

Glucksman Vs. Henkel

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Appeal No. : 221 U.S. 508

Appellant : Glucksman

Respondent : Henkel

Judgement :

Glucksman v. Henkel - 221 U.S. 508 (1911)

U.S. Supreme Court Glucksman v. Henkel, 221 U.S. 508 (1911)

Glucksman v. Henkel

No. 944

Argued April 6, 7, 1911

Decided May 29, 1911

221 U.S. 508

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES

FOR THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

While a person is not to be sent from this country on mere demand or surmise, this government should respond to a request for extradition if there is reasonable ground to suppose the accused to be guilty of an extraditable crime, even if presented in untechnical form; good faith demands this much in carrying out an extradition treaty.

Courts are bound by the existence of an extradition treaty to assume that the trial in the demanding state will be fair.

Where a magistrate of a demanding state certifies of his own knowledge to the identity of photographs, the courts of this country will presume in extradition proceedings that he had reason for so doing.

In this case, *held* that, although the presentation was untechnical, it was sufficient to justify surrender.

Where the complaint calls the instruments alleged to have been forged bills of exchange and the evidence showed they were promissory notes, the variance will not defeat surrender where the instruments are identified and there is a plain charge of forgery.

If an extraditable crime under the law of the state where the accused is found is sufficiently charged, the effect of variance between complaint and proof is a matter to be decided on general principles, irrespective of the law of that state. *Wright v. Henkel*, [190 U. S. 40](#) ; *Petit v. Walshe*, [194 U. S. 205](#) , distinguished.

Even though the complaint be sworn to on information and belief, if it is supported by testimony of witnesses stated to have deposed, the court will presume that they were sworn and the complaint is sufficient. *Rice v. Ames*, [180 U. S. 371](#) .

The facts are stated in the opinion.

MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a proceeding by habeas corpus and certiorari to test the validity of a commitment of the appellant, Glucksman, for extradition to Russia. The circuit court dismissed the writs and remanded the prisoner, who thereupon appealed to this Court. The complaint three times charges the forgery of the signature of one Tugendriach to bills of exchange for 100 roubles, and following each such charge alleges the fraudulent utterance of bills for the same sum to merchants named Bierenzweig, Traidenraffich, and Selinsky, and obtaining goods for them of that value. This last is alleged to constitute the crime of uttering forged paper, although it is not expressly alleged that the bills fraudulently uttered were forged, as pretty plainly is meant. The ground of the appeal is that there is no sufficient evidence to warrant extradition on the charge.

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It is common in extradition cases to attempt to bring to bear all the factitious niceties of a criminal trial at common law. But it is a waste of time. For while, of course, a man is not to be sent from the country merely upon demand or surmise, yet if there is presented, even in somewhat untechnical form according to our ideas, such reasonable ground to suppose him guilty as to make it proper that he should be tried, good faith to the demanding government requires his surrender. *Griffin v. Shine*, [187 U. S. 181](#) , [187 U. S. 184](#) . See *Pierce v. Creecy*, [210 U. S. 387](#) , [210 U. S. 405](#) . We are bound by the existence of an extradition treaty to assume that the trial will be fair. The evidence in this case seems to us sufficient to require us to affirm the judgment of the circuit court.

According to the translation of the Russian documents accompanying the demand, Bierenzweig, a merchant, "deposed" on July 7, 1910, that the Lodz merchant, Leiba Glikeman, in the previous June, indorsed to him in payment for goods a note for 100 roubles, purporting to be drawn by a Tugendreich, who resides in Ozorkov; that a few days later, he learned that Glikeman had left those parts, and that he was confirmed by Tugendreich in his suspicion that the note was spurious.

Fraidenreich, a merchant, deposed to like effect, giving the name of the purported drawer of the note as Mosche-Leiba Tugendreich. And so did Zelinsky. Birenzweig and Fraidenreich produced their notes. Moschek-Leib Jakubov-Maerov Tugendreich deposed that he was a merchant in Ozorkov, that he never drew any notes in Glikeman's favor, that the signatures on the notes produced by Birenzweig and Fraidenreich represented a kind of imitation of his signature, and that the text of his notes was written by Glikeman (with whom he had had dealings). There is no rational doubt that the evidence tends to show that Leiba Glikeman, a leather merchant of Lodz, forged notes of the above-named Tugendreich,

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and disappeared before July 7, 1910. The prisoner, by his own admission, was a leather merchant and came from Lodz, arriving in New York on or about August 3, 1910. When first arrested, he said that he had enemies on the other side who were bringing these charges against him, and, as we think it appears, tried to bribe the officers to let him go. He also said that the spelling of his name Gluksman was a typographical error that his name was Lewek Glicksman. The Russian magistrate sends a description of Leiba-Levek Pinkusov Glikeman, which is worthless, as such descriptions generally are, but adds certainty to the correspondence of the name of the person referred to in the proceedings in Russia with that of the prisoner, and after the description the magistrate adds: "A photograph of Glikeman is hereto attached," with his seal on the card, and the photograph represents the prisoner. It is objected that there is no deposition that the photograph represents the party accused, and it may be that in other circumstances we should require further proof. But the magistrate, in certifying as if of his own knowledge, presumably had some reason for doing so, and taking the convergence of the other facts mentioned toward the prisoner as the party accused, we cannot say that the commissioner was wrong in finding the identity made out.

One or two subordinate matters need but a bare mention. The complaint speaks of bills of exchange; the evidence shows the forged instruments to have been

promissory notes. The instruments are identified sufficiently, and for this purpose no more is needed. Neither *Wright v. Henkel*, [190 U. S. 40](#) , nor *Pettit v. Walshe*, [194 U. S. 205](#) , indicates that, because the law of New York in this case may determine whether the prisoner is charged with an extraditable crime, it is to determine the effect of such variance between evidence and complaint. That is a matter to be decided on general principles, irrespective

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of the law of the state. The complaint is sworn to upon information and belief, but it is supported by the testimony of witnesses who are stated to have deposed, and whom therefore we must presume to have been sworn. That is enough. *Rice v. Ames*, [180 U. S. 371](#) , [180 U. S. 375](#) .

Judgment affirmed.

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