

Joy Vs. Adelbert College

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Court : US Supreme Court

Decided On : Dec-05-1892

Appeal No. : 146 U.S. 355

Appellant : Joy

Respondent : Adelbert College

Judgement :

Joy v. Adelbert College - 146 U.S. 355 (1892)

U.S. Supreme Court Joy v. Adelbert College, 146 U.S. 355 (1892)

Joy v. Adelbert College

No. 1014

Submitted November 28, 1892

Decided December 5, 1892

146 U.S. 355

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE NORTHERN DISTRICT OF OHIO

SYLLABUS

This Court has no jurisdiction of an appeal from a judgment of a circuit court remanding to a state court a cause which had been improperly removed from it.

Motion to dismiss. On behalf of the motion it was stated that the suit was originally brought in the Court of Common Pleas of Lucas County, Ohio, by the Adelbert College against the Toledo, Wabash and Western Railroad Company and other defendants, including the plaintiffs appellants; that on the second of December, 1890, petitions for its removal to the circuit court of the United States were filed by each of the present appellants on the ground that,

"from prejudice or local

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influence, this defendant will not be able to obtain justice in the said state court situated in the County of Lucas or in any other state court in which the said defendant may have the right to remove said cause on account of such prejudice or local influence;"

that thereupon an order of removal was made, and the record was filed in the circuit court January 21, 1891; that thereupon motions were made in the circuit court to remand the cause to the court of common pleas; that the motions having been submitted upon briefs, an opinion was filed by Jackson, Circuit Judge, granting the same, and an order was entered in the circuit court of the United States finding that that court was without jurisdiction to entertain and grant the said petitions for removal, and that the cause had been illegally removed from the Court of Common Pleas of Lucas County, and it was accordingly remanded to that court for further proceedings.

The appellants Joy and others, by their solicitors, excepted, and prayed an appeal to this Court, which was allowed and ordered.

On the 10th day of November, 1892, there was filed in the clerk's office of the Circuit Court of the United States for the Northern District of Ohio, Western Division, a certificate of the circuit judge to the effect that

"the court is of opinion that the citizenship of the various parties hereto as shown by the record and affidavits filed herein is such that this court has no jurisdiction of the cause, and on this ground alone, the court granted said motion and orders said cause to be remanded to the said Court of Common Pleas of Lucas County,"

whereupon said moving defendants, having given notice of appeal on said question of jurisdiction, made application to the court for a certificate, which was accordingly granted. An assignment of errors was filed on the same day in the same court.

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THE CHIEF JUSTICE: The motion to dismiss is granted upon the authority of *Richmond & Danville Railroad v. Thouron*, [134 U. S. 45](#) ; *Gurnee v. Patrick County*, [137 U. S. 141](#) ; *McLish v. Roff*, [141 U. S. 661](#) ; *Chicago, St. Paul &c.; Railway v. Roberts*, [141 U. S. 690](#) .

Dismissed.

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