
Holliday et al. v. Batson et al.

of the said Circuit Court in said case, and which has or may come to his hands, and that he return any such execution with the writ of supersedeas to the said Circuit Court, and that the judges of the said Circuit Court cause any such writ of execution to be stayed, and to stay any execution or further proceedings of every kind and character on the judgment of the said Circuit Court in this case, pending the aforesaid writ of error in this court.

You, therefore, the Marshal of the United States for the Southern District of Mississippi, are hereby commanded, that from every and all proceedings on any execution on the aforesaid judgment, or in any wise molesting the said defendants on the account aforesaid, you entirely surcease, as [*645 being superseded, and that you *do forthwith return any such execution in your hands, together with this supersedeas, to the said Circuit Court, as you will answer the contrary at your peril. And you, the judges of the said Circuit Court, are hereby commanded to stay any execution which may have issued as aforesaid, and to stay any execution or further proceedings on the aforesaid judgment of the said Circuit Court in this case, pending the writ of error last aforesaid in this court.

Witness the Honorable ROGER B. TANEY, Chief Justice of said Supreme Court, this 27th day of January, in the year of our Lord one thousand eight hundred and forty-six.

Wm. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

•••••

ROBERT HOLLIDAY ET AL. v. JOSEPH N. BATSON ET AL.

In order to entitle a party to have a case docketed and dismissed, under the forty-third rule of court, the certificate of the clerk of the court below must set forth an accurate entitling of the case.¹

Mr. Barton having filed and read in open court a certificate in writing, in the following words and figures, to wit:—

“ Clerk’s Office, Circuit Court, United States, 5th Circuit, and Eastern District of Louisiana.

“ ROBERT HOLLIDAY ET AL. v. JOSEPH N. BATSON ET AL.

“ In the above-entitled cause, I certify that a final judgment

¹ APPLIED. *Smith v. Clark*, 12 How., 22; *The Protector*, 11 Wall., 87.

Wilson v. Rousseau et al.

was rendered in the Circuit Court of the United States for the 9th (now 5th) Circuit and Eastern District of Louisiana, on the twentieth day of January, eighteen hundred and forty-one, and that a writ of error was taken by the defendants, returnable to the January term, 1842, of the Supreme Court of the United States.

“Witness my hand, and the seal of said court, at New Orleans, this 4th February, 1845.

[SEAL.]

DUNCAN N. HENNEN, *Clerk.*”

and moved the court to docket and dismiss the said writ of error, under the forty-third rule of court. It is theretupon now here considered and ordered by the court, that the said motion be, and the same is, hereby overruled, the titling of the case in the said certificate being too vague and uncertain.

Per Mr. Chief Justice TANEY.

*646] The above motion was made and overruled at the preceding *term. At the present term, a certificate was filed, with a proper titling, and, on motion of *Mr. Eustis*, the case was docketed and dismissed.

JAMES G. WILSON, PLAINTIFF, *v.* LEWIS ROUSSEAU AND CHARLES EASTON.

The eighteenth section of the patent act of 1836 authorized the extension of a patent, on the application of the executor or administrator of a deceased patentee.¹

Such an extension does not inure to the benefit of assignees under the original patent, but to the benefit of the administrator (when granted to an administrator), in his capacity, as such. But those assignees who were in the use of the patented machine at the time of the renewal have still a right to use it.² The extension could be applied for and obtained by the administrator, although the original patentee had, in his lifetime, disposed of all his interest in the then existing patent. Such sale did not carry any thing beyond the term of the original patent.

A covenant by the patentee, made prior to the law authorizing extensions, that the covenantee should have the benefit of any improvement in the machinery, or alteration or renewal of the patent, did not include the extension by an administrator, under the act of 1836. It must be construed to include only renewals obtained upon the surrender of a patent on account

¹ CITED. *Blanchard's Gun-stock Factory v. Warner*, 1 Blatchf., 276. *Bloomer v. Millinger*, 1 Wall., 351. *CITED. Chaffee v. Boston Belting Co.*, 22 How., 223; *Eunson v. Dodge*, 18 Wall., 416; *Paper Bag Cases*, 15 Otto, 771.

² FOLLOWED. *Simpson v. Wilson*, post *711; *Wilson v. Turner*, post *712; *Bloomer v. McQuewan*, 14 How., 539, 549 [but see *Id.*, 555];