

Case No. 7,592.  
[Blatchf. Pr. Cas. 181.]

THE J. W. WILDER.

District Court S. D. New York.

June, 1862.

PRIZE—CREW ESCAPED—FALSE LOG—CHANGE OF NAME—PAPERS FOUND ON BOARD.

[A schooner was captured about twelve miles to east of Mobile Point, while appearing to be attempting to enter the port of Mobile. The crew escaped to shore and fired upon the captors. No documents were found upon the captured vessel as to its destination or title, but certain papers were found showing that she was named and navigated under another name, and the log-book showed a manifest intention to deceive as to her destination. It was held in this case that the vessel and cargo be adjudged a prize of war.]

In admiralty.

BETTS, District Judge. The schooner J. W. Wilder and her cargo were captured by the United States steamer R. R. Cuyler, January 20, 1862, off Mobile Point, as prize of war. The vessel was appraised, under orders

The J. W. WILDER.

of the flag-officer in command of that station, and appropriated to the use of the government at \$3,250, and the cargo was remitted to the port of New York, and was here libelled for condemnation as prize, March 27, 1862. The monition and attachment issued thereon were returned by the marshal, April 15, 1862. An appearance being interposed for the vessel and cargo, but no answer being given in, the United States attorney took an order of condemnation of the prize by default, and, on the 10th of June thereafter, moved the court, upon the pleadings, the process, its return, and the proofs, for a final decree of condemnation. Evidence being given to the court by the United States attorney that the master and crew ran the vessel ashore at the time of capture and immediately abandoned her, and that no person who was on the vessel at the time of her capture could be produced as a witness before the prize commissioners, the court, on the application of the United States attorney, ordered that Henry K. Lapham, the prize master, and an acting master in the United States navy, who was present at the capture, be received and examined as a witness on the interrogatories in preparatorio. The witness states that the vessel when arrested was off Mobile, and appeared to be attempting to enter that port, which was under strict blockade; that when the capturing vessel approached the prize she attempted to escape, and the crew abandoned her, to avoid being seized; that they repaired to the shore, and fired from sand-hills on shore upon the men pursuing their vessel; that when the captors were endeavoring to tow off the prize, her crew, being reinforced from a fort on shore, again attacked the captors, and wounded several of them by shots; and that the prize had made the attempt to enter Mobile harbor. Among the documents produced from the vessel are four paper volumes purporting to give account of voyages which are supposed to be those of the same vessel, but none of them amount to full or regular logs of her voyages or employment, or identify her as the vessel now arrested. The last volume has several, apparently four or five, leaves of foolscap paper torn out from the front of its binding and commences thus: "Schooner Anoseta, from Havana towards Matamoras. Francisco Capella, master." Under the first page of the log is written, "January 15, 1862," and under the second page, "January 16, 1862." Under the first page this remark is entered: "At 5 p. m. got under way and proceeded to sea." At the end of the day the vessel's position is noted as latitude 23° 37' north, and longitude 84° west by observation. The entries are continued to the end of the 17th, at latitude 26° 12' north, longitude 85° 45' west by observation, when all mention of the vessel in the log closes. The witness examined deposes that the vessel was captured January 20, about twelve miles to the eastward of Mobile Point, in the Gulf of Mexico, in latitude 30° 40' north. The strait east of Dauphin Island is taken by vessels drawing over eight feet, in order to reach Mobile. A letter, dated December 3, was found on board the vessel when captured, addressed inside to Captain Capella, and on the outside to "Captain de la Wilder, Mobile," written in Spanish, and signed "Perez," advising him of a passenger to go the

voyage, and that the vessel might depart as soon as he was on board, and that he was to go without charge for passage. The letter says: "I add further, for Carbonell Murrell says, if you stand in by the east pass, that he has given orders that they aid him in everything." There was also a telegraph note found among the papers on board, as follows: "Telegraph from Mobile, December 2, 1861. To Captain Capella, schooner Wilder, Fort Morgan. Perez says not to get uneasy, only wait one (1) or two (2) days. B. Bazar." Two bills of lading were also on board the schooner, one dated Havana, January 14, 1862, for two barrels of washing soda, shipped by Carbonell on the schooner called the Anoseta, Capella, master, for Matamoras, consigned to Capella; the other dated January 9, at Havana, written in Spanish, of a quantity of cigars shipped by Rafael Perez on board the schooner J. W. Wilder, Captain Capella, for Mobile, for the order and risk of Srs. Bazar & Bro., de Mobile. There were other unimportant papers found on the vessel relating to the brig Venus and the H. W. Stewart, and also blank manifests, but no documents respecting the title to or destination of the captured vessel.

It is manifest, from the foregoing evidence, that the vessel was destined to the port of Mobile, and, when arrested, was making the attempt to enter that port. There is no evidence that she was a neutral vessel, and the proof is clear that the lading of cigars, was enemy property being shipped at the risk of enemy owners in Mobile. The papers are also false and delusive in two particulars: First, in the pretence on the logbook that her voyage was towards Matamoras, when, in truth, her course was hundreds of miles wide of that route; and, secondly, that she was named and navigated as the Anoseta, which is falsified by the bill of lading of Perez, and the letters found on board addressed to the master previous to and at the time of her sailing. The vessel and cargo are, accordingly, adjudged to be forfeited to the libellants.

J. W. WOODRUFF, The. See Case No. 5,770.

The J. W. WILDER.

KABLYS, In re. See Cases Nos. 7,593 and 7,594.