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United States Vs. Alford

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Court : US Supreme Court

Decided On : May-16-1927

Appeal No. : 274 U.S. 264

Appellant : United States

Respondent : Alford

Judgement :

United States v. Alford - 274 U.S. 264 (1927)
U.S. Supreme Court United States v. Alford, 274 U.S. 264 (1927)

United States v. Alford

No. 983

Argued April 28, 1927

Decided May 16, 1927

274 U.S. 264

ERROR TO THE DISTRICT COURT OF THE UNITED STATES

FOR THE NORTHERN DISTRICT OF FLORIDA

SYLLABUS

1. In the Act of June 25, 1910, providing that

"whoever shall build a fire in or near any forest, timber, or other inflammable material upon the public domain, or upon any Indian reservation . . . shall, before leaving said fire, totally extinguish the same, and whoever shall fail to do so shall"

be punished, etc., the words "upon the public domain" are to be referred to the words immediately preceding, *viz.,* "forest, timber, or other inflammable material," so that the statute applies where the fire is on private lands, but "near" to inflammable grass on the public domain. P. 274 U. S. 266 .

Page 274 U. S. 265

2. The Act, so construed, is constitutional, for Congress may prohibit the doing of acts upon privately owned lands that imperil the publicly owned forests. P. 274 U. S. 267 .

3. The word "near" is not too indefinite. P. 274 U. S. 267 .

Reversed.

Error to a judgment of the district court sustaining a demurrer to an indictment.

Page 274 U. S. 266

MR. JUSTICE HOLMES delivered the opinion of the court.

Alford was indicted for building a fire near inflammable grass and other inflammable material and timber situated upon the public domain of the United States, and for not extinguishing the same before leaving it, by reason of which the said grass and other material was burned. The count was demurred to on the ground that the statute concerned does not cover the building or leaving of fires at any place except upon a forest reservation, and that, if it attempts to cover fires

elsewhere, it is unconstitutional and void. The district court construed the statute in the same way, and sustained the demurrer. A writ of error was taken by the United States.

By the Act of June 25, 1910, c. 431, 6, 36 Stat. 855, 857, amending 53 of the Penal Code of March 4, 1909:

"Whoever shall build a fire in or near any forest, timber, or other inflammable material upon the public domain, or upon any Indian reservation, or lands belonging to or

Page 274 U. S. 267

occupied by any tribe of Indians under the authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall, before leaving said fire, totally extinguish the same, and whoever shall fail to do so shall be fined not more than one thousand dollars or imprisoned not more than one year, or both."

The court read the words "upon the public domain" as qualifying the phrase "whoever shall build a fire." We are of opinion that this was error, and that "upon the public domain" should be referred to the words immediately preceding it: "forest, timber, or other inflammable material." So interpreted, they make better English and better sense. The purpose of the Act is to prevent forest fires, which have been one of the great economic misfortunes of the country. The danger depends upon the nearness of the fire, not upon the ownership of the land where it is built. It is said that the construction that we adopt has been followed by the Department of Justice and by a number of cases in the district courts ever since the passage of the original Act of February 24, 1897, c. 313, 29 Stat. 594. We regard the meaning as too plain to be shaken by the suggestion that criminal statutes are to be construed strictly. They also are to be construed with common sense.

The statute is constitutional. Congress may prohibit the doing of acts upon privately owned lands that imperil the publicly owned forests. *Camfield v. United States,* 167 U. S. 518 . *See McKelvey v. United States,* 260 U. S. 353 . The word "near" is not too indefinite. Taken in connection with the danger to be prevented, it lays down a plain enough rule of conduct for anyone who seeks to obey the law.

Judgment reversed.

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