

United States Vs. Arwo

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Court : US Supreme Court

Decided On : 1873

Appeal No. : 86 U.S. 486

Appellant : United States

Respondent : Arwo

Judgement :

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United States v. Arwo

86 U.S. (19 Wall.) 486

ON CERTIFICATE OF DIVISION IN OPINION

FROM THE SOUTHERN DISTRICT OF NEW YORK

SYLLABUS

Under the Act of March 3, 1825, § 22, by which an assault on a person upon the high seas with a dangerous weapon is made an offense against the United States, and the trial of the offense is to be "in the district where the offender is

apprehended, OR into which he may first be brought," a person is triable in the Southern District of New York who, on a vessel owned by citizens of the United States, has committed on the high seas the offense specified; has been then put in irons for safekeeping; has, on the arrival of the vessel at anchorage at the lower quarantine in the Eastern District of New York, been delivered to officers of the State of New York in order that he may be forthcoming &c.; and has been by them carried into the Southern District and there delivered to the marshal of the United States for that district, to whom a warrant to apprehend and bring him to justice was first issued.

A statute of March 3, 1825, [[Footnote 1](#)] makes an assault committed on the high seas with a deadly weapon a crime against the United States, and the act is made cognizable in virtue of prior law [[Footnote 2](#)] *"in the district where the offender is apprehended OR into which he may first be brought."*

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This statute being in force, Arwo was indicted in the Southern District of New York for an assault of the kind just spoken of committed on a vessel alleged to have belonged to citizens of the United States. He pleaded to the jurisdiction, alleging that, immediately upon the commission of the assault, he had been placed in irons on board ship for custody and to be forthcoming to answer any charge therefor, and was so kept until the vessel reached the lower quarantine anchorage in New York harbor, within the Eastern District of that state; that the vessel lay at anchor at such station for five days, during which he, being still in such custody, was delivered to the harbor police, officers of the State of New York, in order that he might be forthcoming &c.; and that they without process or warrant from any court carried him to the City of New York, where he was delivered over to the Marshal of the United States for the Southern District of New York; and that a warrant for his arrest (being the first issued in this case) was afterwards duly issued to the said marshal, so that, upon the whole, he had been apprehended and brought first into the Eastern, and not into the Southern District, and therefore could be tried only in the former district &c.;

Upon demurrer, the following questions occurred, and the court certified a division upon them.

"1. Whether the prisoner, having been taken into custody by the master of an American vessel, while on her voyage, upon a charge of having, during the voyage, committed an offense against the United States on board such ship upon the high seas and out of the limits of any state or district, and first brought, in such custody, into the Eastern District of New York, can be tried for such offense in the Southern District of New York."

"2. Whether the facts stated in the plea show that the Southern District of New York is not the district in which the defendant was apprehended within the meaning of the Act of March 3, 1825."

"3. Whether the plea discloses that, within the meaning of the Act of March 3, 1825, the apprehension of the defendant

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occurred either upon the high seas, or in the Eastern District of New York, and not in the Southern District of New York."

"4. Whether the Act of March 3, 1825, confers jurisdiction in the alternative, and enables this Court to assume jurisdiction to try an indictment by reason of the fact that the defendant has been arrested in this district, upon the charge in the indictment contained, by an officer of the United States, as stated in the plea, notwithstanding it appears that the defendant was first brought into the Eastern District of New York."

The Eastern District of New York consists of the Counties of Richmond, Queens, Kings, and Suffolk, [[Footnote 3](#)] and by an act of 1865, establishing it, [[Footnote 4](#)] the jurisdiction of the court thereof over "the waters" of such counties, excepting the County of Richmond, and "all matters made or done on such waters," is concurrent with that of the court of the Southern District.

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MR. JUSTICE CLIFFORD delivered the opinion of the Court.

Instead of answering separately the questions certified here, I am instructed to say that the Court, upon the facts alleged in the plea, is of the opinion that the Circuit Court for the Southern District of New York had jurisdiction in this case, and that the Court directs that this statement be certified to the circuit court as the only answer required to the several questions presented on the record.

[[Footnote 1](#)]

4 Stat. at Large 115 § 22.

[[Footnote 2](#)]

Act of April 30, 1790, § 8; 1 *id.* 113.

[[Footnote 3](#)]

Richmond County is Staten Island. Queens, Kings, and Suffolk compose Long Island, Kings being the easternmost of the three, the county which is separated from Richmond chiefly by "the Narrows."

[[Footnote 4](#)]

Act of February 25, 1865, 13 Stat. at Large 438.