

SUPREME COURT OF THE UNITED STATES

Barber v. Barber ex rel. Cronkhite

62 U.S. 582 (1858) · Decided March 11, 1859

SUMMARY

The Supreme Court considered whether a wife divorced from bed and board could establish a separate domicile and sue her husband in federal equity to enforce a New York decree awarding alimony. The Court held that a valid alimony decree is a judicial debt of record that may be carried into judgment and enforced in another state or federal court when jurisdictional requirements are satisfied. The Court also recognized federal equity jurisdiction to prevent the decree from being defeated by the husband's flight or fraud.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Wayne; Chief Justice Taney; Justice Daniel; Justice Campbell
JURISDICTION	Federal
DECIDED	March 11, 1859
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a decree of the United States District Court for the District of Wisconsin enforcing a New York decree awarding alimony after a divorce from bed and board.
STANDARD OF REVIEW	De novo review of the district court's jurisdiction and decree on the pleadings and proofs.
PRECEDENTIAL VALUE	Published Supreme Court precedent
PARTIES	Hiram Barber v. Huldah A. Barber, by her next friend, George Cronkhite

TOPICS

- alimony
- family law procedure
- subject matter jurisdiction
- interstate disputes
- equitable relief

PRACTICE AREAS

- family law
- family law procedure
- civil procedure
- federalism
- remedies

QUESTIONS PRESENTED

1. Whether a wife divorced from bed and board may acquire a domicile separate from her husband's domicile for purposes of federal diversity jurisdiction.
2. Whether a federal court of equity may enforce a state-court decree awarding alimony when the decree was entered by a court with jurisdiction over the parties and subject matter and the husband has removed himself from the issuing state's jurisdiction.
3. Whether the husband's subsequent Wisconsin divorce relieved him of liability for alimony already decreed by the New York court.
4. Whether the wife could sue her husband in federal equity by her next friend.

HOLDINGS

1. A wife living under a judicial sentence of separation from bed and board may establish a domicile different from that of her husband and may qualify as a citizen of a different state for purposes of suing him in federal court.
2. A federal court of equity may enforce a valid state-court decree awarding alimony that is already due; it may not originate a divorce or award alimony in the first instance.
3. A subsequent divorce a vinculo obtained in Wisconsin did not release Hiram from liability for alimony already decreed by the New York court.
4. A wife under a judicial separation from bed and board may sue her husband for previously decreed alimony in equity through a next friend.

KEY QUOTATIONS

"We disclaim altogether any jurisdiction in the courts of the United States upon the subject of divorce, or for the allowance of alimony, either as an original proceeding in chancery or as an incident to divorce a vinculo, or to one from bed and board." (583-584)

"It is no objection to equity jurisdiction in the courts of the United States, that there is a remedy under the local law, for the equity jurisdiction of the Federal courts is the same in all of the States, and is not affected by the existence or non-existence of an equity jurisdiction in the State tribunals." (591)

"When that has been done, it becomes a judicial debt of record against the husband, which may be enforced by execution or attachment against his person, issuing from the court which gave the decree." (595)

"Whilst the law thus recognises the right of a woman so divorced to acquire and take the proceeds of her industry to her own use, it recognises her power to make contracts; and if she could not sue and be sued, it would present the anomalous case in which the law recognises a right without affording a remedy for vindicating it, and subjects a party to a duty without lending its aid to enforce it." (598-599)

FACTUAL BACKGROUND

A New York court, having jurisdiction over the parties and subject matter, divorced Hiram and Huldah Barber from bed and board and ordered Hiram to pay Huldah alimony in quarterly installments. Hiram left New York

for Wisconsin shortly after the decree, allegedly to place himself beyond the New York court's enforcement jurisdiction, and paid none of the alimony. Huldah remained domiciled in New York and sued Hiram in federal equity in Wisconsin by her next friend to enforce the accrued alimony decree. Hiram also obtained a Wisconsin divorce a vinculo without disclosing the New York proceedings and falsely alleging that Huldah had wilfully abandoned him.

PROCEDURAL HISTORY

A New York court entered a decree separating Hiram and Huldah Barber from bed and board and awarding Huldah permanent and retrospective alimony. Hiram moved to Wisconsin without paying the alimony. An action at law in the federal court in Wisconsin was unsuccessful because the state supreme court held that recovery belonged in equity. Huldah then sued in equity by her next friend in the United States District Court for the District of Wisconsin; the district court overruled Hiram's demurrer and entered a money decree for \$5,936.80 plus costs. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Burr v. Heth, 6 How. 228
- Livingston v. Story, 9 Pet. 632
- Boyce's Ex'rs v. Grundy, 3 Pet. 210
- United States v. Howland, 4 Wh. 108
- Osborn v. United States Bank, 9 Wh. 841
- Shaftoe v. Shaftoe, 7 Ves. 171
- Dawson v. Dawson, 7 Ves. 173
- Haffey v. Haffey, 14 Ves. 261
- Warrender v. Warrender, 9 Bligh. 103
- Wheeler v. Wheeler, 2 Dana H. 310
- Clark v. Clark, 6 Watts & Serg. 85
- Denton v. Denton, 1 Johns. Ch. 364
- Purcell v. Purcell, 4 Hen. & Munf. 507