

Case No. 4,869.

FLETCHER v. UNITED STATES.

{1 Hayw. & H. 200.}¹

Circuit Court, District of Columbia.

June 4, 1844.

CRIMINAL LAW—EFFECT OF PRIOR CONVICTION AND NOLLE PROSEQUI.

Held, that a prior conviction and a nolle prosequi therein were a good and sufficient bar to a second prosecution for the same offense.

In error to the criminal court.

{This was an indictment by the United States against Henry Fletcher for assault with intent to kill.}

Walter Lenox, for prisoner.

Philip R. Fendall, for the United States.

The jury rendered a verdict of guilty as indicted, and the prisoner was sentenced by the court to imprisonment and labor. The prisoner pleaded autrefois convict. The prisoner, through his counsel, submitted the record of a former trial and verdict of guilty, and of an entry of a nolle prosequi in the case on the rendition of said verdict, no judgment having at any time been pronounced by the court on said verdict. The prisoner having pleaded autrefois convict, and asked the court to instruct the jury that the prisoner, under the said plea and the said record, is entitled to an acquittal, which instructions the court refused to give. The prisoner thereupon excepted, and prayed the court to sign and seal his bill of exceptions.

On argument by counsel on the questions of law, and being duly considered by the court, it is thereupon considered by the court that the said criminal court erred in refusing to give the instructions prayed by the traverser, as appears by the bill of exceptions, and the court, being of opinion that the prior conviction and nolle prosequi therein referred to were a good and sufficient bar to the prosecution, do order and adjudge that the cause be remanded, with directions to arrest the judgment thereon, and that the prisoner be discharged.

{NOTE. See Fletcher v. U. S., Case No. 4,868.}

FLETCHER. The WILLIAM. See Case No. 17,692.

¹ [Reported by John A. Hayward, Esq., and Geo. C. Hazleton, Esq.]