

Case No. 4,351.

THE ELIZABETH.

{Blatchf. Pr. Cas. 642.}¹

Circuit Court, S. D. New York.

July 17, 1863.²

PRIZE—VIOLATION OF BLOCKADE—EVIDENCE.

{A vessel which cleared from Nassau for St. John, New Brunswick, on May 24, 1862, but was captured five days later off Charleston, S. C, heading towards the land, and found to be laden with arms and munitions of war, *held* liable, in the absence of any other reason to account for her position, to condemnation for intending to violate the blockade.]

{Appeal from the district court of the United States for the southern district of New York.}

In admiralty.

NELSON, Circuit Justice. This vessel was captured, on the 29th of May, 1862, off Charleston, South Carolina, some twenty miles west of the Gulf Stream, about eight o'clock, a. m., by the steamer Keystone State. She was laden with arms and munitions of war, partly at Havana and partly at Nassau, N. P., and cleared from the latter port for St. John, N. B., on the 24th of May preceding her capture. Her heading was towards the land, off Charleston, when she first discovered the blockading vessel. She then changed her course to east by north. She had been out of the port of Nassau only four or five days when she was captured. She was what is called an auxiliary steamer, using both sails and steam. No satisfactory reason is given for the position of the vessel at the time of her capture; and the inference is irresistible, from the evidence, not in dispute or doubt, that her intention was to run the blockade of Charleston, and that she was in the act of doing so when she discovered the Keystone State, and changed her course.

Some irregularities were committed on the part of the captors, and in the proceedings on the part of the government, in the court below, which I should afford an opportunity

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to the claimant to correct, were I not entirely satisfied, upon the facts which are undisputed, and could not be substantially varied by any further proof offered, that the voyage was in reality intended for the port of Charleston, and not for that of St. John.

Decree below affirmed.

¹ [Reported by Samuel Blatchford, Esq.]

² [Affirming Case No. 4,330.]