

Case No. 15,919. UNITED STATES V. OMEARA.
[1 Cranch, C. C. 165.]¹

Circuit Court, District of Columbia.

June Term, 1804.

CRIMINAL EVIDENCE—INTENT—ARREST.

1. Words accompanying actions may be given in evidence to show the intent.
2. An officer having a warrant against a person in his custody, may hold him under it, without informing him that he is arrested upon it.

Indictment [against Francis Omeara] for rescue of W. Aubrey, and assault and battery upon Abercrombie, the constable.

Under the act of assembly of Virginia of December 26, 1792 (Old Revised Code 287), disturbers of religious worship may be restrained by a justice present Abercrombie was ordered by Mr. Hoffman, a justice who was present, to take Aubrey into custody. He had also a warrant from Mr. Faw, another of the justices.

THE COURT decided, that the words which the defendant spoke accompanying his actions, should be given in evidence against him, to show the intention of the defendant in his interference and in aggravation of the penalty.

Mr. Mason prayed the court to instruct the jury that Omeara, being in custody of Abercrombie, under the order of Mr. Hoffman, was also in his custody under the warrant of Mr. Faw, although he did not inform the prisoner that he arrested him on that warrant.

Mr. Taylor, for defendant, cited Countess of Rutland's Case, 6 Coke, 54, that it is necessary to inform the person arrested that he is arrested under a particular warrant, or he cannot be held under it.

THE COURT gave the instruction as prayed by Mr. Mason.

¹ [Reported by Hon. William Cranch, Chief Judge.]