

Case No. 7,288. JERBY v. ONE HUNDRED AND NINETY–FOUR SLAVES.
[Bee, 226.]¹

District Court, D. South Carolina.

May, 1806.

SALVAGE–CARGO OF SLAVES.

One fifth decreed, the danger not having been very great and it being easier to remove negroes than any other sort of cargo.

JERBY v. ONE HUNDRED AND NINETY-FOUR SLAVES.

In admiralty.

Before BEE, District Judge.

The brig *Swan*, Smith, master, on the 10th instant, early in the morning, got aground at the distance of six miles from the shore of Bull's Island, on this coast. She had on board a cargo of 194 slaves. At nine o'clock in the morning of the same day, she was seen by Captain [William] Jerby of the schooner *Victory*, who, observing signals of distress, bore down to the vessel, and, after some conversation, agreed to take the crew and cargo of negroes on board his schooner. The boat and crew of each vessel assisted in nearly equal degree, and the business was completely effected by eight o'clock in the evening; on the following morning at ten o'clock they all arrived safe in Charleston. It appeared in evidence that another vessel had passed them previously without affording relief. It was also in proof, that before the *Victory* came in sight, the supercargo of the brig had gone to Charleston in the small boat, to procure assistance, and returned the next morning with two vessels for that purpose; but, on finding the brig abandoned, he came back to Charleston. The negroes saved have been appraised by order of the court, and are valued, with the consent of parties, at thirty-eight thousand eight hundred dollars. The service rendered upon this occasion was great, and, at the time, was considered by the captain and crew of the brig as essential to the preservation of their lives, and those of the negroes. Another vessel had neglected the signal of distress; and it is hardly possible that the negroes could have been preserved during the night, that succeeded their deliverance; for the waves beat over the brig in such a way that many of them must have been washed overboard. The supercargo would have returned too late to effect what was done by the people of the *Victory*: Captain Jerby must be considered, therefore, as the means of rescuing them from most imminent peril. The risque, indeed, does not appear to have been great, for the vessels kept at a safe distance from each other. Twelve hours were sufficient for the business, and the schooner did not go at all out of her course. From the nature of the cargo, too, it is evident that the trouble of conveyance from one vessel to the other was little in comparison to that of hoisting goods out of the hold of a vessel, and putting them on board another lying alongside; besides that, in the latter case, much damage is risked to the vessel of the salvors, if the sea, as upon this occasion, run high.

This case resembles that of *Taylor v. Twenty-Five Thousand Dollars* [Case No. 13,807], more than it does any other decided by me. Some that have been quoted were instances of derelict, saved by great labour and risque; and in such I have given one half of the value by way of salvage. But the circumstances here will not justify any such proportion. In the case of *The William Beckford* [3 C. Rob. Adm. 355], decided by Sir William Scott, greater exertions were made, and more danger incurred; yet among the numerous salvors not quite a seventeenth part was divided. In *Taylor's Case* [supra], the amount saved was 25,000 dollars; the time employed was nearly the same as in this

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instance; and the risque certainly greater. I decreed one fifth by way of salvage, and all parties were satisfied. I acted then with great deliberation, and I have carefully compared the circumstances of that case with this. Seeing no reason to deviate from the principles there established, I decree the same proportion of one fifth to the libellant on the present occasion. Let costs of suit be paid by the claimant.

¹ [Reported by Hon. Thomas Bee, District Judge.]