

The Amelia

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Court : US Supreme Court

Decided On : 1800

Appeal No. : 4 U.S. 34

Appellant : The Amelia

Judgement :

THE AMELIA - 4 U.S. 34 (1800)

U.S. Supreme Court THE AMELIA, 4 U.S. 34 (1800)

4 U.S. 34 (Dall.)

Talbot

v.

The Ship Amelia, Seeman, Claimant.

August Term, 1800

ERROR from the Circuit Court of New York. It appeared on the record, that Capt. Talbot, of the frigate Constitution, having re-captured the Amelia, an armed Hamburg vessel, which had been captured by a French national corvette, and ordered to St. Domingo, for adjudication, brought her into the port of New-York. A libel was thereupon filed in the District Court by the re-captor, setting forth the facts, and praying that the vessel and cargo might be condemned as prize; or that

such other decree might be pronounced as the Court should deem just and proper. A claim was filed by H. F. Seeman, for Chapeau Rouge & Co. of Hamburg, the owners, insisting that the property had not been changed by the capture, and praying restitution with damages and costs. The District Judge, HOBART, decreed one-half of the gross amount of sales of ship and cargo,

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without deduction, (a sale having been made by consent) to be paid to the re-captors, in the proportions directed by the act of congress for the government of the navy; and the other half, deducting all costs and charges, to be paid to the claimants. The cause was brought by appeal before the Circuit Court, WASHINGTON, Justice, presiding, who reversed the decree of the District Court, so far as it ordered payment of one half of the gross sales to the re-captors, 'considering that as the nation to which the owners of the said ship and cargo belong, is in amity with the French republic, the ship and cargo could not, consistently with the laws of nations, be condemned by the French as a lawful prize; and that, therefore, no service was rendered by the Constitution, or by the commander, officers, or crew thereof, by the re-capture aforesaid;' and affirmed the rest of the decree. On the decree of the Circuit Court the present writ of error was instituted; and the following statement of facts made a part of the record by consent.

'The following case is agreed upon by the parties, to be annexed to the writ of error in this cause, viz.

The ship Amelia sailed from Calcutta, in Bengal, in the month of April 1799, loaded with a cargo of the produce and manufactory of that country, consisting of cotton, sugars, and dry goods, in bales, and was bound to Hamburg.

On the sixth of September in the same year the same was captured, whilst in the pursuit of her said voyage, by the French national corvette La Diligente, L. I. Dubois, commander, who took out her captain and part of her crew, together with most of her papers, and placed a prize master and French sailors on board of her,

ordering the prize master to conduct her to St. Domingo, to be judged according to the laws of war. On the fifteenth of the same month of September, the United States ship of war, the Constitution, commanded by Silas Talbot, Esquire, the libellant, fell in with, and re-captured, the Amelia, she being then in full possession of the French, and pursuing her course for St. Domingo, according to the orders received from the captain of the French corvette.

At the time of the re-capture, the Amelia had eight iron cannon mounted, and eight wooden guns, with which she had left Calcutta, as before stated.

From such of the ship's papers as were found on board, and the testimony in the cause, the ship Amelia, and her cargo, appear to have been the property of Chapeau Rouge, a citizen of Hamburgh, residing, and carrying on commerce, in that place. It is conceded that the republic of France and the city of Hamburgh are not in a state of hostility to each other, and that Hamburgh is to be considered as neutral between the present belligerent powers.

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The Amelia and her cargo, having been sent by captain Talbot to New- York, were there libelled in the District Court, and such proceedings were thereupon had in that Court, and the Circuit Court for that district, as may appear by the writ of error and return.

Alexander Hamilton, of counsel for plaintiff in error.

B. Livingston, of counsel for defendant in error.'

The cause was argued on the 11th, 12th, and 13th of August 1800, by Ingersoll and Lewis, for the plaintiff in error; and by M. Levy and Dallas, for the defendant in error. The general points of the discussion were these:

1st. Whether the Amelia could be considered, at the time of the re- capture, as a French armed vessel, within the meaning of the act of congress, which authorises the seizure of French armed vessels? 4 vol. p.

2d. Whether captain Talbot was authorised to make a re-capture, the Amelia belonging to a power, equally in amity with the United States, and with France?

3d. Whether, on positive statute, or general principles, a salvage was due to the re-captors, for rescuing the Amelia from the French?

On the 18th of August, PATERSON, Justice, stated, that it was the wish of the COURT to postpone the cause for further argument, before a fuller bench. It was, accordingly, argued again at Washington, in August term 1801, by Ingersoll and Bayard (of Delaware) for the plaintiff in error; and by M. Levy, J. T. Mason (of Maryland) and Dallas for the defendant in error. And MARSHALL, Chief Justice, delivered the judgment of the Court, 'that the decree of the Circuit Court was correct, in reversing the decree of the District Court, but not correct in decreeing the restoration of the Amelia, without paying salvage. This Court, therefore, is of opinion, that the decree, so far as the restoration of the Amelia without salvage is ordered, ought to be reversed: and that the Amelia and her cargo ought to be restored to the claimant, on paying for salvage one- sixth part of the net value, after deducting therefrom the charges, which have been incurred.'(a)

(a) A full report of the arguments, on the first hearing of this case, was prepared; but they are found so ably incorporated with the arguments on the second hearing, in Mr. Cranch's Reports, that it has been thought unnecessary to publish it in this volume. 1 Cranch. Rep. 1.

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