Mcmicking Vs. Schields

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Court : US Supreme Court

Decided On : Jun-01-1915

Appeal No. : 238 U.S. 99

Appellant : Mcmicking

Respondent : Schields

Judgement :

McMicking v. Schields - 238 U.S. 99 (1915)
U.S. Supreme Court McMicking v. Schields, 238 U.S. 99 (1915)

McMicking v. Schields

No. 286

Submitted May 12, 1915

Decided June 1, 1915

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APPEAL FROM THE SUPREME COURT

OF THE PHILIPPINE ISLANDS

SYLLABUS

General Order No. 58, of April 23, 1900, amended the Philippine Code of Criminal Procedure, and gave the person charged with crime a specified time within which to plead, but even if the trial court misconstrued the provisions of the Order in that respect, such error would not deprive the proceedings of lawful effect and enlarge the accused.

Mere error of law, even though serious, committed by the trial court in a criminal case in the exercise of jurisdiction over a case properly subject to its cognizance, cannot be reviewed by habeas corpus.

The writ of habeas corpus cannot be employed as a substitute for a writ of error.

23 P.I. 526 reversed.

The facts, which involve the validity of a conviction and sentence in the Philippine Islands and the extent to which the conviction can be reviewed on habeas corpus, are stated in the opinion.

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MR. JUSTICE Mc REYNOLDS delivered the opinion of the Court.

The Philippine Supreme Court, by final decree in a habeas corpus proceeding, discharged charged appellee from custody

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and the Director of Prisons has appealed. The controversy fairly involves the application of 5, Organic Act of the Islands (Act of Congress, July 1, 1902, c. 1369, 32 Stat. 691, 692, 695), and under 10 of that statute, we have jurisdiction of the appeal. *Fisher v. Baker,* 203 U. S. 174 ; *Paraiso v. United States,* 207 U. S. 368 .

Appellee, Schields, presented a petition to the Supreme Court January 4, 1911, wherein, after setting out his alleged wrongful imprisonment under a judgment entered in the Court of First Instance, City of Manila, he further alleged and prayed:

"That said imprisonment and deprivation of his liberty are illegal, because said court of first instance denied him the due process of law guaranteed by the Philippine Bill of Rights. The said illegalities are as follows: That on December 21, 1910, the petitioner appealed from a judgment of the lower court sentencing him for the crime of theft. That on December 23, the petitioner, without having been asked to answer the complaint, was notified that the case would be heard at 10 A.M. on the 24th. When the case was called at 10 A.M. on December 24th, and while the petitioner was arraigned, he asked for time in which to answer the complaint, which request was denied by the court, who ordered the clerk to enter on the record that the petitioner pleaded 'Not guilty' to the complaint. Thereupon the petitioner's attorney also asked for time in which to prepare a defense, which petition was also denied by the same court, to which ruling the petitioner's attorney excepted and asked that the exceptions, together with the requests of the petitioner which had been denied, be entered on the record. Wherefore, the petitioner prays the Honorable Supreme Court to issue a writ of habeas corpus in his favor, reversing the judgment pronounced by the lower court as being contrary to law, and that the petitioner be set at liberty."

Responding to a rule to show cause why the writ should

not issue, appellant answered that, by virtue of an order of the Court of First Instance, petitioner was in his custody in Bilibid prison to serve a sentence of four months and one day of *arresto mayor* imposed upon conviction of theft. Copies of the commitment and judgment were made parts of the return. In course of that judgment, the judge said:

"At the beginning of the trial, the defendant asked for further time to prepare, and invoked certain sections of G.O. 58, which, in our judgment, were not applicable to this case. The prosecution did not file a new complaint in this court. Defendant was tried on the identical complaint which was presented in the court below as long ago as December first. To that complaint, as the record shows, he pleaded not guilty, and having further brought this case here on appeal, the presumption is that such plea continued, and to allow delays for the reiteration of such a plea would be an empty formality. The law does not require a vain and useless thing, and the provision in question must be construed as applying to cases where a new complaint is filed in this court. But, aside from this, we think that the time of trial caused no prejudice to the accused. As we have seen, the complaint was filed on December first, and the accused had more than three weeks to prepare before the trial in this court. During this period, there were evidently one or more continuances, and finally, it seems, the defendant had to be called into the municipal court by a bench warrant. Upon bringing the case here, it was incumbent upon him to follow it up and to be ready and waiting its disposition by this court. Notice of the trial was sent both to him and to his counsel the day before, and it was not claimed that defendant could have produced any further testimony if the case had been postponed. On the contrary, it appears that he called one witness who did not testify in the court below. After all, the question in the case is mainly one of law. The principal controversy as to the

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facts relates to the question of the alleged permission to take articles, and this, as we have seen, would not have excused the defendant, even had it been proved, though he admits that himself and Frandon are the only witnesses on that point."

General Order No. 58, promulgated from the Office of the United States Military Governor April 23, 1900, and now in effect, amended the Code of Criminal Procedure theretofore in force within the Islands. *Kepner v. United States,* 195 U. S. 100 . It provides:

"Sec.19. If, on the arraignment, the defendant requires it, he must be allowed a reasonable time, not less than one day, to answer the complaint or information. He may, in his answer to the arraignment, demur or plead to the complaint or information. . . ."

"Sec. 30. After his plea, the defendant shall be entitled, on demand, to at least two days in which to prepare for trial."

Sec. 528 of the Code of Civil Procedure enacted by the Philippine Commission August 7, 1901, provides:

"If it appears that the person alleged to be restrained of his liberty is in custody of an officer under process issued by a court or magistrate, or by virtue of a judgment or order of a court of record, and that the court or magistrate had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appear after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order."

The pertinent part of 5 of the Organic Act, approved July 1, 1902, "The Philippine Bill of Rights," is as follows:

"That no law shall be enacted in said Islands which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws. That, in all criminal prosecutions, the accused shall enjoy the right to be heard by himself and counsel, to demand the nature and cause of

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the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to compel the attendance of witnesses in his behalf. . . ."

Kepner v. United States, supra, 195 U. S. 117 -118.

The Supreme Court, having heard the cause upon petition and reply, held, one judge dissenting, that the writ of habeas corpus should be allowed, and discharged the prisoner. Among other things, it declared:

"The denial to the accused of the time at least two days, to prepare for trial, expressly given to him by mandatory statute, there being absolutely no discretion lodged in the court concerning the matter, is in effect the deprivation of the constitutional right of due process of law, to a trial before condemnation, said statute being for the purpose of making practically effective in benefit of the accused said constitutional provision. . . . The denial to the accused of a constitutional right does one of two things -- it either ousts the court of jurisdiction to enter a judgment of conviction or it deprives the record of all legal virtue, and a judgment of conviction entered thereon is a nullity, it having nothing to support it. . . . He applied for a writ of habeas corpus upon the ground that the judgment was void as a matter of law, as he had been convicted without due process of law. . . . The refusal of the time in which to prepare for trial, and the consequent forcing of the defendant to his defense on the instant, is, under the provisions of our law, equivalent, in our judgment, to a refusal of a legal hearing. It amounts in effect to a denial of a trial. It is an abrogation of that due process of law which is the country's embodied procedure, without which a defendant has, in law, no trial at law. . . . Nobody has denied the initial jurisdiction of the trial court. It has never been discussed or even questioned in this court. That jurisdiction has always been freely conceded. The decision of this court rested upon something which

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occurred after the jurisdiction referred to had attached and after the trial had begun. It rested upon the proposition that, while the trial court had jurisdiction in the first place, it either lost that jurisdiction during the progress of the trial, or so transcended its powers as to render its judgment void."

We are unable to agree with the conclusion of the Supreme Court that the judgment pronounced by the Court of First Instance was void and without effect. Under the circumstances disclosed, denial of the request for time to answer and to

prepare defense was, at most, matter of error which did not vitiate the entire proceedings. The cause -- admitted to be within the jurisdiction of the court -- stood for trial on appeal. The accused had known for weeks the nature of the charge against him. He had notice of the hearing, was present in person and represented by counsel, testified in his own behalf, introduced other evidence, and seems to have received an impartial hearing. There is nothing to show that he needed further time for any proper purpose, and there is no allegation that he desired to offer additional evidence or suffered substantial injury by being forced into trial. But for the sections in respect of procedure quoted from General Order No. 58, it could not plausibly be contended that the conviction was without due process of law. The Court of First Instance placed no purely fanciful or arbitrary construction upon these sections, and certainly they are not so peculiarly inviolable that a mere misunderstanding of their meaning or harmless departure from their exact terms would suffice to deprive the proceedings of lawful effect and enlarge the accused. *Ex Parte Harding,* 120 U. S. 782 , 120 U. S. 784 ; *In re Wilson,* 140 U. S. 575 , 140 U. S. 585 ; *Felts v. Murphy,* 201 U. S. 123 , 201 U. S. 129 ; *In re Moran,* 203 U. S. 96 , 203 U. S. 104 -105; *Frank v. Mangum,* 237 U. S. 309 .

"Mere errors in point of law, however serious, committed by a criminal court in the exercise of its jurisdiction

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over a case properly subject to its cognizance, cannot be reviewed by habeas corpus. That writ cannot be employed as a substitute for the writ of error."

Ex Parte Parks, 93 U. S. 18 , 93 U. S. 21 ; *Ex Parte Siebold,* 100 U. S. 371 , 100 U. S. 375 ; *Ex Parte Royall,* 117 U. S. 241 , 117 U. S. 250 ; *In re Frederich,* 149 U. S. 70 , 149 U. S. 75 ; *Baker v. Grice,* 169 U. S. 284 , 169 U. S. 290 ; *Tinsley v. Anderson,* 171 U. S. 101 , 171 U. S. 105 ; *Markuson v. Boucher,* 175 U. S. 184 ; *Henry v. Henkel,* 235 U. S. 219 , 235 U. S. 229 ; *Frank v. Mangum, supra.*

The decree of the Supreme Court of the Philippine Islands, granting the writ of habeas corpus and discharging the prisoner, must be reversed and the cause remanded to that court for further proceedings not inconsistent with this opinion.

Reversed.