appeal.

An act of Congress of 1803 [[Footnote 1](#)] prescribes the circumstances under which appeals are allowed from the district to the circuit courts, and from these last to this Court. This act being in force and governing the appeals mentioned, an act of February, 1847, [[Footnote 2](#)] established the District Court for the Southern District of Florida, with the jurisdiction and powers of a district and circuit Court of the United States, and appeals were allowed from its decrees in the same manner, and under the same regulations as appeals from a circuit court.

On the 15th of July, 1862, [[Footnote 3](#)] Congress passed an act establishing a circuit court for a circuit which included the Southern District of Florida and repealing the former act conferring upon the district court circuit court jurisdiction.

In this state of the law, on the 4th of August, 1862 -- that is to say, nineteen days after this last statute was enacted -- the district court passed a decree condemning the schooner *Lucy*, and on the 15th, allowed an appeal to this Court.

The record was, in the October following, filed in the

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circuit court for the district "by reason of the Act of Congress approved July 15, 1862, establishing a circuit court in said district."

Afterward, to-wit, May 1, 1867, the cause was transferred to the Supreme Court of the United States by consent of all parties in interest, and the case so came up here from the circuit court. The record was filed December 24, 1867.

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THE CHIEF JUSTICE delivered the opinion of the Court.

At the time when the District Court for the Southern District of Florida was established, the act of 1803 [[Footnote 4](#)] governed appeals from the district to the circuit courts and from the circuit courts to this Court. No appeal in admiralty could be taken directly from the district court to this Court except when, as in the case of the Southern District of Florida, the district court exercised the jurisdiction of the circuit court as well as that of the district court.

If this state of the law had undergone no change at the date of the decree of condemnation in this case, the allowance of an appeal to this Court would have been quite regular.

But the effect of the act of July, 1862, [[Footnote 5](#)] was to vest in the circuit court for that circuit the whole appellate jurisdiction exercised by other circuit courts in respect to decrees in admiralty. It left the original jurisdiction in admiralty of the district court untouched.

It was in virtue of this original jurisdiction that the district court had cognizance of the case of the *Lucy*. The appellate jurisdiction of the case was vested by the act in the circuit court.

It follows that when the decree was pronounced in August, no appeal could be taken to this Court, but only to the circuit court, and that the allowance of an appeal to this Court was a nullity.

This objections to the jurisdiction is decisive; but if it were otherwise, the fact that no transcript of the record was filed at the next term would be fatal to the appeal. [[Footnote 6](#)]

No consent of counsel can give jurisdiction. Appellate

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jurisdiction depends on the Constitution and the acts of Congress. When these do not confer it, courts of the United States cannot exercise it.

We cannot take cognizance of a case not brought before us in conformity with the law.

The case at bar, therefore, must be

Dismissed.

[[Footnote 1](#)]

2 Stat. at Large 244.

[[Footnote 2](#)]

9 *id.* 131.

[[Footnote 3](#)]

12 *id.* 576.

[[Footnote 4](#)]

2 Stat. at Large 244.

[[Footnote 5](#)]

12 *id.* 576.

[[Footnote 6](#)]

[Castro v. United States](#), 3 Wall. 47; [Insurance Company v. Mordecai](#), 21 How. 195.