

Postmaster-General v. Trigg.

The statement of the case shows, that the question upon which the case turned, and which was decided by the supreme court, depended entirely upon the laws of Pennsylvania; and not upon the act of congress. The question brought before the state court, and there decided against the plaintiff in error, was this: Is a person in possession of land in Pennsylvania, claiming title to it, under a deed, which, upon its face appears to be a good one, but which is inoperative and invalid, entitled to redeem the land, after it has been sold for taxes due to the state; so as to defeat the title of the purchaser under the state law? It is evident, that such a question must depend altogether upon the laws of the state, and not upon any law of the United States. The exception states, that the plaintiff in error admitted, that the sale and conveyance made by the United States collector was not warranted by the act of congress, and that his deed was invalid. No question was raised or decided by the court, upon the validity or construction of the act of congress, nor upon the authority exercised under it. The only question raised or decided in the state court was the one above stated; and upon such a question, depending altogether upon the state laws, this court have no power to revise the decision of the state court, in this form of proceeding. The writ of error must, therefore, be dismissed.

ON consideration of the motion made in this cause yesterday, and of the arguments of counsel thereupon had, as well in support of, as against, the motion; it is now here considered, ordered and adjudged by this court, that this writ of error to the supreme court of Pennsylvania for the western district be and the same is hereby dismissed, for the want of jurisdiction.

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\*173] \*The POSTMASTER-GENERAL of the UNITED STATES v. STEPHEN TRIGG, Administrator of ELIAS RECTOR.

*Mandamus.*

Motion for a rule on the district judge of the district court of the United States for the Missouri district, to show cause why a *mandamus* should not issue from this court, commanding him to order an execution to issue on a judgment entered in that court in the case of the Postmaster-General of the United States v. Rector's administrator; the motion was founded on an attested copy of the record of the proceedings in the district court, by which it appeared, that the district judge, on a motion of the district-attorney of the United States for an order for an execution on this judgment, "after mature deliberation thereon," overruled the motion. The rule to show cause was refused.

The court have looked into the practice of this court upon motions of this sort, and it does not appear to have been satisfactorily settled; for anything that appears in this case, there may have been sufficient reason for the decision of the district court, overruling the motion for an execution; and there is nothing in the record to create a *prima facie* case of mistake, misconduct or omission of duty, on the part of the district court. In such a state of facts, the court are bound to presume that everything was rightly done by the court, until some evidence is offered to show the contrary; and they cannot, upon the evidence before the court, assume that there is any ground for its interposition.

A rule to show a cause, is a rule upon the judge to explain his conduct; and implies, that a case had been made out which makes it proper that this court should know the reasons for his decision. When the record does not show mistake, misconduct or omission of duty on the part of the court, unless such a *prima facie* case to the contrary is made out, supported by affidavit, as would make it the duty of the court to interpose, such a rule ought not to be granted.

*Butler*, Attorney-General, moved the court for a rule on the district judge of the United States for the district of Missouri, to show cause why a

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writ of *mandamus* should not be issued, commanding him to order an execution to issue on the judgment of the said district court in this case.

TANEY, Ch. J., delivered the opinion of the court.—A motion has been made in this case, by the attorney-general of the United States, for a rule on the judge of the district court of the United States, for the Missouri district, to show cause why a *mandamus* should not issue from this court, commanding him to order an execution to issue on the judgment entered in that court in the case of the Postmaster-General v. Trigg, administrator, &c.

The motion is founded upon an attested copy of the record of the proceedings in the district court, by which it appears, that at \*September term 1834, the postmaster-general recovered in the said court, a judgment against the above-named defendant, for the sum of \$1595.53, the damages assessed by the jury, and costs of suit. That at March term 1835, the attorney of the United States moved the court to order the clerk to issue a *feri facias* on this judgment, against the goods and chattels, lands and tenements of the said Elias Rector, deceased, in the hands of the said administrator to be administered. At September term 1835, the court decided upon this motion; and the record states that “after mature deliberation thereupon had,” the court overruled the motion. This is the only evidence filed here by the attorney-general, in support of the motion for a rule to show cause why a *mandamus* should not issue.

The court have looked into the practice of this court upon motions of this sort, and it does not appear to have been satisfactorily settled; and we have therefore thought it a fit occasion, when the court is full, to deliberate on the subject; and to state the principles by which the court will be guided.

The district court, upon which the rule is proposed to be laid, is a court of record, and the proceedings in the case before us appear to have been conducted in regular form; and the decision which has given rise to this motion, to have been made after mature deliberation. For anything that appears before us, there may have been sufficient reason for this decision; and there is nothing in the record to create a *prima facie* case of mistake, misconduct or omission of duty on the part of the district court. In such a state of facts, we think, that we are bound to presume, that everything was rightfully done by the court, until some evidence is offered to show the contrary; and cannot, upon the proof before us, assume that there is any ground for the interposition of this court. A rule to show cause, is a call upon the judge to explain his conduct; and implies, that a case had been made out which makes it proper that this court should know the reasons for his decision. We think, that in a case like this, such a rule ought not to be granted, where the record does not show mistake, misconduct or omission of duty on the part of the court; unless such a *prima facie* case to the contrary is made out, supported by affidavit, as would make it the duty of this court to interpose.

The rule is therefore refused; and it may be proper, in order to settle the practice in cases of this description, to state, that the court unanimously concur in this opinion.

Rule refused.