

SUPREME COURT OF THE UNITED STATES

United States ex rel. Ness v. Fisher

223 U.S. 683 (1912) · No. No. 66 · Decided March 11, 1912

SUMMARY

The Supreme Court held that mandamus could not compel the Secretary of the Interior to reverse a decision rejecting an application under the Timber and Stone Act. Because the decision involved the exercise of judgment and discretion within the Secretary's lawful authority, it was not subject to control by mandamus, and the judgment directing dismissal of the petition was affirmed.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Van Devanter
JURISDICTION	Federal
DECIDED	March 11, 1912
DOCKET	No. 66
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for a writ of mandamus to compel the Secretary of the Interior to accept an application to purchase public land under the Timber and Stone Act. The Supreme Court of the District of Columbia awarded the writ; the Court of Appeals of the District of Columbia reversed and directed dismissal of the petition; the Supreme Court affirmed.
STANDARD OF REVIEW	Whether the Secretary's decision involved judgment and discretion and therefore was not reviewable or controllable by mandamus.
PRECEDENTIAL VALUE	binding precedent
PARTIES	Mary S. Ness, United States ex rel. v. Walter L. Fisher, Secretary of the Interior

TOPICS

- judicial review of agency action
- administrative law
- statutory interpretation
- remedies

PRACTICE AREAS

- administrative law
- public lands
- mandamus
- statutory interpretation

QUESTIONS PRESENTED

1. Whether mandamus may be used to review and overturn the Secretary of the Interior's decision concerning the statutory conformity of a land-purchase application when the decision involved judgment and discretion.
2. Whether the absence of a writ of error or appeal to review the Secretary's decision provides a basis for issuing mandamus.

HOLDINGS

1. Mandamus may not be used to review or control a decision of the Secretary of the Interior made in the lawful discharge of statutory duties when the decision involves the exercise of judgment and discretion rather than a merely ministerial act.
2. The fact that no writ of error or appeal lies to review the Secretary's decision does not furnish a basis for awarding mandamus.

KEY QUOTATIONS

"The question is not new, but has been often considered by this court and uniformly answered in the negative." (692)

"Mandamus has never been regarded as the proper writ to control the judgment and discretion of an officer as to the decision of a matter which the law gave him the power and imposed upon him the duty to decide for himself." (694)

FACTUAL BACKGROUND

Mary S. Ness applied to purchase 160 acres of public land under the Timber and Stone Act. Her application otherwise conformed to the statutory requirements, but she disclosed that she had not personally examined the land and based statements about its condition on information and belief rather than personal knowledge. The Land Department rejected the application under its longstanding construction of the Act, and another applicant's application for the same land was later accepted.

PROCEDURAL HISTORY

Ness filed an application to purchase 160 acres under the Timber and Stone Act, but the local land officers, the Commissioner of the General Land Office, and the Secretary of the Interior rejected it because the required statements about the land were made on information and belief rather than personal knowledge. The Supreme Court of the District of Columbia initially awarded mandamus. The Court of Appeals reversed and directed dismissal, and the Supreme Court reviewed that judgment by writ of error.

DISPOSITION

affirmed

CASES CITED

- Campbell v. Weyerhauser, 161 Fed. Rep. 333
- United States v. Wood, 70 Fed. Rep. 485
- Hoover v. Salling, 102 Fed. Rep. 716
- Hoover v. Salling, 110 Fed. Rep. 43
- Robnett v. United States, 169 Fed. Rep. 778
- Decatur v. Paulding, 14 Pet. 497, 515
- United States ex rel. Tucker v. Seaman, 17 How. 225, 230
- Gaines v. Thompson, 7 Wall. 347
- Litchfield v. Register and Receiver, 9 Wall. 575
- United States ex rel. McBride v. Schurz, 102 U.S. 378
- United States ex rel. Dunlap v. Black, 128 U.S. 40, 48
- Riverside Oil Co. v. Hitchcock, 190 U.S. 316, 324
- Roberts v. United States, 176 U.S. 221
- Garfield v. Goldsby, 211 U.S. 249