

Scott Vs. London

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Court : US Supreme Court

Decided On : 1806

Appeal No. : 7 U.S. 324

Appellant : Scott

Respondent : London

Judgement :

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Scott v. London

7 U.S. (3 Cranch) 324

ERROR TO THE CIRCUIT COURT OF THE

DISTRICT OF COLUMBIA AT ALEXANDRIA

SYLLABUS

If the owner of a slave removing into Virginia shall take the oath required by the act of assembly within sixty days after the removal of the owner, it shall prevent the slave from gaining his freedom although he was brought into Virginia by a

person claiming and exercising the right of ownership over him eleven months before the removal of the true owner, and although the person who brought him in never took the oath, and although the slave remained in Virginia more than twelve months, and although the true owner never brought him in.

Negro London brought an action of assault and battery against Scott, to try his right to freedom. His claim was grounded upon the Act of Assembly of Virginia of 17 December, 1792, P.P. 186, the 2d section of which is in these words:

"Slaves which shall hereafter be brought into this commonwealth, and kept therein one whole year together or so long at different times as shall amount to one year shall be free."

The 3d section imposes a penalty upon every person importing slaves contrary to the act.

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The 4th section is in these words:

"Provided that nothing in this act contained shall be construed to extend to those who may incline to remove from any of the United States and become citizens of this, if, within sixty days after such removal, he or she shall take the following oath, before some justice of the peace of this commonwealth:"

" I, A.B., do swear that my removal into the State of Virginia was with no intent of evading the laws for preventing the further importation of slaves, nor have I brought with me any slaves with an intention of selling them, nor have any of the slaves which I have brought with me, been imported from Africa or any of the West India islands, since the first day of November, 1778. So help me God."

" Nor to any person claiming slaves by descent, marriage, or devise; nor to any citizens of this commonwealth being now the actual owners of slaves within any of the United States, and removing such hither; nor to travelers or others making a transient stay, and bringing slaves for necessary attendance, and carrying them

out again."

The defendant below took a bill of exceptions, which stated in substance the following facts:

The defendant's father, claiming to own the plaintiff as his slave, brought him from Maryland into Alexandria, in July, 1802, without the knowledge or consent of the defendant, and hired him out in Alexandria until his death, which happened about Christmas in the same year. The plaintiff has continued to reside in Alexandria until the present time, except about three weeks in April, 1803. The defendant's father never took the oath required by the 4th section of the act. The defendant, in March, 1803, got possession of the plaintiff, and in April following, being then a resident of Maryland but intending to remove to Alexandria, hired him out in Alexandria, claiming him as his slave, under a bill of sale from Thomas Contee dated 3 September, 1800. The defendant came from Maryland in June, 1803, and on 5 July next following, took the oath prescribed by the 4th section of the act. Whereupon, the court instructed the jury, that if they should be of opinion, from the evidence, that the defendant's father brought the

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plaintiff from the State of Maryland into the County of Alexandria in the year 1802, and exercised acts of ownership over the plaintiff, and hired him out as his slave, and that the plaintiff has been kept in the County of Alexandria one whole year, or so long at different times as amount to a whole year, from the importation to the bringing of the action, and that no other oath was made than that which the defendant has offered in evidence as aforesaid, then the plaintiff is entitled to his freedom, although the jury should be satisfied that he was the property of the defendant at the time he was so brought into the Town of Alexandria.

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MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

This case arises under a clause in an act of the Virginia assembly giving freedom to slaves who shall be brought thereafter into that state and kept therein one whole year together, or so long at different times as shall amount to one year, and under a proviso of the same act, that it shall not extend to any person who may incline to remove from any of the United States, and become citizens of this if, within sixty days after such removal, he shall take an oath which is prescribed in the act.

The negro London was brought from Maryland into Alexandria, where he was hired out in the year 1802, some months after which, his master, the plaintiff in error, also removed into Alexandria, and within the

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year from the time the negro was brought in, and also within the sixty days from the time the plaintiff in error removed to Alexandria, the oath prescribed by the law was taken.

No right to freedom having vested in London at the time this oath was taken, the question is has it brought the plaintiff within the proviso of the act?

That the plaintiff is within the letter of the proviso is unquestionable. He is a person who inclined to remove from one of the United States into Virginia, who actually did remove and who took the requisite oath within the limited time.

But it is contended in behalf of the defendant in error that the acts of bringing the negro into the state and of removing into it must be concomitant, in order to bring the case within the proviso. Or in other words, that the owner must be a person "inclining to remove into the state," at the time the slave was brought in. This inaccuracy of construction seems to be founded on the idea, that the penalty of forfeiting the property, accrues on bringing the slave into the state, whereas it attaches on his continuance in the state for twelve months. Till such continuance has taken place, the offense has not been committed. If then all the acts which bring a person within the proviso are performed before the right to freedom is vested, and before the provisions of the act have been infringed, it seems to the Court that the rights of the party remain unaffected by the act.

If London had been ordered to Maryland for a day and then brought with his master into Alexandria, the construction of his counsel would be satisfied, and it seems strange, where the letter of a law has not been violated, that such an unimportant circumstance should affect its spirit.

Unless this mode be admitted of coming within the proviso, a person inclining to remove into Virginia, whose slaves had preceded him, though not for one year, could not bring himself within or avoid the forfeiture, although permitting them to come into that state was no

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offense; a construction of the act which the Court cannot think consistent with its spirit or letter.

This Court is therefore of opinion that the circuit court erred in directing the jury that under the circumstances stated, the plaintiff below was entitled to his freedom, and doth reverse the judgment rendered by the circuit court and remand the cause for further proceedings.

Judgment reversed.