

Case Brief

Con Law Chap 1: the judicial power, checks on judicial power

1/18/15

Identity of Case

Ex Parte McCardle (1869)

Summary of Facts/ Procedural History

McCardle was a reporter in the south who violated the Military Reconstruction Act after the civil war. He was facing military tribunal, which convicted him. He challenged the constitutionality of the law and the tribunal by filing a habeas corpus petition with the federal court, which was eventually appealed up to SCOTUS.

While this appeal was ongoing, Congress passed a bill with a provision removing SCOTUS's jurisdiction over habeas corpus petitions arising from military law (or something like that).

Statement of the Issue

Does Congress' bill remove SCOTUS jurisdiction?

Holding

An act that removes the jurisdiction of SCOTUS is valid as long as it limits jurisdiction within the scope of the Constitution, and doesn't do so in ways that are unconstitutional.

Reasoning

"such exceptions as congress will by law create." It's pretty clear. The only thing Congress can't do is remove jurisdiction in ways that violate other promises of the constitution (i.e. can't remove jurisdiction over the appeals of black persons) and can't change the case law/precedent set by the court (interfere with res judicata).

Evaluation