

Respublica Vs. Buffington

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Court : US Supreme Court

Decided On : 1781

Appeal No. : 1 U.S. 60

Appellant : Respublica

Respondent : Buffington

Judgement :

RESPUBLICA v. BUFFINGTON - 1 U.S. 60 (1781)

U.S. Supreme Court RESPUBLICA v. BUFFINGTON, 1 U.S. 60 (1781)

1 U.S. 60 (Dall.)

Respublica

v.

Joshua Buffington

Supreme Court of Pennsylvania

September Term, 1781

The Attorney General filed a suggestion, stating, that Joshua Buffington of the county of Chester, yeoman, being a subject, or inhabitant of the State, was by proclamation of the Supreme Executive Council, dated the 2nd of October 1780,

required in pursuance of the attainder law, to surrender himself to a justice of the Supreme Court &c.; on or before the 13th of November, 1780, to abide his legal trial for the treasons in the proclamation mentioned, &c.; That the said Joshua Buffington did not surrender himself, &c.; whereby he is attainted, &c.; and he prays an award of execution. [*Respublica v. Buffington* [1 U.S. 60](#) (1781)]

Joshua Buffington, the prisoner, pleaded, ore tenus, that he is not the Joshua Buffington, in the proclamation named, and was not required to surrender himself, &c.; On which the Attorney General replied, that the prisoner at the bar is the same Joshua Buffington in the said proclamation named; and thereupon issue was joined. The proclamation being produced on the trial, it appeared, that Joshua Buffington, now, or late, of the township of East Bradford, yeoman, was therein required to surrender himself, &c.; according to the terms of the suggestion. The evidence was this: That on the 16th of May 1780, a warrant issued to apprehend Joshua Buffington; that about three or four weeks before the date of the warrant, the prisoner had removed from Chester County into the Delaware State; that he was born in Chester County, and had resided there from the year 1776, to the time of his said removal; and that he was the only person of that name in the County. On the other hand, however, all the witnesses agreed, that Joshua Buffington had never lived in East Bradford, but always in West Bradford township, which were distinct townships to every intent and purpose. Lewis and Ingersol, for the defendant, contended that this variance between the proclamation, and the proof, was fatal to the proceedings; and cited 2 Haw. 186. s. 119. 120. 121. id. 189. s. 121. The Attorney General insisted, however, that the only questions to be determined, were, first, whether the prisoner is the Joshua Buffington whom the Executive Council intended to call upon to surrender, &c; and, secondly, whether he is so described, that the description cannot apply to any other person; and he cited, Fost. 79. 87. 3 Bac. 617. 107. 103.

But, by the Court: Although it may be allowed, that the legislature is not bound to the same strictness, that is required in the descriptions of all indictments; yet, we are inclined to think, that the Executive Council is so bound. Even in the case of a pardon, if the person intended to be benefitted were named of a wrong township, the effect of the pardon would be extremely doubtful. On the present occasion,

though Joshua Buffington of East Bradford was called upon to surrender himself; yet, Joshua Buffington of West Bradford certainly was not; and there is ground for a presumption, that the prisoner did not think he was the immediate object of the proclamation. The Court are, therefore, of opinion that the identity is not sufficiently established. The jury found a verdict, upon the issue, in favor of the defendant; and he was thereupon discharged. In September, 1782, however, he was tried for the offences alledged against him, and acquitted. But the Court ordered him to give security to be of good behaviour, and keep the peace, during the war with Great- Britain.

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