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Abstract

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Section Subtitle

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Marbury v. Madison

Case subtitle

Case headnote: Quisque vitae neque vestibulum, accumsan nibh placerat, facilisis ante. Fusce fermentum urna vitae lacus lobortis sodales. Sed suscipit, velit dapibus interdum pharetra, massa risus pretium quam, scelerisque vehicula erat eros vel nunc. Fusce ut malesuada mauris. Suspendisse tincidunt erat ultricies dui ullamcorper, a aliquam urna vulputate. Donec pharetra est tortor, placerat mollis felis congue quis. Aliquam malesuada lobortis dolor, eget vulputate enim posuere ac. Quisque sit amet elementum nunc.

5 U.S. 137

1 Cranch 137

2 L.Ed. 60

WILLIAM MARBURY

v.

JAMES MADISON, Secretary of State of the United States.[[2]](#footnote-37)

February Term, 1803

          AT the December term 1801, William Marbury, Dennis Ramsay, Robert Townsend Hooe, and William Harper, by their counsel[ ... ]

severally moved the court for a rule toJames Madison, secretary of state of the United States, to show cause why a mandamus should not issue commanding him to cause to be delivered to them respectively their several commissions this is a replacement text.

          This motion was supported by affidavits of the following facts: that notice of this motion had been given to Mr. Madison; that Mr. Adams, the late president of the United States, nominated the applicants to the senate for their advice and consent to be appointed justices of the peace of the district of Columbia; that the senate advised and consented to the appointments; that commissions in due form were signed by the said president appointing them justices, &c. and that the seal of the United States was in due form affixed to the said commissions by the secretary of state; that the applicants have requested Mr. Madison to deliver them their said commissions, who has not complied with that request; and that their said commissions are withheld from them; that the applicants have made application to Mr. Madison as secretary of state of the United States at his office, for information whether the commissions were signed and sealed as aforesaid; that explicit and satisfactory information has not been given in answer to that inquiry, either by the secretary of state, or any officer in the department of state; that application has been made to the secretary of the senate for a certificate of the nomination of the applicants, and of the advice and consent of the senate, who has declined giving such a certificate; whereupon a rule was made to show cause on the fourth day of this term. This rule having been duly served--

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          Mr. Jacob Wagner and Mr. Daniel Brent, who had been summoned to attend the court, and were required to give evidence, objected to be sworn, alleging that they were clerks in the department of state, and not bound to disclose any facts relating to the business or transactions of the office.

          The court ordered the witnesses to be sworn, and their answers taken in writing; but informed them that when the questions were asked they might state their objections to answering each particular question, if they had any.

          Mr. Lincoln, who had been the acting secretary of state, when the circumstances stated in the affidavits occurred, was called upon to give testimony. He objected to answering. The questions were put in writing.

          The court said there was nothing confidential required to be disclosed. If there had been, he was not obliged to answer it, and if he thought any thing was communicated to him confidentially he was not bound to disclose, nor was he obliged to state any thing which would criminate himself.

          The questions argued by the counsel for the relators were, 1. Whether the supreme court can award the writ of mandamus in any case. 2. Whether it will lie to a secretary of state, in any case whatever. 3. Whether in the present case the court may award a mandamus to James Madison, secretary of state.

1. Footnote Text. [↑](#footnote-ref-31)
2. Cremona is in control. [↑](#footnote-ref-37)