

In Re Savage

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Court : US Supreme Court

Decided On : Mar-03-1890

Appeal No. : 134 U.S. 176

Appellant : In Re Savage

Judgement :

IN RE SAVAGE - 134 U.S. 176 (1890)

U.S. Supreme Court IN RE SAVAGE, 134 U.S. 176 (1890)

134 U.S. 176

In re SAVAGE.

Page 134 U.S. 176, 177

Argued January 15, 1890. Decided March 3, 1890

MILLER, J.

This case is in every respect the same as that of In re Medley, ante, 384. By petition to us we are advised that Savage was indicted by the grand jury of Arapahoe county for the crime of murder in the first degree, charged to have been committed on the 25th day of June, A. D. 1889, by killing one Emanuel Harbert;

and that on the 23d of October thereafter he was found guilty by the jury of murder in the first degree. A similar judgment to that in the Case of Medley was passed upon him, and he was remanded to the custody of the warden of the penitentiary of the state of Colorado under an order of precisely the same character as that in the Case of Medley. It will thus be seen that the same statute involved in that case was the authority under which the court of Colorado rendered its judgment and committed the prisoner to the care of the warden of the penitentiary; that this statute came into force after the commission of the offense of which Savage was convicted, and is therefore *ex post facto* in its application to his case. The same order, therefore, that we have directed to be entered in Medley's Case will be entered in this case, releasing the prisoner from the custody of the warden, after due notice to the attorney general of the state of Colorado.

On consideration of the application for the discharge of the petitioner, James H. Savage, the writ of habeas corpus, directing J. A. Lamping, warden of the state penitentiary of the state of Colorado at Canon City, Fremont county, state of Colorado, to produce the body of the said James H. Savage before this court, and to certify the cause of his detention and imprisonment, having been duly issued and served, and the said J. A. Lamping, warden as aforesaid, having certified that said James H. Savage is detained in his custody under and by virtue of a writ issued out of the district court of Arapahoe county, state of Colorado, and the cause of said imprisonment having been duly inquired into by this court upon the return of the said writ of habeas corpus heretofore issued herein, and counsel having been heretofore heard, and due consideration having been had, it is now here ordered by this court that the imprisonment of said James H. Savage under said writ issued out of the district court of Arapahoe county, state of Colorado, is without authority of law, and in violation of the constitution of the United States, and that the said James H. Savage is entitled to have his liberty. Where-

Page 134 U.S. 176, 178

upon it is hereby ordered that the said James H. Savage be, and he is hereby, discharged from said imprisonment. It is further ordered, that the said J. A. Lamping, warden as aforesaid, do notify the attorney general of the state of

Colorado of the day and the hour of the day when he will discharge the said James H. Savage from imprisonment, and that such notice be given at least 10 days before the release of the prisoner.

Per MR. JUSTICE MILLER.

March 3, 1890.

A. T. Britton, Henry Wise Garnett, and W. V. R. Berry, for petitioner.

H. M. Teller, for respondent.

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