

Opinion of the Court.

EX PARTE TRACY, PETITIONER.

MOTION FOR LEAVE TO RENEW APPLICATION FOR WRIT OF HABEAS CORPUS IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLORADO.

No. —, Original. Motion submitted April 21, 1919.—Decided
April 28, 1919.

Where this court denies leave to file a petition for *habeas corpus*, because of the competency of other courts to afford the relief sought, a motion for leave to apply for the writ to the District Court will be denied as superfluous.

Motion denied.

The case is stated in the opinion. (See also *post*, 588.)

Mr. C. M. O'Neill for petitioner.

PER CURIAM:

For the purpose of redressing assumed violations of the Constitution and laws of the United States by means of *habeas corpus*, the jurisdiction of other competent courts to afford relief may not be passed by and the original jurisdiction of this court be invoked, in the absence of exceptional conditions justifying such course. *Matters v. Ryan, ante*, 375.

When leave to file the petition for *habeas corpus* was previously denied, without a suggestion as to the existence of any exceptional condition which would have justified a contrary view, such refusal presumably was based on the existence of the right to seek, if desired, other and appropriate sources of relief. From this it follows that although we pass the application of the doctrine, that the refusal of *habeas corpus* is not the thing adjudged precluding a subsequent granting of such writ

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upon the same facts, nevertheless there is here no reason to grant the order prayed, since the previous order rested upon the right and duty to petition for relief, if *habeas corpus* was desired, to other and appropriate sources of judicial power.

No reason, therefore, exists for granting the motion and to avoid any implication of a necessity which does not obtain, the motion is

Denied.

RATON WATER WORKS COMPANY *v.* CITY OF RATON.

CERTIFICATE FROM THE CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

No. 348. Argued April 29, 30, 1919.—Decided May 5, 1919.

When diverse citizenship is absent and the jurisdiction of the District Court is based solely upon the ground that the suit arises under the Constitution of the United States, an appeal will not lie to the Circuit Court of Appeals, but only, and exclusively, to this court.

THE case is stated in the opinion.

Mr. Abram J. Rose, with whom *Mr. Jesse G. Northcutt* and *Mr. Henry W. Coil* were on the brief, for Raton Water Works Co.

Mr. John Henry Fry, with whom *Mr. George L. Nye* was on the brief, for City of Raton.

Memorandum opinion by THE CHIEF JUSTICE.

The certificate states that in a cause pending before it on appeal from the district court, the jurisdiction of