

Henry Vs. Ball

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Court : US Supreme Court

Decided On : 1816

Appeal No. : 14 U.S. 1

Appellant : Henry

Respondent : Ball

Judgement :

Henry v. Ball - 14 U.S. 1 (1816)

U.S. Supreme Court Henry v. Ball, 14 U.S. 1 Wheat. 1 1 (1816)

Henry v. Ball

14 U.S. (1 Wheat.) 1

ERROR TO THE CIRCUIT FOR THE COUNTY OF

WASHINGTON IN THE DISTRICT OF COLUMBIA

SYLLABUS

The Act of Assembly of Maryland of 1796, c. 67, prohibiting the importation of slaves into that state for sale or to reside, does not extend to a temporary residence, nor to an importation by a hirer or person other than the master or

owner of such slave.

Error on judgment, rendered by the Circuit Court for the County of Washington in the District of Columbia against the plaintiff, who was in that court a petitioner for freedom.

The plaintiff, being a child and the slave of the defendant, who resided in Virginia, was, some short

Page 14 U. S. 2

time before the month of May, 1810, put to live with Mrs. Rankin, then residing also in Virginia, whose husband was an officer in the marine corps stationed in the City of Washington. Mrs. R. was to keep the girl for a year and was to give her victuals and clothes for her services. Sometime in May, 1810, Mrs. R. removed to Washington and brought the petitioner with her -- whether with or without the permission of Mr. Ball, is entirely uncertain. It was probably, though not certainly, with his knowledge. In October, 1810, Mr. Ball married, and soon after took the petitioner into his possession and carried her home, he then residing in Virginia. Mrs. R. gave her up, being of opinion, though the girl had remained with her only seven or eight months, that she was bound to give her up when required by her master. Mr. B. afterwards removed himself into the city and brought the petitioner with him. Upon this testimony the counsel for the petitioner prayed the court below to instruct the jury that if it believed from the evidence that the defendant knew of the intended importation of the petitioner by Mrs. and did not object to it, then such importation entitled the petitioner to her freedom; and, further, that it was competent to the jury to infer from his knowing of the importation and not objecting to it that such importation was made with his consent. This instruction the court refused to give, but did instruct the jury that if it should be of opinion that Mrs. R. was, at the time she brought the petitioner into the City of Washington, a citizen of the United States coming into the City of Washington

Page 14 U. S. 3

with a *bona fide* intention of settling therein, then her importation of said slave was lawful and did not entitle the petitioner to her freedom, whether the said importation were or were not made with the consent of the defendant. An exception was taken to this opinion, and the jury having found a verdict for the defendant on which judgment was rendered by the court, the cause was brought into this Court by writ of error.

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court, and after stating the facts, proceeded as follows:

This cause depends on an act of the State of Maryland which is in force in the County of Washington. The first section of that statute enacts:

Page 14 U. S. 4

"That it shall not be lawful to bring into this state any negro, mulatto, or other slave, for sale or to reside within this state, and any person brought into this state contrary to this act, if a slave before, shall thereupon, immediately cease to be the property of the person or persons so importing or bringing such slaves within this state, and shall be free."

The 2d section contains a proviso in favor of citizens of the United States coming into this state with a *bona fide* intention of settling therein and bringing slaves with them. The 4th section enacts that

"Nothing in this act contained shall be construed or taken to affect the right of any person or persons traveling or sojourning with any slave or slaves within this state, such slave or slaves not being sold or otherwise disposed of in this state, but carried by the owner out of the state, or attempted to be carried."

This act appears to the Court not to comprehend the case now under consideration. The expressions of that part of the first section which prohibits the importation of slaves are restricted to cases of importation "for sale or to reside in this state." The petitioner was obviously not imported for sale, nor is the Court of opinion that the short time for which she was to continue with Mrs. Rankin can

satisfy the words "to reside within this state." The legislature must have intended to prohibit a general residence, not a special limited residence, where the slave is to remain for that portion of the year for which she was hired that still remained.

If on this point the first section of the act could be thought doubtful, the fourth section seems to remove

Page 14 U. S. 5

that doubt. It declares that

"Nothing in the act contained shall be construed or taken to affect the right of any person traveling or sojourning with any slave or slaves within this state, such slave or slaves not being sold or otherwise disposed of in this state, but carried by the owner out of this state or attempted to be carried."

This section sufficiently explains the residence contemplated by the legislature in the first section. The term "sojourning" means something more than "traveling," and applies to a temporary, as contradistinguished from a permanent, residence. The Court is also of opinion that the act contemplates and punishes an importation or bringing into the state by the master or owner of the slave. This construction, in addition to its plain justice, is supported by the words of the first section. That section declares that

"A person brought into this state as a slave contrary to this act, if a slave before, shall thereupon cease to be the property of the person or persons so importing or bringing such slave within this state and shall be free."

It is apparent that the legislature had in view the case of a slave brought by the owner, since it is the property of the person importing the slave which is forfeited.

Upon the best consideration we have been able to give this statute, the Court is unanimously of opinion that the petitioner acquired no right to freedom by having been brought into the County of Washington by Mrs. Rankin for one year's service, she having been in the course of the year carried back to Virginia by her master.

The circuit court appears to have considered the case as coming within the proviso of the 2d section. If in this opinion that court were even to be thought mistaken, the error does not injure the petitioner, and is therefore no cause for reversal. The Court is unanimously of opinion that the judgment ought to be affirmed.

Judgment affirmed.