

Case No. 17,421. WEST V. COLUMBIAN INS. CO.
[5 Cranch, C. C. 309.]¹

Circuit Court, District of Columbia.

May Term, 1837.

MARINE INSURANCE—DEVIATION.

In a voyage to Pernambuco, the vessel, when she arrived off Pernambuco, came to anchor off the port, when she might have gone directly in; *held*, that it was a deviation that discharged the underwriters.

The defendants insured the plaintiff [John West] \$500 on his commissions as supercargo of the schooner. Leonidas, from Alexandria to Pernambuco, until landed. The vessel and cargo were insured, by other policies, to Pernambuco, and two other ports. She arrived and came to anchor off Pernambuco, in the outer roadstead, at nine o'clock, a. m. The master went on shore to inquire of the market, and returned in a few hours. A storm came on; the anchor dragged, and the vessel was going ashore. They hoisted sail, and endeavored to crawl off, but could not, and she went on shore. There was evidence that she might have gone safely into the port, if she had not come to in the outer roadstead.

Mr. Semmes, for plaintiff, contends that the vessel never arrived at Pernambuco; but if she did, she did not remain twenty-four hours in good safety. *Camden v. Cowley*, 1 W. Bl. 417.

Mr. Taylor, *contra*, prayed the court to instruct the jury, in substance, that if they should find, from the evidence, that when the schooner arrived off Pernambuco, she could have proceeded to the port without coming to anchor in the outer road, the stopping there was a deviation which discharged the underwriters.

Which instruction the court gave (*nem. con.*)

Mr. Semmes then prayed the court to instruct the jury that if they believe, from the evidence, that the anchoring of the vessel in the outer road of Pernambuco, was an arrival at Pernambuco, then the plaintiff is entitled to recover, because she was not, twenty-four hours in safety after her arrival.

But THE COURT (*nem. con.*) refused.

Verdict for the defendant.

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