Stewart Vs. Ramsay

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Court : US Supreme Court

Decided On : Dec-04-1916

Appeal No. : 242 U.S. 128

Appellant : Stewart

Respondent : Ramsay

Judgement :

Stewart v. Ramsay - 242 U.S. 128 (1916)
U.S. Supreme Court Stewart v. Ramsay, 242 U.S. 128 (1916)

Stewart v. Ramsay

No. 105

Argued November 15, 1916

Decided December 4, 1916

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ERROR TO THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF ILLINOIS

SYLLABUS

A direct writ of error lies, under Judicial Code, 238, to test the jurisdiction of the district court over the person of the defendant.

A district court sitting in one state cannot acquire personal jurisdiction over a citizen and resident of another through civil process served upon him while in attendance on such court as plaintiff and witness and while he is returning from the courtroom after testifying.

The case is stated in the opinion

MR. JUSTICE PITNEY delivered the opinion of the Court.

Stewart brought an action at law against Ramsay in the United States District Court for the Northern District of Illinois, and the summons was served personally upon defendant in that district. The jurisdiction was invoked on the ground that plaintiff was a citizen of Illinois and a resident of the Northern District, and defendant was a citizen and resident of Colorado. Ramsay pleaded in abatement that he was a resident of the State of Colorado, and was served with process while in attendance upon the district court as a witness in a case wherein he was plaintiff and one Anderson defendant, and that the process was served while he was returning from the courtroom after testifying. Upon plaintiff's demurrer, this plea was sustained, and, plaintiff electing to stand upon his demurrer, it was ordered that the writ be quashed and

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the defendant go without day. The present writ of error was sued out under 238, Judicial Code, the jurisdictional question being certified.

That a direct writ of error lies in such a case is well settled. *Merriam Co. v. Saalfield,* 241 U. S. 22 , 241 U. S. 26 .

In our opinion, the decision of the district court was correct. The true rule, well founded in reason and sustained by the greater weight of authority, is that suitors

as well as witnesses coming from another state or jurisdiction are exempt from the service of civil process while in attendance upon court and during a reasonable time in coming and going. A leading authority in the state courts is *Halsey v. Stewart,* 4 N.J.L. 366, decided in the New Jersey supreme court nearly one hundred years ago upon the following reasoning:

"Courts of justice ought everywhere to be open, accessible, free from interruption, and to cast a perfect protection around every man who necessarily approaches them. The citizen in every claim of right which he exhibits, and every defense which he is obliged to make, should be permitted to approach them not only without subjecting himself to evil, but even free from the fear of molestation or hindrance. He should also be enabled to procure without difficulty the attendance of all such persons as are necessary to manifest his rights. Now this great object in the administration of justice would in a variety of ways be obstructed if parties and witnesses were liable to be served with process while actually attending the court. It is often matter of great importance to the citizen to prevent the institution and prosecution of a suit in any court at a distance from his home and his means of defense, and the fear that a suit may be commenced there by summons will as effectually prevent his approach as if a *capias* might be served upon him. This is especially the case with citizens of neighboring states, to whom the power which the court possesses of compelling attendance cannot reach. "

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The state courts, with few exceptions, have followed this rule, applying it to plaintiffs as well as defendants, and to witnesses attending voluntarily as well as those under subpoena. Illustrative cases may be cited: *Richardson v. Smith,* 74 N.J.L. 111, 114; *Matthews v. Tufts,* 87 N.Y. 568; *Mitchell v. Huron Circuit Judge,* 53 Mich. 541; *Andrews v. Lembeck,* 46 Ohio St. 38; *Wilson v. Donaldson,* 117 Ind. 356; *First Nat. Bank v. Ames,* 39 Minn. 179; *Linton v. Cooper,* 54 Neb. 438; *Bolz v. Crone,* 64 Kan. 570; *Murray v. Wilcox,* 122 Ia. 188; *Martin v. Bacon,* 76 Ark. 158.

There are a few cases to the contrary, of which *Bishop v. Vose,* 27 Conn. 1, 11; *Baldwin v. Emerson,* 16 R.I. 304; *Lewis v. Miller,* 115 Ky. 623, are instances.

In *Blight v. Fisher* (1809), Pet. C.C. 41, Fed.Cas. No. 1,542, Mr. Justice Washington, sitting at circuit, held that the privilege of a suitor or witness extended only to an exemption from arrest, and that the service of a summons was not a violation of the privilege or a contempt of court unless done in the actual or constructive presence of the court. But in *Parker v. Hotchkiss* (1849), 1 Wall. Jr. 269, Fed.Cas. No. 10,739, District Judge Kane, with the concurrence, as he states, of Chief Justice Taney and Mr. Justice Grier, overruled *Blight v. Fisher* and sustained the privilege in favor of a nonresident admitted to make defense in a pending suit, and served with summons while attending court for that purpose, the court declaring:

"The privilege which is asserted here is the privilege of the court, rather than of the defendant. It is founded in the necessities of the judicial administration, which would be often embarrassed, and sometimes interrupted, if the suitor might be vexed with process while attending upon the court for the protection of his rights, or the witness while attending to testify. Witnesses would be chary of coming within our jurisdiction, and would be exposed

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to dangerous influences if they might be punished with a lawsuit for displeasing parties by their testimony, and even parties in interest, whether on the record or not, might be deterred from the rightfully fearless assertion of a claim or the rightfully fearless assertion of a defense, if they were liable to be visited on the instant with writs from the defeated party."

Since this decision, the federal circuit and district courts have consistently sustained the privilege. *Juneau Bank v. McSpedan,* 5 Bissell 64, Fed.Cas. No. 7,582; *Brooks v. Farwell,* 4 F. 166; *Atchison v. Morris,* 11 F. 582; *Nichols v. Horton,* 14 F. 327; *Wilson Sewing Mch. Co. v. Wilson,* 22 F. 803; *Small v. Montgomery,* 23 F. 707; *Kinne v. Lant,* 68 F. 436; *Hale v. Wharton,* 73 F. 739;

Morrow v. U. H. Dudley & Co., 144 F. 441; *Skinner & Mounce Co. v. Waite,* 155 F. 828; *Peet v. Fowler,* 170 F. 618; *Roschynialski v. Hale,* 201 F. 1017.

Judgment affirmed.