

Birdseye Vs. Schaeffer

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Court : US Supreme Court

Decided On : Apr-27-1891

Appeal No. : 140 U.S. 117

Appellant : Birdseye

Respondent : Schaeffer

Judgement :

Birdseye v. Schaeffer - 140 U.S. 117 (1891)

U.S. Supreme Court Birdseye v. Schaeffer, 140 U.S. 117 (1891)

Birdseye v. Schaeffer

No. 920

Submitted April 20, 1891

Decided April 27, 1891

140 U.S. 117

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE WESTERN DISTRICT OF TEXAS

SYLLABUS

It is again decided that an order remanding a cause from a circuit court of the United States to the state court from which it was removed is not a final judgment or decree which this Court has jurisdiction to review.

This cause was removed to the Circuit Court of the United States for the Western District of Texas prior to the passage of the Act of March 3, 1887, providing that no appeal or writ of error from the decision of the Circuit Court remanding a cause to a state court from which it had been removed, should be allowed.

The order remanding the cause to the state court

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from which it had been removed was made subsequent to that act, but prior to the Act of February 25, 1889; the writ of error was allowed on the 7th of June, A.D. 1889, subsequent to the act of February 25, 1889.

A motion was made to dismiss the writ on the grounds: (1) that there was no jurisdiction to issue the same and no jurisdiction to take cognizance of the record filed herein; (2) Because the judgment of the Circuit Court complained of, remanding the cause to the district court of Nueces County, Texas, from which it had been removed for trial, was not a final judgment and cannot be reviewed by this Court.

PER CURIAM. The writ of error is dismissed upon the authority of *Gurnee v. County of Patrick*, [137 U. S. 141](#) ; *Danville Railroad Co. v. Thouron*, [134 U. S. 45](#) .

Dismissed.