

Ex Parte Medway

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Court : US Supreme Court

Decided On : 1874

Appeal No. : 90 U.S. 504

Appellant : Ex Parte Medway

Judgement :

Ex Parte Medway - 90 U.S. 504 (1874)

U.S. Supreme Court Ex Parte Medway, 90 U.S. 23 Wall. 504 504 (1874)

Ex Parte Medway

90 U.S. (23 Wall.) 504

ON PETITION FOR MANDAMUS

SYLLABUS

Where on certain facts found by the Court of Claims -- it refusing to find as a fact a certain allegation which the petitioner in the suit requested it to find -- that court has given judgment against the petitioner, and the petitioner has taken the record to this Court, which, upon considering the case found, reverses the judgment of the Court of Claims and remands the cause "for further proceedings in conformity with law and justice," there is nothing which prevents the Court of Claims from

setting aside the findings of fact which it had made on the first trial and from trying the case *de novo*.

The case was thus:

Medway had filed a petition in the Court of Claims for the recovery, under the Abandoned and Captured Property Acts, of the proceeds of ninety-four bales of cotton, of which he alleged himself to have been the owner and which he alleged had been seized and sold by the United States, who now had the net proceeds, \$17,386.20, in their Treasury. A trial was had, and the court found as facts that the claimant was the owner of the number of bales stated, that they had been captured by the United States military forces at Wilmington, North Carolina, in February, 1865; that they had been turned over to the Treasury agent at Wilmington and sold in New York in August, 1865, and that the net proceeds thereof were in the Treasury.

But it refused to find as another fact that which the plaintiff requested it to find, namely "that the whole amount of net proceeds of the said bales was \$17,386.20."

Judgment was rendered against the plaintiff, who thereupon appealed to the supreme court.

The supreme court reversed the judgment and remanded the cause for further proceedings, "in conformity with law and justice." The record in the supreme court contained the foregoing findings, and showed the failure of the Court of Claims to make the computation and state the amount of proceeds.

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The plaintiff then filed the mandate in the Court of Claims, and moved that court to proceed with the case from the point reached by the reversal, which proceeding he alleged would be "in conformity with law and justice." The court, however, refused to so proceed, and on the contrary, on the 5th of April, 1875, ordered that all the findings of fact originally made and filed, and upon which the case had been heard in the supreme court, should be set aside and held for naught, and that a trial be

had *de novo*.

Mr. Thomas Wilson, for the plaintiff, now filed a petition in this Court setting forth these facts and praying that the judges of the Court of Claims show cause why a mandamus should not be issued to the said court, to compel it to vacate its said order of April 5, 1875, and it proceed in obedience to the mandate of this Court, and in conformity to law and justice in the case.

The judges of the Court of Claims showed for cause:

"1st. That the mandate of the supreme court left the Court of Claims to decide what further proceeding in the case would be in conformity to law and justice, and"

"2d. That it was in conformity to law and justice to set aside the findings of fact which had been made on the first trial, and try the case *de novo*, and thereupon the said order of April 5th, 1875, was made."

The question now was upon the sufficiency of the return.

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THE CHIEF JUSTICE delivered the opinion of the Court.

Our mandate required the Court of Claims to proceed in the cause remanded in conformity to law and justice. We did not undertake to direct what law and justice did require, any further than to say that upon the finding of facts appearing

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in the record sent to us upon the appeal, the judgment was erroneous. In everything else, the Court of Claims was left free to proceed with the cause in its own way and according to its own judicial discretion. That discretion we cannot control in this form of proceeding.

Petition dismissed.

