

The *Amistad* Case: A Brief Narrative

The *Amistad* case was one of the most famous federal cases of the nineteenth century and attracted great public attention at each stage of its movement through the nation's judiciary. The dramatic story of the enslaved Africans who freed themselves from their captors and then sought recognition of their freedom in the federal courts helps to explain the role of the judiciary in the first half of the nineteenth century. The case also transformed the courts into the forum for a national debate on the legal foundations of slavery.

The Africans from the *Amistad* testified in court and were represented by prominent lawyers, including former President John Quincy Adams. The role of the Africans as parties in the case drew attention to the personal tragedies of slavery and attracted new support for the growing anti-slavery movement in the United States.

Enslavement

The *Amistad* case had its origins in West Africa, far from the jurisdiction of the federal courts. In the spring of 1839, slave traders in the West African port of Lomboko transported more than 500 enslaved Africans to Spanish-ruled Cuba. Many of the captives on the slave ship were from the Mende region of West Africa, an area later incorporated in Sierra Leone. Spanish law, enacted in response to pressure from Great Britain, prohibited the transportation of African slaves to Cuba. Spanish officials in Cuba largely ignored that law, however, and a thriving slave market provided labor for sugar planters.

At a slave sale in Havana, Jose Ruiz purchased 49 of the Mende men, and Pedro Montes purchased three girls and a boy, also from the Mende country. These planters chartered space on the schooner *Amistad* to carry the enslaved Africans to plantations along the coast of Cuba. The planters carried passes signed by a Spanish official, attesting to the fact that the Mende were long-time inhabitants of Spanish territory and legally held as slaves. The passes even provided the Africans with Spanish names.

Revolt on the Amistad

Late one night at sea, a group of the Mende broke out of their irons and armed themselves with sugar cane knives. Led by Sengbe Pieh (known to the Spanish and Americans as Cinque), the Mende killed the captain and the ship's cook and took command of the *Amistad*. They then coerced Ruiz and Montes to sail the ship in the direction of the rising sun and West Africa. At night the planters turned to the north and west, hoping to cross paths with another ship. After two months, the *Amistad* reached Long Island Sound, desperately short of provisions. Cinque led a party onto the New York shore to gather supplies for their voyage back to Africa. While Cinque

and others were ashore, the crew of the Navy brig *Washington* spotted the badly damaged *Amistad*. When the naval officers boarded the *Amistad*, the Spanish planters told of the revolt and pleaded for their safety. The commanding officer of the *Washington*, Lieutenant Thomas Gedney, ordered his crew to take custody of the *Amistad* and the 42 surviving Mende, including those who had gone ashore. The Navy ship escorted the *Amistad* to New London, Connecticut, and Gedney contacted the U.S. marshal to request a court hearing.

A court of inquiry

The U.S. District Court for Connecticut, with Judge Andrew Judson presiding, convened a special session on August 29, 1839, on board the *Washington* in New London harbor. Gedney and his crew intended to submit a libel, or claim, for a salvage award following their recovery of the *Amistad* and the cargo on board. They asserted that the Mende were slaves worth an estimated \$25,000 and included the Africans in their list of recovered cargo. Judson set a date at which the district court would consider the claim for salvage and any related property claims. The marshal then issued a process of monition, by which the court advertised the subject of Gedney's claim and informed other interested parties of the date by which they needed to submit all claims related to the *Amistad*.

Judson also heard testimony from the Spanish planters, who offered their version of the slave sale in Havana and the revolt on the schooner. The court moved to the *Amistad*, where Antonio, a slave owned by the slain captain of the schooner, testified about the revolt. The U.S. attorney submitted an information and complaint, a legal form that described the criminal charges that would be brought against Cinque and the leaders of the revolt. Judson referred consideration of the criminal questions to the U.S. Circuit Court for Connecticut. The judge then ordered the marshal to take custody of the ship, its cargo, and the Mende on the *Amistad*.

The federal courts took custody of the Mende under the authority of two separate warrants. A warrant of seizure, typical of admiralty proceedings concerning a libel for salvage, authorized holding the Mende, the ship, and its cargo as property that was the subject of claims before the court. A warrant of arrest held all of the adult Mende who were the subject of an indictment for murder and piracy. The three young Mende girls and Antonio were also held as witnesses for the criminal case.

The U.S. circuit court: criminal charges and writs of habeas corpus

The U.S. Circuit Court for the District of Connecticut convened on September 17, 1839, and impaneled a grand jury to consider the U.S. attorney's indictment of the Mende on charges of piracy and murder. After the jury returned with a finding of

facts, U.S. Supreme Court Justice Smith Thompson, who served as the presiding judge in the circuit court, declared that the federal courts had no jurisdiction over an alleged crime that took place at sea on a foreign-owned vessel. The circuit court dismissed all criminal charges against the Mende.

During the same session, the circuit court considered two writs of habeas corpus calling for the release of the Mende in federal custody. These writs were brought by the abolitionist lawyers who had formed a committee to represent the Mende in the federal courts. The initial writ referred only to the three girls held as property and as witnesses, but not included in the criminal indictment. After the court dismissed the criminal charges, another writ of habeas corpus brought the adult Mende before the court with a similar request for their release. Justice Thompson declared that he could not order their release since they were all the subject of property claims pending before the U.S. district court. Thompson reminded the abolitionists that the Constitution and the laws of the nation protected the right to hold slave property. The district court's responsibility was to determine the legitimacy of the several property claims that alleged the Mende were slaves. The circuit court would have jurisdiction only if one of the parties appealed the decision of the district court.

Admiralty proceedings in the U.S. district court

The U.S. district courts had jurisdiction over cases in admiralty—that branch of law concerning maritime commerce and the nation's trade laws. At the September 1839 session of the district court in Connecticut, various parties submitted claims for property on the *Amistad*. The planters, Ruiz and Montes, asked the district court to return the Mende as their rightful property. The U.S. attorney, William Holabird, asked the court to consider Spain's request for the return of all property on the *Amistad*, with no deduction in its value for the salvage award claimed by Gedney and his crew. The Spanish ambassador insisted that the 1795 treaty between the two countries required the return on these terms. Several claims asserted that all of the Mende on the *Amistad* were slave property, thus forcing the court to determine whether or not these individuals were legally slaves or free. The court's decision rested solely with Judge Andrew Judson, since juries were not used in federal admiralty cases during the first half of the nineteenth century.

At the November session of the district court, the Mende formally entered the case as respondents to the several claims alleging that they were slaves. The plea submitted by their lawyers, Roger Sherman Baldwin and Seth Staples, requested the immediate release of the Mende in custody. The federal courts, they claimed, had no jurisdiction over these free persons who had taken control of the *Amistad* in an effort to return to their families. Based on interviews with Cinque and others, the plea explained that all of the Mende had been born free persons in Africa and had been kidnapped, illegally transported to Cuba, and enslaved for life. Staples and Baldwin

also claimed that it had been illegal for Lieutenant Gedney to seize the Africans in New York, a free state.

At the same session, the Spanish consul from Boston asked the court to order the return of Antonio to the heirs of the *Amistad's* captain.

The district court trial

Judge Judson opened the trial in the *Amistad* case on January 7, 1840. One of the largest crowds ever gathered for a federal trial appeared in the New Haven, Connecticut, courtroom. Roger Sherman Baldwin argued that the Mende captives could not be returned as property because under Spanish law, any Africans introduced into Spanish territory after 1820 were free within that territory. The abolitionists' committee had found a native of the Mende region to serve as a translator, thus allowing Cinque and two other captives to testify that they had been recently transported to Cuba from Africa. Cinque's description of his enslavement and the horrors of the voyage across the Atlantic provided the dramatic high point of the five-day trial. Other witnesses testified that Spanish officials in Havana frequently falsified documents in order to admit enslaved Africans into Cuba.

Before the trial opened, President Van Buren was so confident that Judson would agree to the Spanish claims that he ordered a Navy ship to New Haven in preparation for a quick delivery of the Mende to Spanish officials in Cuba. Judson, however, surprised almost everyone when he announced that the Mende were not slaves under Spanish law and that he could not order their return to Cuba. Instead, the judge granted a motion filed by the U.S. attorney that the Mende be delivered to the President for return to their homes under the provisions of a federal law prohibiting the African slave trade in the United States. Judson acknowledged that the terms of the act did not apply precisely to the *Amistad* because no one had transported the Mende to the United States as slaves, but he said his decree was within the spirit of an act intended to facilitate the return of enslaved Africans to freedom in their homeland.

Judson also ordered that Gedney and his crew receive one-third of the value of the *Amistad* and its cargo as a salvage award. Judson's decision provided that the remaining property, including the slave Antonio, be returned to the several owners in Cuba. The Mende's return home and the delivery of the property were delayed when the Van Buren administration ordered the U.S. attorney to appeal Judson's decision to the U.S. Circuit Court.

Appeal to the U.S. circuit court

On April 29, 1840, the U.S. Circuit Court convened in Hartford to hear appeals of the district court decision. The U.S. attorney, representing the claims of the Span-

ish government, appealed that portion of the decision that declared the Africans on board were not slaves and the order to grant a salvage award to Lieutenant Gedney and his crew. The Spanish owners of the cargo on board the *Amistad* also appealed the salvage award. The lawyers for the Mende from the *Amistad* asked the court to dismiss the appeal on the grounds that the United States government had no right to represent the claims of a foreign nation. Justice Thompson denied the motion for dismissal and issued a pro forma decree upholding the district court decision. The use of the pro forma decree allowed Thompson to avoid a lengthy discussion of the merits of the case and helped to speed the appeal to the Supreme Court.

Appeal to the Supreme Court

The U.S. attorney responded to Thompson's decree with the expected appeal to the Supreme Court. The government's lawyer asked the Supreme Court to order the delivery to Spanish officials of all property claimed by Spanish owners. U.S. Attorney William Holabird repeated the arguments that the treaty between Spain and the United States required the return of all property, including the alleged slaves, with no deduction for a salvage award.

In the months leading up to the opening of the Supreme Court term in January 1841, former President John Quincy Adams agreed to join the lawyers representing the Mende. Adams was then serving in the U.S. House of Representatives, where he led an effort forcing the Van Buren administration to give Congress copies of *Amistad*-related correspondence with the Spanish government. Adams traveled to Connecticut to meet with the Mende, who remained in federal custody in a village outside of New Haven. In the weeks before the Supreme Court session, two of the Mende wrote Adams letters encouraging him in his efforts to secure their freedom.

Arguments in the Supreme Court

Attorney General Henry Gilpin presented the opening arguments in the *Amistad* case before the Supreme Court. He maintained that treaty obligations required the United States to return the Mende, as slave property, to the Spanish planters from Cuba. If the federal courts refused to accept documentation provided by another government, all foreign commerce would be threatened. Roger Sherman Baldwin argued in favor of upholding the earlier court decision that the Mende were not slaves. He asserted that the United States government could not represent the claims of a foreign government, and he repeated his arguments that under the laws of Spain, the Mende were free. John Quincy Adams then presented his dramatic condemnation of the Van Buren administration and its efforts to return the Mende to Cuba. Adams, with an appeal to the principles of the Declaration of Independence, called on the Court to recognize the natural rights of the captive Africans.

Chief Justice Roger Taney and the eight other justices were present at the opening arguments of the *Amistad* case on February 22, 1841. Several days later, Justice Philip Pendleton Barbour died. After a recess, the Court resumed hearing arguments in the case and on March 9, 1841, issued its decision. Justice Joseph Story was joined in his opinion by six justices, including Smith Thompson. One justice, Henry Baldwin, dissented without comment.

Freedom for the Africans

The Supreme Court upheld the circuit court's affirmation of Judson's decision that the Mende on the *Amistad* clearly were not slaves under Spanish law and that the federal courts could not order their delivery to Spanish officials. Story overturned the earlier decision to deliver the Mende to the President for transport to Africa. The *Amistad* had arrived in the United States in the possession of the Mende, not slave traders, and they could not be considered as slaves illegally imported into the United States. Cinque and the other surviving Mende were free persons, and the federal courts had no further authority over them. The Supreme Court issued a decree ordering the circuit court to free the Mende from federal custody.

Return to West Africa

The Supreme Court opinion granted unconditional freedom to the Mende, but, unlike Judson's decision in the district court, it left them with no provision for a return to their homes. In order to raise money for transportation, the abolitionists' committee organized a series of public appearances at which people paid admission to hear the Mende sing, recite from the Bible, and describe their stories of enslavement and the struggle for freedom. In November 1841, in the company of a group of American missionaries, the 35 surviving Mende left New York for the coast of Sierra Leone. Most returned to live with their families, while a few remained with a mission established by the American clergy.

Legal Questions Before the Federal Courts

Did the federal courts have jurisdiction to try the Mende on criminal charges?

No, said Justice Smith Thompson in the U.S. Circuit Court.

Following the Spanish planters' testimony about the revolt on the *Amistad*, the U.S. attorney for Connecticut prepared an indictment of the adult Mende on charges of murder and piracy. In the U.S. Circuit Court for Connecticut, a grand jury returned a finding of facts regarding the revolt on the schooner, the killing of the captain and cook, and the theft of goods on board. Justice Thompson denied that the federal courts had any jurisdiction over the alleged crimes. The crimes allegedly committed on a Spanish vessel sailing under a Spanish commander could only be tried in the courts of that nation. The federal courts did have jurisdiction over violations of the law of nations, including piracy, but earlier court decisions had established that the slave trade was not a violation of the customs and practices that made up the law of nations.

Even before the circuit court convened, the U.S. attorney privately admitted that the courts did not have criminal jurisdiction over the Mende, and few observers expected a criminal trial. The Mende never again faced any criminal charges in the United States.

Did the federal courts have authority to hold the Mende in custody?

Yes, said Justice Smith Thompson, as long as they were the object of property claims pending before the courts.

The lawyers representing the Mende used a writ of habeas corpus to seek the release of the three young girls detained as both witnesses and as objects of several property claims. Once the circuit court dismissed the criminal charges against the adult Mende, another lawyer used a separate writ of habeas corpus to seek the release of those men as well. The Africans' lawyers argued that their clients had been found in a state of freedom and that the district court's order to imprison them had the effect of reducing them to slavery. One of the lawyers, Roger Sherman Baldwin, insisted that the federal courts could not take custody of the Mende unless they determined that these individuals were the lawful property of the Spanish planters. At the same time, the lawyers presented their first evidence that the captives from the *Amistad* had been illegally enslaved in Cuba and could not be claimed as property.

Justice Thompson denied the motion for release of the Mende. He prefaced his

ruling with a statement of his own disapproval of slavery, but nevertheless determined that the district court had jurisdiction over the Mende just as it had jurisdiction over the schooner and its cargo. The Constitution recognized the right to hold slaves, and the Supreme Court had said that the federal courts had the power to decide the right to slave property.

Which district court had jurisdiction over the salvage and property claims?

The U.S. District Court of Connecticut, not that of the Southern District of New York, had jurisdiction over the admiralty case and its several property claims.

When a ship was rescued on the high seas, the rescuers could file a salvage claim in any judicial district to which they carried the disabled vessel. If the ship were taken within the boundaries of a judicial district, only the district court for that district could accept jurisdiction over a claim. Lieutenant Gedney and his crew carried the *Amistad* to New London, Connecticut, and filed their libel in the U.S. district court in that state. The lawyers for the Africans argued that the ship was taken not on the high seas, but within the state of New York, where the Mende shore party had landed to collect supplies. The lawyers expected that the district judge of the Southern District of New York would be more sympathetic to the Africans than would be Judge Judson of the district court in Connecticut.

Judson dispatched the U.S. attorney and lawyers for the Mende to investigate the location where the *Amistad* was taken into custody off Montauk Point, Long Island. The location, though close to the New York shore, met the criteria of being in the open ocean, "where the dominion of the winds and the waves prevail." Some of the Mende were on the New York shore when the Navy crew took them into custody, but according to guidelines provided by an earlier case, these Mende were still attached under a legal definition to the ship at sea. Judson thus determined that the U.S. District Court for Connecticut had jurisdiction in the case.

Was the Navy crew entitled to a salvage award for rescuing the Amistad?

Yes, said each of the courts that heard the case.

Lieutenant Gedney and the crew of the brig *Washington* submitted a libel, or claim, asking the district court to grant them a salvage award for rescuing the *Amistad*. The Spanish owners of the schooner and its cargo challenged Gedney's claim on the grounds that the treaty between the United States and Spain required each nation to return the property of the other, with no deduction for salvage. Judson ruled that the actions of the *Washington* crew qualified as meritorious service, a standard

qualification for salvage. Since the *Amistad* would otherwise have been lost at sea, Judson said, the salvage award was within the definition of “reasonable rates” that the treaty allowed for restoring the other nation’s property. The Supreme Court agreed that the salvage award was consistent with the general principles of maritime law.

A salvage award required the sale of the ship and goods so that a portion of the value could be paid to recipients of the award. Judson had no authority to order the sale of Mende, even if they were legally slaves; he therefore denied Gedney’s claim for a salvage award in the rescue of the alleged slaves. Judson also dismissed as without merit a salvage claim submitted by two men who sold the Mende supplies on the Long Island shore.

Did the treaty between Spain and the United States require the return of all Spanish property?

Yes, if the claimants had proper proof of ownership.

Judge Andrew Judson agreed that the treaty of 1795 obligated the United States to return lawfully held Spanish property, but he asserted the right of the federal courts to investigate the validity of any property claims. Judson’s review of the testimony and evidence in the district court trial established that the Spanish planters had produced no title to the enslaved Mende, only passes for their transportation. Those passes incorrectly stated that the Mende were long-time inhabitants of Spanish territory. In fact, they were recent arrivals in Cuba and under Spanish law were free, not slaves. When a claim to slave property was legitimately documented, as in the case of the captain’s slave, Antonio, Judson agreed that the courts must order the slaves’ return to the owners in Cuba.

Justice Story’s opinion for the Supreme Court also stated that if the Mende were legally the slaves of the Spanish planters, the Court would order their return just as they would for merchandise belonging to the planters. The Spanish-American treaty, however, called for “due and sufficient proof” of ownership, and Story insisted that the courts had an obligation to determine if the foreign government’s documents had been subject to fraud. In the case of the *Amistad*, the fraudulent origin of the passes for the Mende captives invalidated the planters’ claims of slave property.

Were the Mende on the Amistad slaves?

No, said each federal court that decided this question that lay at the center of the *Amistad* case.

The Spanish planters, José Ruiz and Pedro Montes, claimed the Mende on the *Amistad* as their slaves, legally purchased and owned in Cuba. They asked the U.S. district court to order the return of the alleged slaves, along with the planters’ other property on the *Amistad*.

Judge Andrew Judson decided that these Africans were not slaves under Spanish law, and could not be returned to the planters, who held no valid proof of ownership. Testimony in the district court trial proved that the Mende on the *Amistad* arrived in Cuba in June 1839, and under Spanish law, no Africans transported to Spanish territory after 1820 could be enslaved. The circuit court affirmed this decision. The Supreme Court agreed that it was clear “beyond controversy” that the Mende were never the lawful property of Ruiz or Montes or any other Spanish subjects. By the laws of Spain, the Mende were declared to be free.

If the Mende from the Amistad were not slaves, what authority could the federal courts exercise over them?

Judge Judson’s decision that the Mende were not slaves under Spanish law did not provide for the Africans’ release from federal custody. Judson ordered that custody of the Mende be transferred from the federal courts to the President. Under the provisions of an 1819 act, any enslaved Africans transported into the United States were to be delivered to the President for return to Africa at government expense. Judson acknowledged that the Mende arrived in command of the *Amistad* rather than as enslaved persons, but he thought the humanitarian objectives of the act called for a broad interpretation of its provisions. The circuit court decree upheld this part of Judson’s decision.

The Supreme Court disagreed, and decided that the federal courts had no authority to detain the Mende once they determined that the Africans were not slaves and that they had entered the United States as free individuals. The Supreme Court issued a decree ordering the U.S. Circuit Court in Connecticut to free the Mende.

Could the federal courts protect slave property?

Yes. Until the Civil War, the federal courts recognized and protected slave property when it was held in accordance with a nation’s laws.

If the properly enacted laws of a nation (so-called “positive law”) permitted slavery, the federal courts recognized the right to hold slave property. In the circuit court session of September 1839, Justice Smith Thompson reminded the abolitionist lawyers that the Constitution provided for the return of fugitive slaves within the United States and prohibited states from making any laws that would hinder the recovery of slave property. Thompson also emphasized that the Supreme Court had decided that foreign slave owners could recover slave property in federal custody if they could prove ownership under the laws of their own country. The federal courts had a responsibility to consider claims for slave property, regardless of state laws or the personal beliefs of an individual judge.

In the district court, Judge Andrew Judson determined that under Spanish law,

Antonio, the cabin boy from the *Amistad*, had been the slave property of the ship's captain. Judson ordered that Antonio be delivered to the captain's heirs. The African-born captives from the *Amistad* were not slave property under Spanish law, and Judson refused to order their return to the planters who had purchased them. Story, in his Supreme Court opinion, agreed that if any individuals were lawfully held as slaves under Spanish law, the Court would order their return to anyone who could prove title of ownership.

What had the federal courts decided in earlier cases involving the foreign slave trade?

Before *Amistad*, the federal courts had decided only a limited number of cases involving slavery or the slave trade. Two cases, the *Antelope* and *La Jeune Eugenie* were the subject of much speculation about how the courts might deal with the questions raised by the *Amistad* case. The oral arguments presented in each court included frequent references to these cases, and Judson relied in part on these cases to explain his decision in the district court trial.

The Antelope

In the *Antelope* case of 1825, the Supreme Court, in an opinion written by Chief Justice John Marshall, held that the federal courts must recognize a nation's right to engage in the slave trade if the laws of that nation did not prohibit the trade.

The *Antelope* case involved an American ship commander who raided Spanish, Portuguese, and American-owned ships along the West African coast and took possession of the slaves on board of each. Eventually he transferred nearly 300 slaves to the *Antelope* and headed for the Florida coast. A U.S. revenue cutter seized the *Antelope* and delivered all on board to Savannah. In the U.S. District Court for Georgia, the U.S. attorney sought an order that would have required the return to Africa of all the enslaved persons on board, under the provisions of the same the act of 1819 cited by Judson in the *Amistad* decision. The Spanish and Portuguese owners of the seized slaves filed claims for the recovery of their property. The slave trade was legal under Spanish and Portuguese law at the time these slaves were transported from Africa.

The U.S. attorney appealed the district and circuit court decisions to grant all foreign claims that could be documented. Marshall's opinion stated his personal belief that slavery violated natural law, but many nations had approved of the trade and therefore the Court could not rule that it was a violation of international law. The Court must recognize that citizens of nations that had not prohibited the slave trade had a right to engage in that trade. The Supreme Court ordered that the valid foreign claims be paid.

By the time the case was heard by the Supreme Court, many of the enslaved Af-

ricans from the *Antelope* had died, and no one had a record of which survivors originated on the different ships. A randomly selected group of the Africans, in numbers proportionate to the legitimate foreign claims, was sold by the federal government and the proceeds delivered to the foreign slave owners. The Court ordered that the remaining survivors, including all from the American-owned slave ship, be returned to Africa at the expense of the United States government.

Marshall's opinion in the *Antelope* made it difficult for the abolitionist lawyers to argue for the Mende's freedom on the basis of natural law, but it provided support for their claim that the Mende could not be delivered to Spanish officials because the Spanish planters did not hold valid proof of ownership.

United States v. La Jeune Eugenie

Justice Joseph Story ruled in a circuit court case of 1822 that the African slave trade violated natural law and international law, and that the federal courts had the authority to confiscate ships employed in that trade.

Story's decision came in a case before the U.S. Circuit Court for Massachusetts, where he presided as the circuit justice. The crew of a U.S. revenue cutter captured the ship *La Jeune Eugenie* off the coast of West Africa and transported it to Boston on the suspicion that it was an American ship engaged in the slave trade. The revenue cutter's crew claimed an award available under the law prohibiting the slave trade with Africa. The French consul in Boston and the French owners of the ship submitted claims for the return of the vessel.

Story determined that *La Jeune Eugenie* was French-owned, but he refused to return the ship to those owners because they clearly had been involved in the slave trade. Story declared that the African slave trade violated natural law, international law, and the enacted laws of almost every nation in Europe as well as those of the United States. Unless the African slave trade was specifically protected by a nation's laws, the federal courts had the authority to hear cases involving foreign citizens who participated in the trade and to order the confiscation of property used in the trade. Story agreed to President Monroe's request for delivery of *La Jeune Eugenie* to the French government so that the courts of that nation could examine the owners' involvement in the slave trade.

Judson's decision in the *Amistad* trial referred to *La Jeune Eugenie* in regard to requirements for proof of ownership, but he made no mention of Story's decision regarding natural and international law. Marshall's decision in the *Antelope* case of 1825 had restricted the ability of any federal judge to invoke principles of natural law in determining a case about the slave trade.

Amistad, Supreme Court Opinion (excerpts)

Justice Joseph Story delivered the Supreme Court's opinion in the *Amistad* case on March 9, 1841, and instructed the circuit court in Connecticut to free the Mende captives. Story was joined by six other justices; Justice Henry Baldwin dissented without comment. (Justice Philip Pendleton Barbour died before oral arguments in the *Amistad* were complete.) In addition to the opinion of the Court, the nineteenth-century reports of Supreme Court cases included extensive summaries of the oral arguments, which were submitted to the Court reporter by the lawyers. The following excerpts are from Story's opinion and explain the Court's rulings on the most important issues in the case.

THE AMISTAD, 40 U.S. 518 (1841)

(Text is from XV Peters 518)

The AMISTAD.

UNITED STATES, Appellants, v. The LIBELLANTS AND CLAIMANTS of the SCHOONER AMISTAD, her tackle, apparel and furniture, together with her cargo, and the AFRICANS mentioned and described in the several libels and claims, Appellees.

January Term, 1841

Before entering upon the discussion of the main points involved in this interesting and important controversy, it may be necessary to say a few words as to the actual posture of the case as it now stands before us. In the first place, then, the only parties now before the court on one side, are the United States, intervening for the sole purpose of procuring restitution of the *property* as Spanish *property*, pursuant to the treaty, upon the grounds stated by the other parties claiming the *property* in their respective libels. The United States do not assert any *property* in themselves, or any violation of their own rights, or sovereignty or laws, by the acts complained of. They do not insist that these negroes have been imported into the United States, in contravention of our own slave trade acts. They do not seek to have these negroes delivered up for the purpose of being transported to Cuba as pirates or robbers, or as fugitive criminals found within our territories, who have been guilty of offences against the laws of Spain. They do not assert that the seizure, and bringing the vessel, and cargo, and negroes into port, by Lieutenant Gedney, for the purpose of adjudication, is a tortious act. They simply confine themselves to the right of the Spanish claimants to the restitution of their *property*, upon the facts asserted in their respective allegations.

In the next place, the parties before the Court, on the other side, as appellees, are Lieutenant Gedney, on his libel for salvage, and the negroes, (Cinque, and

others,) asserting themselves, in their answer, not to be slaves, but free native Africans, kidnapped in their own country, and illegally transported by force from that country; and now entitled to maintain their freedom.

No question has been here made, as to the proprietary interests in the vessel and cargo. It is admitted that they belong to Spanish subjects, and that they ought to be restored. The only point on this head is, whether the restitution ought to be upon the payment of salvage or not? The main controversy is, whether these negroes are the *property* of Ruiz and Montez, and ought to be delivered up; and to this, accordingly, we shall first direct our attention.

If these negroes were, at the time, lawfully held as slaves under the laws of Spain, and recognised by those laws as *property* capable of being lawfully bought and sold; we see no reason why they may not justly be deemed within the intent of the treaty, to be included under the denomination of merchandise, and, as such, ought to be restored to the claimants: for, upon that point, the laws of Spain would seem to furnish the proper rule of interpretation. But, admitting this, it is clear, in our opinion, that neither of the other essential facts and requisites has been established in proof; and the onus probandi of both lies upon the claimants to give rise to the *casus foederis*. It is plain beyond controversy, if we examine the evidence, that these negroes never were the lawful slaves of Ruiz or Montez, or of any other Spanish subjects. They are natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba, in violation of the laws and treaties of Spain, and the most solemn edicts and declarations of that government. By those laws and treaties, and edicts, the African slave trade is utterly abolished; the dealing in that trade is deemed a heinous crime; and the negroes thereby introduced into the dominions of Spain, are declared to be free. Ruiz and Montez are proved to have made the pretended purchase of these negroes, with a full knowledge of all the circumstances. And so cogent and irresistible is the evidence in this respect, that the District Attorney has admitted in open Court, upon the record, that these negroes were native Africans, and recently imported into Cuba, as alleged in their answers to the libels in the case. The supposed proprietary interest of Ruiz and Montez, is completely displaced, if we are at liberty to look at the evidence or the admissions of the District Attorney.

If then, these negroes are not slaves, but are kidnapped Africans, who, by the laws of Spain itself, are entitled to their freedom, and were kidnapped and illegally carried to Cuba, and illegally detained and restrained on board the Amistad; there is no pretence to say, that they are pirates or robbers. We may lament the dreadful acts, by which they asserted their liberty, and took possession of the Amistad, and endeavored to regain their native country; but they cannot be deemed pirates or robbers in the sense of the law of nations, or the treaty with

Spain, or the laws of Spain itself; at least so far as those laws have been brought to our knowledge. . . .

It is also a most important consideration in the present case, which ought not to be lost sight of, that, supposing these African negroes not to be slaves, but kidnapped, and free negroes, the treaty with Spain cannot be obligatory upon them; and the United States are bound to respect their rights as much as those of Spanish subjects. The conflict of rights between the parties under such circumstances, becomes positive and inevitable, and must be decided upon the eternal principles of justice and international law. If the contest were about any goods on board of this ship, to which American citizens asserted a title, which was denied by the Spanish claimants, there could be no doubt of the right of such American citizens to litigate their claims before any competent American tribunal, notwithstanding the treaty with Spain. A fortiori, the doctrine must apply where human life and human liberty are in issue; and constitute the very essence of the controversy. The treaty with Spain never could have intended to take away the equal rights of all foreigners, who should contest their claims before any of our courts, to equal justice; or to deprive such foreigners of the protection given them by other treaties, or by the general law of nations. Upon the merits of the case, then, there does not seem to us to be any ground for doubt, that these negroes ought to be deemed free; and that the Spanish treaty interposes no obstacle to the just assertion of their rights.

There is another consideration growing out of this part of the case, which necessarily rises in judgment. It is observable, that the United States, in their original claim, filed it in the alternative, to have the negroes, if slaves and Spanish *property*, restored to the proprietors; or, if not slaves, but negroes who had been transported from Africa, in violation of the laws of the United States, and brought into the United States, contrary to the same laws, then the Court to pass an order to enable the United States to remove such persons to the coast of Africa, to be delivered there to such agent as may be authorized to receive and provide for them. At a subsequent period, this last alternative claim was not insisted on, and another claim was interposed, omitting it; from which the conclusion naturally arises that it was abandoned. The decree of the District Court, however, contained an order for the delivery of the negroes to the United States, to be transported to the coast of Africa, under the act of the 3d of March 1819, ch. 224. The United States do not now insist upon any affirmance of this part of the decree; and in our judgment, upon the admitted facts, there is no ground to assert that the case comes within the purview of the act of 1819, or of any other of our prohibitory slave trade acts. These negroes were never taken from Africa, or brought to the United States in contravention of those acts. When the Amistad arrived she was in possession of the negroes, asserting their freedom; and in no sense could they possibly intend to import themselves here, as slaves, or for sale as slaves. In this view of the matter,

that part of the decree of the District Court is unmaintainable, and must be reversed.

The view which has been thus taken of this case, upon the merits, under the first point, renders it wholly unnecessary for us to give any opinion upon the other point, as to the right of the United States to intervene in this case in the manner already stated. We dismiss this, therefore, as well as several minor points made at the argument.

As to the claim of Lieutenant Gedney for the salvage service, it is understood that the United States do not now desire to interpose any obstacle to the allowance of it, if it is deemed reasonable by the Court. It was a highly meritorious and useful service to the proprietors of the ship and cargo; and such as, by the general principles of maritime law, is always deemed a just foundation for salvage. The rate allowed by the Court, does not seem to us to have been beyond the exercise of a sound discretion, under the very peculiar and embarrassing circumstances of the case.

Upon the whole, our opinion is, that the decree of the Circuit Court, affirming that of the District Court, ought to be affirmed, except so far as it directs the negroes to be delivered to the President, to be transported to Africa, in pursuance of the act of the 3d of March 1819; and, as to this, it ought to be reversed: and that the said negroes be declared to be free, and be dismissed from the custody of the Court, and go without day.

*The Amistad Decision by Justice Joseph Story—
Reading and Analysis Guide*

Answer the following questions by quoting directly from the decision and by putting the quotation in your own words:

1. Who does Story identify as the parties to the case before the Supreme Court and what do they claim?

Quotation:

Your own words:

2. What does Story consider the most important question before the Court?

Quotation:

Your own words:

3. Under what conditions should the Mende captives be returned to the claimants?

Quotation:

Your own words:

4. What would prevent the Court from ordering the return of the Mende captives to the claimants?

Quotation:

Your own words:

5. What is the Court's decision regarding the Mende's claim to freedom?

Quotation:

Your own words:

6. Under what laws is the status of the Mende determined?

Quotation:

Your own words:

7. Does Story affirm the decision of the U.S. district court?

Quotation:

Your own words:

Glossary

a fortiori	for an even stronger reason
casus foederis	literally, "case of the alliance." A casus foederis is a situation triggering action under a treaty.
libels	plaintiff's written statement in a case under admiralty law
onus probandi	burden of proof
remanded	return case to a lower court with instructions for further action to be taken
tortious act	constituting a tort, a wrongful act for which monetary compensation can be sought by the injured party in civil law