

Johnson Vs. Keith

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Court : US Supreme Court

Decided On : Mar-08-1886

Appeal No. : 117 U.S. 199

Appellant : Johnson

Respondent : Keith

Judgement :

Johnson v. Keith - 117 U.S. 199 (1886)

U.S. Supreme Court Johnson v. Keith, 117 U.S. 199 (1886)

Johnson v. Keith

Submitted March 2, 1886

Decided March 8, 1886

117 U.S. 199

ERROR TO THE SUPREME COURT

OF THE STATE OF MISSOURI

SYLLABUS

A judgment of reversal in a state court, accompanied by an order remanding the cause for a retrial, is not a final judgment for the purpose of a writ of error to this Court.

Bostwick v. Brinkerhoff, [106 U. S. 4](#) , affirmed.

This was a motion to dismiss a writ of error

"because the record and mandate of the said Supreme Court of Missouri in this cause, brought up by such writ of error, shows on the face thereof that no final judgment or decree was rendered or made in this cause by said Supreme Court of Missouri, but on the contrary thereof, it appears from such record and mandate that the judgment and decree of the inferior court, to-wit, the said Circuit Court of Lafayette County, Missouri, was, by such Supreme Court of Missouri, reversed, and that this cause was by such Supreme Court of Missouri remanded to the said Circuit Court of Lafayette County, Missouri, for further proceedings to be had therein in conformity with the opinion of said Supreme Court of Missouri in this cause delivered. Such writ of error was prematurely and improvidently sued out and issued."

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

This motion is granted. A judgment of reversal accompanied by an order remanding the cause for a retrial is not a final judgment for the purposes of a writ of error to this Court. [Houston v. Moore](#), 3 Wheat. 433; *Bostwick v. Brinkerhoff*, [106 U. S. 4](#) , and cases there cited.

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