

Codlin Vs. Kohlhausen

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Court : US Supreme Court

Decided On : Apr-15-1901

Appeal No. : 181 U.S. 151

Appellant : Codlin

Respondent : Kohlhausen

Judgement :

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U.S. Supreme Court Codlin v. Kohlhausen, 181 U.S. 151 (1901)

Codlin v. Kohlhausen

No. 234

Argued and submitted April 11, 1901

Decided April 15, 1901

181 U.S. 151

APPEAL FROM THE SUPREME COURT

OF THE TERRITORY OF NEW MEXICO

SYLLABUS

Judgment awarding a peremptory writ of mandamus directing the execution of certain county bonds for the construction of a courthouse and jail having been rendered in October, 1897, the case taken on error to the appellate tribunal in 1898, and affirmed in 1899, and the bonds having been, in the meantime, issued and sold and the building constructed, and the county officials, who were the original respondents below, and are appellants here, having gone out of office before this appeal was taken, the Court is of opinion that the rule approved in *Mills v. Green*, [159 U. S. 651](#) , and in cases there cited, should be applied.

Motion to dismiss. The case is stated in the opinion of the Court.

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THE CHIEF JUSTICE:

This was a petition filed by appellees in the district court for Colfax County, New Mexico, praying for a writ of mandamus directed to Codlin, Chairman, and Salazar, Clerk, of the Board of County Commissioners of the County of Colfax commanding them to officially sign and execute certain bonds and deliver them to the designated agent of the county for sale for the construction of a courthouse and jail.

The alternative writ of mandamus was issued and due return made, whereupon, and after hearing, the district court ordered the peremptory writ to issue, which was done, and the writ served, October 23, 1897.

The case was carried on error to the supreme court of the territory in June, 1898, and it appears from an affidavit in that court that the mandate of the district court was obeyed and the bonds issued and sold, and from an affidavit in this Court, that the proceeds were used in the construction of the courthouse and jail, which were completed on or about January 1, 1899. That affidavit also states that Codlin ceased to be chairman or a member of the board of county commissioners in

January, 1899, and that Salazar ceased to be clerk during or prior to March, 1899.

The territorial supreme court affirmed the judgment of the district court August 28, 1899. 9 N.M. 565. An appeal from the judgment of affirmance to this Court was allowed January 2, 1900, and the record filed here March 28.

We think the cause comes within the rule applied in *Mills v. Green*, [159 U. S. 653](#), and cases cited, and the order must be --

Dismissed without costs to either party.

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