

Simmerman Vs. Nebraska

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Court : US Supreme Court

Decided On : Dec-07-1885

Appeal No. : 116 U.S. 54

Appellant : Simmerman

Respondent : Nebraska

Judgement :

Simmerman v. Nebraska - 116 U.S. 54 (1885)

U.S. Supreme Court Simmerman v. Nebraska, 116 U.S. 54 (1885)

Simmerman v. Nebraska, 116 U.S. 54 (1885)

Submitted December 3, 1885

Decided December 7, 1885

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ERROR TO THE SUPREME COURT

OF THE STATE OF NEBRASKA

SYLLABUS

This Court is without jurisdiction over a case brought here on error from a state court unless it appears in the record that the federal question was raised in that court before the entry of a final judgment in the case.

This was a motion to dismiss the writ of error for want of jurisdiction.

MR. JUSTICE WAITE delivered the opinion of the Court.

It nowhere appears from this record, either in the application for a change of venue or in the objections to the admissibility of evidence, to the charge of the court as given, or to the refusals to charge as requested, or in the motion for a new trial, the assignment of errors in the supreme court of the state, or the opinion filed in that court, that any federal question was actually presented for consideration, or in any way relied on, before the final judgment from which the writ of error has been taken. Such being the case, we cannot take jurisdiction. *Detroit Railway Co. v. Guthard*, [114 U. S. 134](#) ; *Brown v. Colorado*, [106 U. S. 95](#) . The fact that after the final judgment, and in the petition for a writ of error to this Court, which seems to have been treated also as a petition for rehearing, a federal question was presented is not enough. It was so decided in *Susquehanna Boom Co. v. West Branch Boom Co.*, [110 U. S. 57](#) . As we said in that case:

"We act on the case as made to the court below when the judgment was rendered, and cannot incorporate into the record any new matter which appears for

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the first time after the judgment on a petition for rehearing. Such a petition is no part of the record on which the judgment rests."

The motion to dismiss for want of jurisdiction is granted.