

Case No. 4,537.

ESTHER ET AL. V. BUCKNER.

[4 Cranch, C. C. 253.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1832.

SLAVERY—REMOVAL TO THE DISTRICT OR COLUMBIA—FREEDOM.

1. A citizen and resident of Virginia commenced, bona fide, removing his furniture and family to Washington, D. C, in November, 1826, and continued such act of removal bona fide, at intervals during the month of December and up to January 7, 1827, and then, within one year thereafter, introduced the petitioners into the county of Washington, D. C. The court *held* that the petitioners were not thereby entitled to freedom.
2. But, if he did perfectly, entirely, and completely remove to the city of Washington, and had rented a house and put some part of his family and furniture into it, and claimed the privileges of a resident of that city on or before November, 1826, although he had not removed all his family and property, it was competent for him to bring the rest of his family and furniture to Washington after his removal, and his so bringing them after his said removal, did not prevent his being a resident on or before November, 1826.

Petition for freedom [by Esther, a negro, and her two children]. Evidence was offered to the following effect: The petitioners were brought in from Virginia on the 6th of January, 1828. The defendant [Bernard H. Buckner], then owner of the petitioners, came to Washington on the 3d of November, 1826, with intent to remove and settle there, and had some of his household furniture in one of the houses called the seven buildings, in that city; and some of his family, namely, two daughters, and some of his servants resided there. His wife and some of his children and some of his furniture did not arrive until about the 7th of January, 1827. The defendant had, (on the 3d of November, 1826, in order to be able to hire his slaves in this District without incurring the fine of \$20 each, imposed upon slaves of non-residents hired out in the city, by a by-law of the corporation of Washington,) given a list of his slaves, agreeably to that by-law; in which he calls himself Ariss Buckner, residing in the first ward; and, on the 7th of January, 1828, he gave a like list of other slaves brought in within twenty days preceding that date. This last list included the petitioner, Esther, and her two children.

Upon trial of the cause, on the general issue, R. S. Coxe, for the defendant, prayed the court to instruct the jury, that if they should believe, from the evidence, that Mr. Buckner, being a citizen and resident of Virginia, in the month of November, 1826, commenced, bona fide, moving his furniture and family, and continued such act of removal, bona fide, at intervals during the month of December, and up to January 7, 1827, then the petitioners, having been introduced

ESTHER et al. v. BUCKNER.

into the county of Washington, within one year thereafter, are not entitled to recover; which instruction THE COURT (CRANCH, Chief Judge, contra,) gave.

Whereupon, Mr. Key, for the petitioners, prayed the court to instruct the jury, and they did so instruct them, that if they believe from the said evidence, that the defendant did perfectly, entirely, and completely remove to the city of Washington, in or before November, 1826, (although he had not removed all his family and property,) and claimed the privileges of a resident of that city at that time; and had rented a house and put some part of his furniture and family into it; then it was competent for him to bring the rest of his family and furniture to Washington, after his removal; and his so bringing them here, after his said removal, does not prevent his being a resident before.

Verdict for the petitioners. The defendant moved for a new trial, which was refused.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]