Matter of Moran

Matter of Moran

SooperKanoon Citation : sooperkanoon.com/90065

Court : US Supreme Court

Decided On : Nov-05-1906

Appeal No. : 203 U.S. 96

Appellant : Matter of Moran

Judgement :

Matter of Moran - 203 U.S. 96 (1906)
U.S. Supreme Court Matter of Moran, 203 U.S. 96 (1906)

Matter of Moran

No, 8, Original

Argued October 15, 1906

Decided November 5, 1906

203 U.S. 96

Where the order of the court having authority to designate the place of trial for a newly organized county in Oklahoma is as precise as circumstances permit, the fact that it merely names the town, there being no county or court buildings at the time of trial, does not affect the jurisdiction of the court where it does not appear that the party complaining lost any opportunities by reason of no building's being

named.

Acts of the Legislature of Oklahoma are not laws of the United States within the meaning of 753, Rev.Stat.

The Fifth Amendment, requiring the presentment or indictment of a grand jury, does not take up unto itself the local law as to how the grand jury shall be made up, and raise the latter to a constitutional requirement.

Under 10 of the Organic Act of Oklahoma of May 2, 1890, 26 Stat. 85, the place of trial of a crime committed in territory not embraced in any organized county is in the county to which such territory shall be attached at the time of trial, although it might have been attached to another county when the crime was committed.

Page 203 U. S. 97

Courts of Oklahoma Territory have jurisdiction to try a person for crime although committed in a part of the territory not then opened for settlement, it appearing from the act of Congress that title had passed to the territory, and Congress was only exercising control so far as settlement was concerned.

Whether a person on trial is compelled to be a witness against himself, contrary to the Fifth Amendment, because compelled to stand up and walk before the jury, or because the jury was stationed during a recess so as to observe his size and walk, not decided, but *held* that it did not affect the jurisdiction of the trial court and render the judgment void.

The facts are stated in the opinion.

Page 203 U. S. 102

MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a petition for a writ of habeas corpus and a writ of certiorari brought by a person imprisoned on a conviction for murder, alleging that the judgment under

which he is held is void. A rule to show cause was issued, and the case

Page 203 U. S. 103

was heard on the petition and answer. The various grounds upon which the petition is supported are alleged to go to the jurisdiction of the trial court. *Ex Parte Harding,* 120 U. S. 782 . *See New v. Oklahoma,* 195 U. S. 252 . A writ of habeas corpus for the same causes was heard by the circuit court of appeals and discharged. *Ex Parte Moran,* 144 F. 594. The judgment also was affirmed by the supreme court of the territory in which the petitioner was tried. 14 Okl. 544.

The petitioner was tried in the District Court for Comanche County in the Territory of Oklahoma. The first ground now relied upon is that the court was not duly organized under the act of Congress requiring the supreme court to define the judicial districts and to fix the times and places at each county seat where the district court shall be held. The order of the supreme court went no further in the way of fixing the place than to specify Lawton for the County of Comanche. This order was made on January 15, 1902, about six months after the land, which had been Indian territory, was opened for settlement and the county created. At that time and at the time of the trial, there were no county or court buildings in the county. The order of the supreme court was as precise as the circumstances permitted it to be, and the failure to specify a building did not go to the jurisdiction of the trial court. There is no pretense that the petitioner lost any opportunities by reason of no building's being named.

The next ground argued is that the laws of the territory were not followed in the selection of the grand jury because the persons selected were not electors of the territory, and some of them were nonresidents, with other subordinate matters. The order for the summons stated the reason, which was that there had been no election held in the county, and there were no names of jurors in the jury box; whereupon the presiding judge ordered the sheriff to summon twenty persons from the body of the county. We have heard no answer to the material portion of the reasoning of the circuit court of appeals

upon this point. If the Legislature of Oklahoma had prescribed the method of selection followed, that method would not have violated the Constitution or any law or treaty of the United States. If it did prescribe a different one, a departure from that was a violation of the territorial enactment alone. The acts of the Legislature of Oklahoma are not laws of the United States within the meaning of Rev.Stat. 753. If any laws have been violated, it is the latter one. Therefore, the petitioner is not entitled to release on this ground under Rev.Stat. 753. The Fifth Amendment, requiring the presentment or indictment of a grand jury, does not take up unto itself the local law as to how the grand jury should be made up, and raise the latter to a constitutional requirement. *See Rawlins v. Georgia,* 201 U. S. 638 . It is unnecessary to consider whether the judge went beyond his powers under the circumstances. *See Clawson v. United States,* 114 U. S. 477 . But it is proper to add that, while the reason which we have given is logically the first to be considered by this Court, we do not mean to give any countenance to the notion that, if the law was disobeyed, it affected the jurisdiction of the court. *Ex Parte Harding,* 120 U. S. 782 ; *In re Wilson,* 140 U. S. 575 .

The third ground on which the jurisdiction of the trial court is denied is that, on August 4, 1901, the date of the commission of the crime, the place was within territory not embraced in any organized county, and was attached for judicial purposes to Canadian County. By the Oklahoma Organic Act, May 2, 1890, c. 182, 9, 26 Stat. 85, 86, this is provided for, and by 10, such offenses shall be tried in the county to which the territory "shall be attached." It is argued that there had been no law passed changing the place of trial or affecting the order of the supreme court attaching the territory to Canadian County. But the very words quoted from 10 look to the state of things at the time of trial. At that time, Comanche County had been organized, and a term of court fixed for it by the order of the supreme court dated January 15, 1902. The meaning of this order, so far as the

power of the supreme court went, is plain. The statute gave the petitioner no vested right to be tried in Canadian County, and his trial in Comanche County conformed to its intent. *See Post v. United States,* 161 U. S. 583 .

The fourth ground is that, as the crime was committed on August 4, 1901, two days before the opening of the land for settlement, the place was still under the exclusive jurisdiction of the United States, and therefore the crime was punishable under Rev.Stat. 5339 alone. The order of the President with regard to the conditions of settlement and entry are referred to as confirming the argument. But those orders were intended merely to carry out the acts of Congress governing the matter. There is no doubt that congress was exercising control so far as settlement was concerned. But there is equally little doubt that the title to the territory had passed, that it had become part of the Territory of Oklahoma, and, as such, no longer under the exclusive jurisdiction of the United States within Rev.Stat. 5339. Act of May 2, 1890, c. 182, 1, 4, 6, 26 Stat. 81; Act of June 6, 1900, c. 813, 31 Stat. 677; Act of March 3, 1901, c. 846, 31 Stat. 1093. *See Bates v. Clark,* 95 U. S. 204 ; *Buster v. Wright,* 135 F. 947, 952; *Ex Parte Moran,* 144 F. 594, 602. Therefore, the application of the territorial statute was not excluded, and the murder was a violation of the territorial law.

Finally, it is contended that the petitioner was compelled to be a witness against himself, contrary to the Fifth Amendment, because he was compelled to stand up and walk before the jury and because, during a recess, the jury was stationed so as to observe his size and walk. If this was an error, as to which we express no opinion, it did not go to the jurisdiction of the court. *Felts v. Murphy,* 201 U. S. 123 .

Rule discharged. Writs denied.