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York Vs. Texas

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Court : US Supreme Court

Decided On : Nov-03-1890

Appeal No. : 137 U.S. 15

Appellant : York

Respondent : Texas

Judgement :

York v. Texas - 137 U.S. 15 (1890)
U.S. Supreme Court York v. Texas, 137 U.S. 15 (1890)

York v. Texas

No. 999

Submitted October 21, 1890

Decided November 3, 1890

137 U.S. 15

ERROR TO THE SUPREME COURT

OF THE STATE OF TEXAS

SYLLABUS

The provisions in the Revised Statutes of Texas, Articles 1242-1245, which, as construed by the highest court of the state, convert an appearance by a defendant for the sole purpose of questioning the jurisdiction of the court into a general appearance and submission to the jurisdiction of the court do not violate the provision in the Fourteenth Amendment to the Constitution which forbids a state to deprive any person of life, liberty or property without due process of law.

On the 14th day of November, 1888, a personal judgment was rendered in the district court of Travis County, Texas,

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against the plaintiff in error, which judgment was subsequently affirmed by the supreme court of the state. Error is now alleged in this, that the district court had no jurisdiction of the person of the defendant. The record discloses that on October 20, 1885, the defendant leased from the state certain school lands at a stipulated rental. The lease provided that in all suits thereunder, the venue should be laid in Travis County, Texas. The state filed its petition on February 15, 1888, alleging nonpayment of the rent due in 1886 and 1887. The defendant being a nonresident, a citizen of St. Louis, Missouri, a notice in accordance with the provisions of the statute was served upon him personally in that city. No question is made but that the service was in strict conformity with the letter of the statute. On March 9, 1888, the defendant appeared by his counsel and filed a special plea challenging the jurisdiction of the court on the ground that he was a nonresident and had not been served personally with process within the limits of the state. This plea was overruled. Thereafter, and on the 5th day of October, 1888, the defendant appeared by his attorneys in open court, demanded a jury, paid the jury fee, and had the cause transferred to the jury docket. On the 6th day of October, he again filed a plea to the jurisdiction on the same ground, which was also overruled. On the 14th day of November, when the cause was reached and called for trial, he again appeared by his attorneys, waived his right of trial by a jury and his demand of a jury, and declined to further answer to the cause, relying solely

upon his plea to the jurisdiction. The court thereupon proceeded to render judgment against him, which, as heretofore stated, was affirmed by the supreme court.

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MR. JUSTICE BREWER, after stating the case as above reported, delivered the opinion of the Court.

It was conceded by the district and the supreme courts that the service upon the defendant in St. Louis was a nullity, and gave the district court no jurisdiction, but it was held that under the peculiar statutes of the State of Texas, the appearance for the purpose of pleading to the jurisdiction was a voluntary appearance, which brought the defendant into court. Plaintiff in error questions this construction of the Texas statutes, but inasmuch as the supreme court, the highest court of the state, has so construed them, such construction must be accepted here as correct, and the only question we can consider is as to the power of the state in respect thereto. It must be conceded that such statutes contravene the established

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rule elsewhere, a rule which also obtained in Texas at an earlier day, to-wit, that an appearance which, as expressed, is solely to challenge the jurisdiction is not a general appearance in the cause, and does not waive the illegality of the service or submit the party to the jurisdiction of the court. *Harkness v. Hyde,* 98 U. S. 476 ; *Raquet v. Nixon,* Dallam 386; *Dewitt v. Monroe,* 20 Tex. 289; *Hagood v. Dial,* 43 Tex. 626; *Robinson v. Schmidt,* 48 Tex. 19.

The difference between the present rule in Texas and elsewhere is simply this: elsewhere the defendant may obtain the judgment of the court upon the sufficiency of the service without submitting himself to its jurisdiction; in Texas, by its statute, if he asks the court to determine any question, even that of service, he submits himself wholly to its jurisdiction. Elsewhere he gets an opinion of the court before deciding on his own action; in Texas, he takes all the risk himself. If the service be

in fact insufficient, all subsequent proceedings, including the formal entry of judgment, are void; if sufficient, they are valid. And the question is whether, under the Constitution of the United States, the defendant has an inviolable right to have this question of the sufficiency of the service decided in the first instance and alone.

The Fourteenth Amendment is relied upon as invalidating such legislation. That forbids a state to "deprive any person of life, liberty, or property without due process of law." And the proposition is that the denial of a right to be heard before judgment simply as to the sufficiency of the service operates to deprive the defendant of liberty or property. But the mere entry of a judgment for money which is void for want of proper service touches neither. It is only when process is issued thereon or the judgment is sought to be enforced that liberty or property is in present danger. If at that time of immediate attack protection is afforded, the substantial guaranty of the amendment is preserved, and there is no just cause of complaint. The state has full power over remedies and procedure in its own courts, and can make any order it pleases in respect thereto, provided that substance of right is secured without unreasonable burden to parties and litigants.

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Antoni v. Greenhow, 107 U. S. 769 . It certainly is more convenient that a defendant be permitted to object to the service and raise the question of jurisdiction in the first instance in the court in which suit is pending. But mere convenience is not substance of right. If the defendant had taken no notice of this suit, and judgment had been formally entered upon such insufficient service, and under process thereon his property, real or personal, had been seized or threatened with seizure, he could by original action have enjoined the process, and protected the possession of his property. If the judgment had been pleaded as defensive to any action brought by him, he would have been free to deny its validity. There is nothing in the opinion of the supreme court or in any of the statutes of the state of which we have been advised gainsaying this right. Can it be held, therefore, that legislation simply forbidding the defendant to come into court, and challenge the validity of service upon him in a personal action, without

surrendering himself to the jurisdiction of the court, but which does not attempt to restrain him from fully protecting his person, his property, and his rights against any attempt to enforce a judgment rendered without due service of process, and therefore void, deprives him of liberty or property, within the prohibition of the Fourteenth Amendment? We think not.

The judgment is affirmed.

MR. JUSTICE BRADLEY and MR. JUSTICE GRAY dissented.

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