

THE OUACHITA.

{Blatchf. Pr. Cas. 652.}¹

Circuit Court, S. D. New York.

July 17, 1863.²

PRIZE—ATTEMPT TO VIOLATE BLOCKADE.

Decree of the district court, condemning vessel and cargo for an attempt to violate the blockade, affirmed.

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

In admiralty.

NELSON, Circuit Justice. The steamer Ouachita was captured, as prize, by the steamship Memphis, on the 14th of October, 1862, off the Southern coast, north of Charleston, S. C, in latitude 33° north, and longitude 77° 26' west. At the time of her capture she was some 150 miles from land. When she was first discovered by the Memphis, she was only 50 or 60 miles from land. The Ouachita is owned by T. S. Begbie, a British subject, who is her claimant, and was commanded by T. S. Gilpin, also a British subject. She is a screw steamer of about 50 tons burden. Her voyage was from London to Havana. She left in ballast, in August, 1862, and was stopped at St. George's, Bermuda, where she took in a cargo of arms and ammunition for Nassau, consigned to a resident there, named Hart. The master had verbal directions from the owner, upon his arrival at Nassau, to deliver the vessel to Hart, together with whatever she had on board. Among the papers is a letter from Hart to the master, received by him while at Bermuda, in which the writer, after saying that he had been advised by the owner, Begbie, that the vessel would touch at that place, points out to the master the difficulties of escaping the United States vessels of war, in the passage to Nassau, and instructs him how to avoid

them. When the master left London, some letters were delivered to him by the owner, which, on opening, he found to be instructions to report to a person by the name of Bowne, at Bermuda, who would supply him with whatever was needful. Another letter was an introduction to Hart, of Nassau, and was of like purport with the one to Bowne. Bowne was shipper of the arms and ammunition on board of the vessel, at Bermuda, for Nassau. There were no bills of lading or invoice or other papers usual in case of a bona fide shipment; the only papers being the register, the shipping articles of the crew, and the clearance. Verbal instructions were given by Bowne to the master to follow the directions of Hart at Nassau, both as to the vessel and cargo. There were some 35 tons of arms and ammunition on board. Soon after the discovery of the Memphis, on the morning of the 14th of October, the day of the capture, the Ouachita changed her course to the eastward, and, some hours after, finding that the Memphis gained on her, the master gave orders to throw the whole of the cargo overboard, which was done, with the hope of escaping, but she was overtaken and captured about 4 o'clock P. M. The master further states that he was chased by vessels under the command of Commodore Wilkes, when he left Bermuda, and escaped by running his vessel among the reefs. One of the crew, E. Young, first a cook on board and afterwards a hand before the mast, testifies that the Ouachita was bound from Bermuda to Charleston, S. C; that the cargo consisted of Enfield cartridges, rifles, and gun caps; that the master applied to him and others of the crew to sign a paper by which to agree to run the blockade at Charleston, and offered £8 sterling if the vessel ran clear, and if not, three months' pay after capture.

I concur with the court below in the condemnation. It is impossible to doubt, upon the proofs, that the cargo was put on board the Ouachita with the

intention of running the blockade of the southern coast of the Confederate States, and, especially, the blockade of the port of Charleston. The voyage from Bermuda to Havana was but a pretext. The vessel was, when captured, ⁹¹³ some six degrees north of Bermuda, and, when first chased was within 50 or 60 miles off the coast. It is quite apparent that she was not in a course which would convey her to Nassau or Havana. The proofs also show that Begbie, the owner, was privy to, and, doubtless, originated the adventure.

Decree below affirmed.

² [Affirming Case No. 10,620.]

¹ [Reported by Samuel Blatchford, Esq.]

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