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FULTON vs LEWIS.

[NO NUMBER IN ORIGINAL]

COURT OF APPEALS OF MARYLAND

3 H. & J. 564; 1815 Md. LEXIS 30

May, 1815, Decided

PRIOR HISTORY: [**1] APPEAL from the Court of Oyer and Terminer, &c. for Baltimore county. This was a petition for freedom, and the general issue pleaded.

At the trial the following facts were admitted in evidence: John Levant, a married man, being a native and resident of the Island of Saint Domingo, removed from that place in July 1793, flying from disturbances which then existed there, endangering the lives and property of the inhabitants, and brought with him into this state three negroes, of whom the petitioner, (now appellee,) is one, whom he then and before owned as a slave. That in May 1794, he sold the petitioner, as a slave, to William Clemm, who sold him as such to the defendant, (the appellant.) That said Levant arrived at Baltimore in August 1793, and continued to reside there until sometime in 1796, when he returned to the West Indies. The defendant thereupon prayed the direction of the court to the jury, that if they believed the facts, the petitioner was not entitled to his freedom. This opinion the Court, [Scott, Ch. J.] refused to give; but directed the jury, that upon these facts the petitioner was free. The defendant

excepted; and the verdict and judgment being against him, [**2] he appealed to this court, where the case was argued before CHASE, Ch. J. and BUCHANAN, NICHOLSON, EARLE, JOHNSON, and MARTIN, J.

DISPOSITION: JUDGMENT AFFIRMED.

COUNSEL: Glenn, for the Appellant, contended that the act of 1783, ch. 23, under which the petitioner claimed his freedom, meant only a voluntary importation of slaves, and not an importation arising from absolute necessity, produced by causes over which the owner, as in this case, had and could have no control. He referred to De Kerlegand vs. Negro Hector, 3 Harr. & M'Hen. 185, and the act of 1792, ch. 56.

Montgomery, (Attorney-General,) Jenings and Scott, for the Appellee.

OPINION

[*565] JUDGMENT AFFIRMED.