

Hudson and Smith Vs. Guestier

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Court : US Supreme Court

Decided On : 1810

Appeal No. : 10 U.S. 281

Appellant : Hudson and Smith

Respondent : Guestier

Judgement :

Hudson & Smith v. Guestier - 10 U.S. 281 (1810)

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Hudson & Smith v. Guestier

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ERROR TO THE CIRCUIT COURT

FOR THE DISTRICT OF MARYLAND

SYLLABUS

The jurisdiction of the French courts as to seizures is not confined to seizures made within two leagues of the coast.

A seizure beyond the limits of the territorial jurisdiction for breach of a municipal regulation is warranted by the law of nations.

When the reversal is in favor of the defendant upon a bill of exceptions, a new trial must be awarded by the court below.

Error to the Circuit Court for the District of Maryland in an action of trover for coffee and logwood, the cargo of the brig *Sea Flower*, which had been captured by the French for trading to the revolted ports of the Island of Hispaniola contrary to the ordinances of France and carried into the Spanish port of Baracoa, but condemned by a French tribunal at Guadaloupe, and sold for the benefit of the captors and purchased by the defendant Guestier.

Upon the former trial of this case in the court below, a statement of certain facts was agreed to by the counsel for the parties and read in evidence to the jury, which then found a verdict for the plaintiffs. One of the facts so admitted, and which was then deemed wholly immaterial by both parties, was that the *Sea Flower* was captured within one league of the coast of the Island of Hispaniola. Upon this fact, which was the only fact in which this case differed from that of [Rose v. Himely, 8 U. S. 241](#) , the Supreme Court reversed the first judgment of the court below, *see ante*, [8 U. S. 8](#) U.S. 293, which had been for the plaintiffs, and remanded the cause for further proceedings.

Upon the second trial in the court below, the verdict and judgment were for the defendant.

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The plaintiffs took a bill of exceptions to the opinion of the court, who directed the jury

"That if it finds from the evidence produced that the brig *Sea Flower* had traded with the insurgents at Port au Prince in the Island of St. Domingo, and had there purchased a cargo of coffee and logwood, and, having cleared at the said port and coming from the same, was captured by a French privateer, duly commissioned as

such, within six leagues of the Island of St. Heneague, a dependency of St. Domingo, for a breach of said municipal regulations, that in such case the capture of the *Sea Flower* was legal, although such capture was made at the distance of six leagues from the said Island of St. Domingo, or St. Heneague, its dependency, and beyond the territorial limits or jurisdiction of said island, and that the said capture, possession, subsequent condemnation, and sale of the said *Sea Flower*, with her cargo, divested the said cargo out of the plaintiffs, and the property therein became vested in the purchaser. "

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LIVINGSTON, J.

In this case, when here before, I dissented from the opinion of the Court because I did not think that the condemnation of a French court at Guadaloupe of a vessel and cargo lying in the port of

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another nation had changed the property; but this ground, which was the only one taken by two of the judges in this case and by three in that of *Himely v. Rose*, and was principally and almost solely relied on at bar, was overruled by a majority of the Court, as will appear by examining those two cases, which were decided the same day. I am not, therefore, in determining this cause as it now comes up at liberty to proceed upon it, and such must have been the opinion of Judge Chase on the trial of it, who was one of the court who had proceeded on that principle.

Considering it, then, as settled that the French tribunal had jurisdiction of property seized under a municipal regulation within the territorial jurisdiction of the government of St. Domingo, it only remains for me to say whether it will make any difference if, as now appears to have been the case, the vessel were taken on the high seas, or more than two leagues from the coast. If the *res* can be proceeded against when not in the possession or under the control of the court, I am not able to perceive how it can be material whether the capture were made within or

beyond the jurisdictional limits of France or in the exercise of a belligerent or municipal right. By a seizure on the high seas, she interfered with the jurisdiction of no other nation, the authority of each being there concurrent. It would seem also that if jurisdiction be at all permitted where the thing is elsewhere, the court exercising it must necessarily decide, and that ultimately, or subject only to the review of a superior tribunal of its own state, whether, in the particular case, she had jurisdiction if any objection be made to it. And although it be now stated as a reason why we should examine whether a jurisdiction was rightfully exercised over the *Sea Flower* that she was captured more than two leagues at sea, who can say that this very allegation, if it had been essential, may not have been urged before the French court, and the fact decided in the negative? And if so, why should not its decision be as conclusive on this as on any other point? The judge must have had a right to dispose of every question which was made on behalf of the owner of the property,

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whether it related to his own jurisdiction or arose out of the law of nations, or out of the French decrees, or in any other way, and even if the reasons of his judgment should not appear satisfactory, it would be no reason for a foreign court to review his proceedings or not to consider his sentence as conclusive on the property.

Believing, therefore, that this property was changed by its condemnation at Guadaloupe, the original owner can have no right to pursue it in the hands of any vendee under that sentence, and the judgment below must therefore be

Affirmed.

The other judges (except THE CHIEF JUSTICE) concurred.

MR. CHIEF JUSTICE MARSHALL observed, that he had supposed that the former opinion delivered in these cases upon this point had been concurred in by four judges. But in this he was mistaken.

The opinion was concurred in by one judge. He was still of opinion that the construction then given was correct.

He understood the expression "*en sortant*" in the *arrete* as confining the case of vessels coming out, to vessels taken in the act of coming out. If it included vessels captured on the return voyage, he should concur in the opinion now delivered.

However, the principle of that case (*Rose v. Himely*) is now overruled.

Judgment affirmed.

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