FEATURES: THE SEMINAL CASE

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Text

[*21] Lawyers are fond of using the term "a seminal case" to refer to some decision that's supposed to be the benchmark on a particular legal issue. A case is usually designated as "seminal" in one of two ways: 1) it is cited as such by a court of seminal jurisdiction; or 2) a lawyer argues it as such because it supports his or her position.

There must be a seminal case out there for just about every legal issue, but I have yet to hear anyone cite *the* seminal case of all seminal cases. I am referring of course to *People v. Smith, 1 Cal. 9 (1850),* the very first published decision by the newly created California Supreme Court of the newly created State of California.

People v. Smith is reported in California Reports 1 (Bennett) by the Honorable Nathaniel Bennett, one of the first of three justices appointed to the supreme court in 1850. Little is known about Justice Bennett, other than that he served just one year on the court before being asked by his colleagues to document the court's earliest decisions. The good justice agreed to accept the assignment after the court's first official reporter, one Edward Norton, left the job in a bit of a shambles.

From 1850-1851, Norton painstakingly recorded the court's official opinions and organized them into a manuscript. Then tragedy struck. While celebrating the completion of his first official compilation, he knocked over an oil lamp and started a fire which destroyed the entirety of his work. He promptly resigned in disgrace and is believed to have moved to New York and taken a position with the city sewer system. His great-grandson and namesake, Ed Norton IV, later followed in his bumbling footsteps and went on to fame and fortune on the TV series *The Honeymooners.*

But, I digress …

People v. Smith is a decision that could, and perhaps should, be cited in just about any criminal proceeding. It's got everything: cowboys and Indians, arson and murder, arrest warrants, affidavits, *habeas corpus,* jurisdiction, judicial notice, speedy trial, you name it. And the beauty of it is that the court was able to wrap it all up in just under six pages, including headnotes.

The facts of the case aren't pretty. Prior to the discovery of gold in California, the Napa Valley was inhabited by the Wappo Indians. When the first white settlers began to arrive in the valley in the mid-1800s, the Wappos welcomed them with open arms. This was their first mistake. In 1849, a band of settlers raided a Wappo village, massacred the Indians, burned their lodges, and destroyed their food supply.

When the local sheriff learned of the attack he grabbed his gun, hopped on his horse and proceeded to round up--affidavits. He collected written statements from numerous individuals believed to have some knowledge of the incident, apparently including several of the Wappos who survived the attack. Armed with these declarations, the sheriff went to the local judge and *demanded* warrants of arrest. Smith and his (allegedly) nefarious colleagues were hunted down and thrown into irons, which is where bad guys were thrown in those days.

Displaying no shortage of *chutzpah,* Smith and his associates didn't bother to wait for trial before filing a writ of *habeas corpus* with the supreme court seeking their immediate release. The petition for the writ claimed all kinds of things--i.e., the arrest warrants were no good and the sheriff didn't do this and the court should've done that and blah-blah-blah, why don't we just forget all about this little misunderstanding, okay?

My American Indian ancestors would have been happy to know that the California Supreme Court wasn't buying any of this. The court had no problem with the arrest warrants the defendants complained about, holding that affidavits based on personal knowledge are sufficient to support a warrant, *even* if the declarants are Wappo Indians.

The defendants also complained that the judge ordered them to be held in custody indefinitely, until the newly created California State Legislature could get together and newly **[*22]** create a state court system in which their case could be tried. But, the court wasn't worried about that either, seeing as how the legislature was currently in session and would likely get right on it. (Remember: this was back in 1850 when the legislature could actually get right on *anything.*) Just sit tight and be patient; we'll have a courtroom available for you as soon as it's built …

The court also dispensed with the defendants' other claims, like whether the judge could take judicial notice that Napa Valley is in California *(duh),* or if Judges of First Instance (the early Justices of the Peace) could even commit a prisoner for trial (they could). The petition for writ of *habeas corpus* was denied and the defendants were ordered held in custody pending trial.

But, held in custody *where?* Unfortunately, the newly created State of California had yet to newly create jails and prisons to house the defendants. The supreme court's solution: bail. If the defendants could post either $ 3000 cash or $ 20,000 in sureties, they could be released on bail while awaiting trial. Otherwise, the sheriff was ordered to personally maintain custody of the defendants, even though he had no jail to keep them in. (I'm sure Mrs. Sheriff was thrilled to learn that she would have village-ravaging house guests to feed until who knows when ....)

The final outcome the case of *People v. Smith* is unknown. But the wisdom demonstrated by the justices in their very first decision was so profound that the California Supreme Court has continued to cite it as precedent as recently as 1993 in *In re Clark, 5 Cal.4th 750 (1993).* (The citation in *Clarke* appears right along with *Ex parte The Queen of the Bay, 1 Cal. 157 (1857),* a doozie of a case about some pirates who kidnap several female members of a Pacific island royal family and bring them to San Francisco for, well, no good purpose.)

Now, I'm not suggesting how anyone should argue their case, but I suspect that tossing in a reference to *People v. Smith* next time is sure to impress the judge, and will likely send opposing counsel scurrying for the law library. Just cross your fingers that they don't come back with *Ex parte Queen of the Bay* in rebuttal.

Graphic

PICTURE, no caption

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