SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Mcknight Vs. James

Mcknight Vs. James

SooperKanoon Citation : sooperkanoon.com/87956

Court : US Supreme Court

Decided On : Jan-14-1895

Appeal No. : 155 U.S. 685

Appellant : Mcknight

Respondent : James

Judgement :

McKnight v. James - 155 U.S. 685 (1895)
U.S. Supreme Court McKnight v. James, 155 U.S. 685 (1895)

McKnight v. James

No. 841

Argued and submitted December 19, 1994

Decided January 14, 1895

155 U.S. 685

ERROR TO THE CIRCUIT COURT OF THE STATE

OF OHIO FOR THE SECOND JUDICIAL CIRCUIT

SYLLABUS

A writ of error will not go from this Court to an order of a judge of a circuit court of a state, made at chambers, remanding a prisoner in a habeas corpus proceeding.

This proceeding was begun by a petition in habeas corpus to the Circuit Court of Franklin County, Ohio, setting forth that the petitioner, McKnight, was unlawfully deprived of his liberty in the Ohio Penitentiary, under a certificate of sentence of the Court of Common Pleas of Wood County, for the crime of forgery. Petitioner charged that there was no judgment or sentence authorizing such certificate; that the same was therefore void, and said imprisonment without legal authority, and without due process of law.

Page 155 U. S. 686

Under this petition, a writ of habeas corpus was granted by the Honorable Gilbert H. Stewart, Judge of the Circuit Court of the Second Circuit, and McKnight ordered to be produced before him in Columbus on August 31, 1894.

Respondent, James, made return to the writ, setting forth the certificate of sentence, and averring that the Court of Common Pleas of Wood County did render the judgment and pronounce the sentence by authority of which he held McKnight in custody; that said judgment was afterwards affirmed by the Circuit Court of Wood County, in a proceeding in error prosecuted by McKnight; that the case was subsequently brought before the Supreme Court of Ohio, on a motion made and filed by this petitioner, and that that court, after reviewing the entire record and proceedings in the lower courts, denied the application, thus affirming the original judgment of the court of common pleas.

Petitioner replied and averred that after entering a plea of "Not guilty," he was brought before the court without counsel, and indigent and unable to procure counsel; but the court proceeded to try him without counsel to defend him, and he was thereby deprived of his constitutional right to have the assistance of counsel in his defense, and that the certificate of sentence also was void in the fact that the

requirement that he be kept at hard labor, which appears in such certificate, was not imposed by the court as a part of its sentence, and was wholly unauthorized.

The case was heard September 1, 1894, upon pleadings and testimony, by the Honorable Gilbert H. Stewart, sitting in chambers, and an order made that McKnight be remanded to the custody of the defendant, James, as warden of the Ohio Penitentiary; whereupon the petitioner sued out this writ of error, directed to the judge by name.

Page 155 U. S. 687

MR. JUSTICE BROWN, after stating the facts in the foregoing language, delivered the opinion of the Court.

As under Rev.Stat. 709, a writ of error will go from this Court only to the final judgment of the highest court of the state in which a decision in the suit can be had, it is evident that our jurisdiction in this case cannot be sustained unless an order of a judge at chambers remanding a prisoner in a habeas corpus proceeding can be regarded as an order of a "court," within the meaning of this section.

We held, however, in *Carper v. Fitzgerald,* 121 U. S. 87, that an appeal did not lie to this Court from an order of a circuit judge of the United States, sitting as a judge and not as a court, discharging a prisoner brought before him on a writ of habeas corpus, for the reason that the Act of March 3, 1885, c. 353, 23 Stat. 437, gave an appeal to this Court in habeas corpus cases only from the final decision of a circuit court, and that Rule 34 did not make his decision as judge a decision of the court, the purpose of that rule being to regulate appeals to the circuit court from the final decision of any court, justice, or judge inferior to that court, as well as appeals from the final decision of such circuit court to the supreme court. As a writ of error from this Court can only go to the highest court of a state, it follows by analogy that it will not lie to review the order of a judge at chambers.

The jurisdiction of this Court was treated in the brief of plaintiff in error as if it turned upon the question whether, under the practice in Ohio, a writ of error lay

from the Supreme Court of that state to an order of a circuit judge at chambers; the argument being that it did not, and hence that such judge was the highest court of the state in which a decision in the suit could be had, and a writ of error would therefore lie from this Court. In this view, petitioner should at least have applied to that court for a writ of error, or had the order of the circuit judge at chambers made the order of the circuit court. If it be true that, under the laws of Ohio, the final order of a circuit judge at chambers be the judgment or decree of a circuit court, then it is undoubtedly reviewable by the

Page 155 U. S. 688

Supreme Court of Ohio, which is the highest tribunal of Ohio, and is expressly given jurisdiction by statute to review the judgments and orders of the circuit court. But if this order be not a judgment or decree of a court, then it is not reviewable here, because this Court, under 709, is given authority to review only the judgment and decree of the highest *court* of the state. In other words, the order cannot be the order of a *judge* to defeat the jurisdiction in error of the Supreme Court of Ohio, and at the same time an order of a court to confer jurisdiction upon this Court to issue a writ of error. The argument in reality defeats itself. Its very strength is also its weakness. By proving that a writ of error will lie from this Court, it also proves that a writ of error will lie from the Supreme Court of Ohio, and this fact of itself defeats the jurisdiction of this Court. Whether the principle of this case applies to other than habeas corpus cases we do not undertake to determine.

The writ of error must therefore be

Dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com