

Case No. 526.

THE ARIADNE.

{1 Pet. C. C. 455.}¹

Circuit Court, D. Pennsylvania.

Oct. Term, 1817.

ADMIRALTY PRACTICE—PAYMENT OF PROCEEDS BEFORE DECREE—RULE TO RETURN.

Where money had been paid by an order of the district court, under an erroneous construction of an act of congress, before a final order of the circuit court, in which the suit for the same was pending, the circuit court granted a rule on the person who had received the money to return it.

{In admiralty. Heard on motion for a rule requiring the persons who had received the money resulting from the condemnation of the vessel to return the same to the court. For report of the case as heard in the supreme court, see *The Ariadne*, 2 Wheat. (15 U. S.) 143.]

The supreme court having affirmed the sentence of this court condemning this vessel and her cargo as prize, the mandate was presented at the last term, but no order was made respecting the distribution of the money. In June last the money was paid into bank, to the credit of this court. At a district court lately held, the judge of that court ordered the money to be paid over in part to the captain of the *Argus*, who made the capture, and a part to the district attorney.

Mr. Woodward now moved for a rule upon the persons who had received the money under the above order, to return the same to this court, or, on failure, that an attachment should issue. He contended, that the whole subject was in this court, under the mandate, and that no order to take the money out of the bank, could issue by any judge in vacation, under the act of the last session of congress, until this court had made an order of distribution amongst the claimants; and that even then, the captain had no right to receive the parts belonging to his officers and crew, without a regular power of attorney from them.

THE COURT granted the rule.

Before WASHINGTON, Circuit Justice, and PETERS, District Judge.

¹ [Reported by Richard Peters, Jr., Esq.]