

## UNITED STATES V. AMINHISOR.

[2 Wheeler, Cr. Cas. xlv.]

Circuit Court, D. Maryland.

Dec, 1823.

## ROBBERY OF MAIL—PUTTING LIFE IN JEOPARDY.

It appeared by the testimony in this case, that on the morning of the 8th July, 1823, between 3 and 4 o'clock in the morning, the Great Southern Mail was stopped and robbed by three men, [John] Aminhisor, Moore, and "Ward.

Patrick Green, the guard of the mail, details the circumstances as follows: On the morning of the 8th of July, between the hours of 3 and 4, on the main road, between Rouse's tavern and Baltimore, he perceived a fence ahead of the stage, and suspecting an attack, cautioned the driver to be on his guard. As they approached the fence, he descried three men on the right of the stage, among the trees. He immediately fired his blunderbuss at them; the horses were much frightened, and ran up on a bank; two of the men then advanced, one on the right, and the other on the left; the one on the right armed with a pistol; the one on the left presented a musket to the breast of the driver, with the muzzle so near to the guard, that he caught hold of it and held it away from him, until he could draw his pistol. He presented his pistol—it snapped; the robber then presented his musket a second time, and the guard fired his second pistol, and wounded the robber in the breast. One of the robbers then sprang into the stage, and knocked the guard down; he was then dragged from the carriage, and placed under the care of one of the robbers, while the other two proceeded to plunder the mail; these frequently called to the one who was watching over him, "Damn him, shoot him, or he will shoot you." He asked the man who guarded him with a pistol to his breast, "Do you

mean to take my life?" He replied, "How came you to shoot me?" He told him it was his duty. He asked the robber a second time, "Do you mean to take my life?" to which the robber replied by again asking how he came to shoot him; and the guard said, as before, "it is my duty." The robber then said, "Don't be afraid; you shall not be hurt; you are with a gentleman." The two men who were plundering the mail, called to the one who had the guard in safekeeping, "Hurrah! Larry, the packet is ready;" upon which the robber pushed the guard into the woods, and went towards his associates. The counsel for prisoner contended against such a construction of the act of congress [Act April 30, 1810] as would render the mere possession and exhibition of dangerous weapons, such a use of dangerous weapons as would of itself put the lives of the driver or the guard in jeopardy. They strengthened their case by many illustrations, to show the extreme degree of danger denoted by the word "jeopardy," and strenuously argued, that the intention of using the dangerous weapons must concur with the possession of them, before the life of the carrier or guard could be said to be in jeopardy. They denied that any such intention was manifested by Aminhisor or his associates; and they founded this denial upon this broad and immovable argument; that as the purpose which they went together to accomplish, was almost frustrated by the immediate and brave resistance of the guard; as the use of the dangerous weapons was necessary at the very commencement of the affray, if they ever intended to use them, as they had every opportunity of using them; and as the motive of revenge (for Moore and Ward were dreadfully wounded) conspired with the motive of apparent necessity, to dictate the use of those weapons; and as these dangerous weapons were never used, the inference of reason and of law would be, that the robbers did not intend to effect the robbery by the use

of dangerous weapons, which would put the guard's life in jeopardy.

The jury found them not guilty of the capital charge.

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