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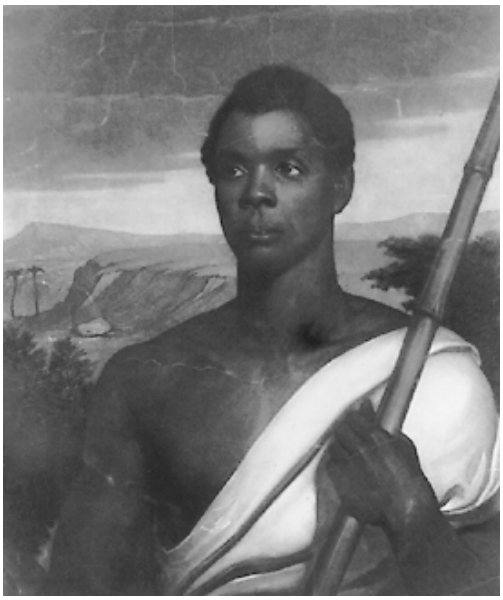
The *Amistad* Case and the Federal Courts

The release of the film *Amistad* and widespread interest in the story of the enslaved Africans who regained their freedom through the U.S. courts provide a rare opportunity to highlight the operation of the federal judiciary in the first half of the nineteenth century. From the moment that U.S. Navy officers took custody of the schooner *Amistad* and the Africans on board in August 1839, the captives' fate was tied to the jurisdictional authority and procedures of the federal courts.



Cinque, in mezzotint by John Sartain, after 1840 portrait by Nathaniel Jocelyn (National Portrait Gallery, Smithsonian Institution).

Cinque was acknowledged as the leader of the captive Africans from the time of their arrival in Connecticut, and he attracted great curiosity from American writers and artists.

As one of the most famous cases in the lower federal courts during the nineteenth century, the *Amistad* case drew unprecedented crowds of spectators into courtrooms, attracted the attention of journalists from all over the country, and inspired stage dramas, popular prints, and traveling exhibits that recounted the story. The Africans' search for freedom followed a complicated path of proceedings through every type of court in the federal judiciary, whose structure was quite different from what it is today.

The African Captives and the *Amistad*

The case had its origins in West Africa, far from the jurisdiction of the federal courts. In the spring of 1839, slave traders shipped more than 500 captured Africans to Cuba and sold the surviving captives there, in violation of Spanish law. Two Spanish planters purchased 53 Africans, most of them of the Mende people, and procured forged papers attesting to the legality of the sale. The planters then chartered the *Amistad* to transport the Africans to estates in a coastal province east of Havana.

During a storm the captives, led by Sengbe Pieh (known to the Spanish and Americans as Cinque), freed themselves from their irons, killed the captain and his cook, and took control of the ship. The Africans then coerced the Spanish planters to sail the ship to West Africa. After two months, during which time the planters directed the ship northward at night, the *Amistad* arrived in Long Island Sound with few remaining provisions and seriously damaged rigging. Lieutenant Thomas Gedney, of the U.S. surveying brig *Washington*, intercepted the *Amistad* off the New York coast, took custody of the Africans, and piloted the ship to Connecticut, where, unlike New York, slavery was legal.

Once the *Amistad* and its occupants were in U.S. territory, various parties approached the federal courts to plead their interests. Lawyers hired by a group of abolitionists to represent the captives sought their freedom. Gedney and a co-officer claimed salvage under federal law that awarded to anyone who saved a vessel in danger a portion of the value of that vessel and its cargo. Private citizens who earlier had met a shore party from the

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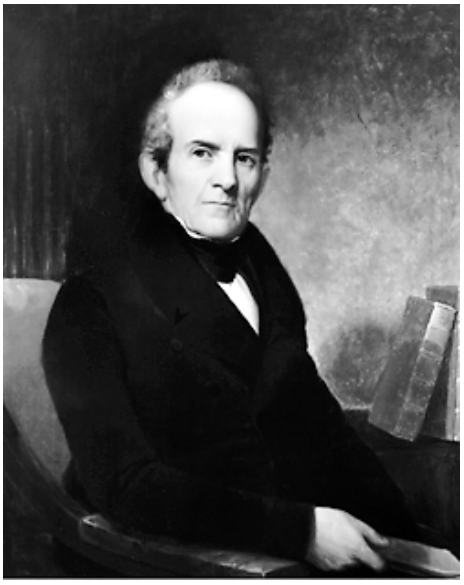
Amistad also filed salvage claims. The planters sought to reclaim the Africans they had purchased, and the Spanish owners of the ship and the goods on board filed a claim for their property. The U.S. attorney for Connecticut, representing the Van Buren administration and responding to the claims of the Spanish minister, sought the return of the ship and cargo to Spanish territory and the return of the Africans either to the Spanish authorities or to their native land, depending on the court's determination of their legal status. The responsibility of sorting out the conflicting claims fell to federal judges sitting on district and circuit courts (both trial courts under the federal judicial organization then in effect) and, ultimately, to the justices of the Supreme Court.

The Federal Courts' Jurisdiction

Within a day of the *Amistad*'s arrival in New London, Conn., Andrew Judson, as judge of the U.S. District Court for the District of Connecticut, held a special court session on board both the *Washington* and the *Amistad* to determine the federal courts' jurisdiction in the case. After hearing testimony from the Spanish planters and Antonio, a slave owned by the slain ship captain, Judson ordered the U.S. marshal to hold the Africans in the New Haven jail along with Antonio and several African children who would serve as witnesses. Judson referred the case to the U.S. Circuit Court for the District of Connecticut to decide the procedural questions regarding the property and salvage claims as well as the possible indictment of the adult Africans for murder and piracy.



Justice Smith Thompson, in portrait by Asher B. Durand (Collection of the Supreme Court of the United States).

Smith Thompson of New York served on the U.S. Supreme Court from 1823 to 1843.

The circuit courts were the most important trial courts in the federal judiciary during the nineteenth century, responsible in 1839 for cases involving most federal crimes and civil suits. The circuit courts were unique in the federal system in that they were assigned no judges of their own. Each circuit court convened in a judicial district with a Supreme Court justice and the local district court judge both presiding. Through much of the nineteenth century, Supreme Court justices spent part of each year traveling their assigned circuits and presiding over the U.S. circuit courts. At the time of the *Amistad* case, Smith Thompson served as the circuit justice of the Second Circuit, which comprised New York, Connecticut, and Vermont.

When the U.S. Circuit Court for the District of Connecticut met at Hartford in September 1839, Judson sat as a judge along with Thompson. Capital cases were tried in the circuit courts, but Thompson instructed the grand jury that federal courts had no authority to try the Africans, since the mutiny occurred on a foreign vessel outside U.S. territory. Thompson denied the request of the Africans' lawyers for a writ of habeas corpus and charged the U.S. district court with determining the jurisdiction in which the ship was seized and the legal status of the Africans.

In the midst of the September session of the circuit court, Judson also presided as judge of the district court, occasionally on the same day and in the same courtroom in Hartford. The U.S. District Court for Connecticut, which like other federal district courts had jurisdiction in admiralty and maritime cases arising within its boundaries and on the high seas, received filings from those claiming salvage and property. Lawyers for the Africans filed a plea that the captives were not legally slaves under Spanish law and should be freed by the federal court.

Judson set a trial date of January 7, 1840, at the courtroom in New Haven, and at that time the parties presented their arguments in the disparate claims of the case. In the months preceding the trial, a Yale professor of languages searched port towns of the northeastern states until he located someone able to translate the Mende language. Cinque, speaking through this translator, provided the court with a detailed narrative of his abduction and subsequent struggle for freedom.

Judson, a former congressman nominated to the federal bench by Andrew Jackson in 1836, was the focus of national attention when he issued his decision on January 13. After establishing the U.S. district court's jurisdiction by determining that the *Amistad* was seized on the high seas and brought into a Connecticut port, Judson granted Gedney salvage in the ship and cargo for having saved them from entire loss. Gedney's claim for salvage in the value of the supposed slaves raised what Judson called "the all absorbing" question of the status of the Africans on board. After a review of Spanish law, Judson declared that the Africans had never been slaves in any legal sense. He ordered that the Africans be freed and delivered to President Van Buren for return to their native land under the terms of a congressional statute prohibiting the importation of slaves into the United States.

The Appeal to the Supreme Court

Acting on instructions from the Van Buren administration and in response to the request of the Span-

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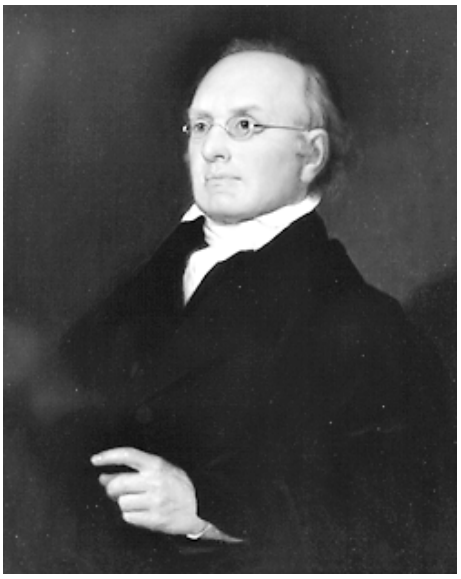
ish minister, U.S. Attorney William Holabird filed an appeal of Judson's decision. The owners of the *Amistad* also filed an appeal of the salvage award, which was to be deducted from the value of their ship and its cargo. As the trial judge, Judson was barred by statute from considering the appeal at the session of the U.S. circuit court in April 1840. In an effort to expedite the case's certain appeal to the Supreme Court, Thompson denied the Africans' request for dismissal and affirmed the district court's decision pro forma.

When the Supreme Court convened in January 1841, Thompson took his seat on that court along with the other justices who heard the government's appeal of the circuit court's decision. Former president John Quincy Adams joined the Africans' defenders, and, in oral arguments that lasted more than seven hours, he repeatedly criticized the Van Buren administration for improper interference in the judicial process. On March 9, 1841, Justice Joseph Story's opinion upheld Judson's decision in every respect but one. Since the Africans were never legally slaves and had commanded the ship when it entered U.S. territory, the Court declared that they could not be considered illegally imported slaves under the terms of the act prohibiting the slave trade. The Court ordered that they were to be freed immediately rather than turned over to the President.

The Fate of the Captives

The abolitionists who had supported the Africans' defense hailed the decision as a victory for the anti-slavery cause, but Story's opinion never challenged the extensive system of slavery as it operated under U.S. law, and by ordering the return of the slave Antonio to Cuba, the opinion reaffirmed property rights in legally held slaves. Among the six justices who joined in the opinion were Chief Justice Roger Taney and two others who would support the *Dred Scott* decision in 1857. The lone dissent was from Justice Henry Baldwin, who offered no comment.

When the federal government refused to assist with the transportation of the Africans to their native lands, abolitionists raised the necessary funds by arranging public appearances at which the former captives spoke, sang, and recited biblical passages for paying audiences. In late November 1841, a ship left New York with the surviving Africans from the *Amistad* and a group of Christian missionaries bound for Sierra Leone. Once back among the Mende, Cinque was unable to locate his family, which had fled from the disruptions of a civil war. He remained in Africa and later worked as an interpreter with the American Missionary Association. Immediately after the Supreme Court issued its decision in the case, the slave Antonio escaped confinement in Connecticut, and within two months he was living free in Canada. ❧



Justice Joseph Story, in portrait by George P.A. Healy (Collection of the Supreme Court of the United States).

Joseph Story's opinion in the *Amistad* case invoked the "essential principles of justice" and spoke of the Court's obligation to respect the rights of the Africans, but it said nothing about slavery in the United States.

Resources for Further Study of the *Amistad* Case

A full account of the *Amistad* case and the surrounding political controversy is presented in Howard Jones's *Mutiny on the* Amistad (New York: Oxford University Press, 1987). The text of the Supreme Court decision is in 40 U.S. 518. The official court records related to the district and circuit court proceedings are held by the National Archives Northeast Region in Waltham, Mass., and are available on microfilm. Several Internet sites feature primary sources describing the story of the African captives and the federal court proceedings. Among them are the National Archives and Records Administration at www.nara.gov/education/teaching/amistad; the Cornell University Law School's Legal Information Institute at www.law.cornell.edu/amistad; and Mystic Seaport's "Exploring Amistad" at amistad.mysticseaport.org. *Creating the Federal Judicial System*, 2nd edition, by Russell Wheeler and Cynthia Harrison (Federal Judicial Center, 1994) describes the organization of the federal judiciary at the time of the *Amistad* case.

Documenting the Careers of Federal Judges

The record of judges' service on the federal bench is an essential foundation for understanding the history of the judicial branch of the U.S. government. For more than 200 years, the men and women who have served as federal judges have embodied the nation's judicial authority, and their service has secured public trust in the constitutional structure of the government. A full appreciation of the historical role of the federal judiciary depends on an accurate record of who served as judges and when.

The essential record of federal judges' service has proved difficult to reconstruct, however. Court historical societies, students and scholars of the federal courts, and others interested in the development of the judiciary have not had an accurate and precise reference source offering the names and service information for all judges who have served on the federal trial and appellate courts since 1789. A decentralized judiciary and shifting administrative responsibility for the courts have left data about judges' service scattered across a bewildering assortment of federal records. To assist court historical programs and to encourage the study of judicial history, the Federal Judicial History Office is working to identify every judge who has served on the courts of general jurisdiction since the inauguration of the federal government.

Locating the Record of Service

While building on the valuable work of individual researchers and the compilers of earlier publications, the history office staff has turned to the archives of the federal agencies that have had responsibility for judicial personnel. From 1789 until 1888, the State Department, as home office for the federal government and keeper of the Great Seal of the United States, issued the commissions that allowed federal judges and other presidential appointees to take the oath of office and enter upon their duties. The State Department's records provide the dates of commissions, information on recess commissions, and letters of resignation and declination of commissions for the judiciary during the nation's first century.

In 1888, Congress transferred authority for judges' commissions from the State Department to the Department of Justice, which had been established in 1870. With its new responsibility, the Department of Justice maintained rosters of each judge's service record, including dates of commissions, oaths of office, and resignations. Although the Department of Justice continues to transmit presidential commissions for federal judges, the Administrative Office of the U.S. Courts, established by Congress in 1939, has responsibility for other judicial personnel matters. The records of the Administrative Office have been an invaluable source for determining the service records of judges during the last half-century.

Recovering the complete record of judges' service requires examination of congressional sources as well as judicial and executive branch sources. Congress has played an important role in issues related to the service of judges, from Senate confirmation of presidential nominees to passage of statutes establishing new judgeships and defining retirement policy. The *Senate Executive Journals* chronicle the nomination and confirmation process, and statutes reveal when judgeships, temporary as well as permanent, were established for individual courts.

Presenting Service Data on the Internet

After examining the relevant records from the three branches of the government and tracing the succession of judges in each judgeship, the history office will present the service and biographical data through the Federal Judicial Center's Internet site. Each judge's entry will include detailed information about nomination and confirmation, terms on the courts, and a brief biographical outline. This comprehensive listing of federal judges will serve as a recognition of all who have served and provide the public with basic information for understanding the work of the federal courts. ❧

Recent Books Related to the History of the Federal Judiciary

Ball, Howard. *Hugo L. Black: Cold Steel Warrior.* New York: Oxford University Press, 1996.

Casto, William R. *The Supreme Court in the Early Republic: The Chief Justiceships of John Jay and Oliver Ellsworth.* Columbia: University of South Carolina Press, 1995.

Cray, Ed. *Chief Justice: A Biography of Earl Warren.* New York: Simon & Schuster, 1997.

Fisch, Louise Ann. *All Rise: Reynaldo G. Garza, the First Mexican American Federal Judge.* College Station: Texas A & M University Press, 1996.

Freyer, Tony, and Timothy Dixon. *Democracy and Judicial Independence: A History of the Federal Courts of Alabama, 1820–1994.* Brooklyn, N.Y.: Carlson Publishing, 1995.

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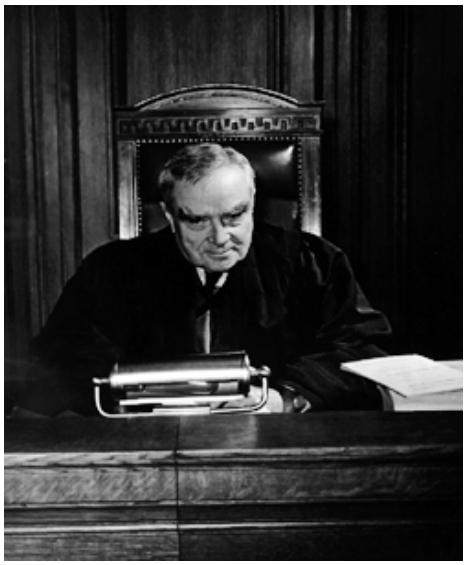
Judicial History Office Compiles Directory of Manuscript Collections Related to Federal Judges

The Federal Judicial History Office recently completed preparation of a directory of nearly 5,000 research collections that contain materials related to the careers of federal judges. These collections include documents compiled by judges in the course of their official service, correspondence and other records related to the judges' professional lives, and records of the judges that appear in the manuscript collections of other individuals and institutions. All of the collections listed in the directory are located in research libraries and other institutions open to the public.

This project was undertaken at the recommendation of an advisory board of federal judges, court administrators, historians, political scientists, and librarians. The board expected that the compilation of these references in a single publication would encourage study of the history of the federal courts by providing students and researchers with access to valuable sources throughout the United States. Judges' papers broaden the perspective of judicial history, detailing an individual's experience with the deliberative process and chronicling the varied paths to service on the federal bench. The primary historical sources listed in this publication provide a valuable supplement to the official court records and thus promote a better understanding of the federal judiciary and the careers of the federal judges who have served since 1789.

History office staff reviewed national manuscript catalogs and conducted surveys of repositories and federal courts to compile the directory, which will be published by the Federal Judicial Center in 1998.❧



Learned Hand (Courtesy of Art Collection, Harvard Law School).

Access to the extensive personal correspondence and chambers papers of Judge Learned Hand enabled Gerald Gunther to write his acclaimed recent biography of the noted judge, who served on the U.S. District Court for the Southern District of New York (1909–1924) and the U.S. Court of Appeals for the Second Circuit (1924–1961).

Blackmun Donates Papers to Library of Congress

Justice Harry A. Blackmun announced that he will donate a collection of his personal papers to the Library of Congress, where they eventually will be made available to researchers. Justice Blackmun served on the U.S. Court of Appeals for the Eighth Circuit from 1959 to 1970, and on the U.S. Supreme Court from 1970 until his retirement in 1994. The Library of Congress currently holds the papers of thirty-eight other justices of the U.S. Supreme Court.

Preserving the Papers of Federal Judges

Each federal judge creates a unique record of the judicial process and the responsibilities of the federal bench. A judge's chambers papers, which are the property of the judge, offer a perspective not available from the official case files with their documentation of formal procedures in the courtroom.

When preserved for posterity, these personal records contribute to an understanding of the workings of the federal courts. Collections of judges' papers in manuscript repositories throughout the country have enriched biographical studies, histories of the development of individual courts, and studies of various topics related to legal history and the history of American governance.

Judges who are considering the disposition of their chambers papers are encouraged to consult *A Guide to the Preservation of Federal Judges' Papers*, published by the Federal Judicial Center in 1996. They may also contact the history office for further assistance. ❧

Calvert Magruder (Courtesy of Art Collection, Harvard Law School).

In his history of the U.S. Court of Appeals for the First Circuit, George Dargo found that the manuscript collection of a single judge, Calvert Magruder, "documented the history of the court . . . in ways that could not be duplicated."

Recent Books (continued from page 4)

Goldman, Sheldon. *Picking Federal Judges: Lower Court Selection from Roosevelt Through Reagan.* New Haven, Conn.: Yale University Press, 1997.

Gugin, Linda C., and James E. St. Clair. *Sherman Minton: New Deal Senator, Cold War Justice.* Indianapolis: Indiana Historical Society, 1997.

Hobson, Charles F. *The Great Chief Justice: John Marshall and the Rule of Law.* Lawrence: University Press of Kansas, 1996.

Holmes, Oliver Wendell. *The Collected Works of Justice Holmes.* Edited by Sheldon M. Novick. 3 vols. to date. Chicago: University of Chicago Press, 1995–.

Hyman, Harold M. *The Reconstruction Justice of Salmon P. Chase:* In re Turner *and* Texas v. White. Lawrence: University Press of Kansas, 1997.

Jay, Stewart. *Most Humble Servants: The Advisory Role of Early Judges.* New Haven, Conn.: Yale University Press, 1997.

Johnson, Herbert A. *The Chief Justiceship of John Marshall, 1801–1835.* Columbia: University of South Carolina Press, 1997.

Kaufman, Kenneth C. *Dred Scott's Advocate: A Biography of Roswell M. Field.* Columbia: University of Missouri Press, 1996.

Mennel, Robert, and Christine L. Compston, eds. *Holmes and Frankfurter: Their Correspondence, 1912–1934.* Hanover, N.H.: University Press of New England, 1996.

Niven, John. *Salmon P. Chase: A Biography.* New York: Oxford University Press, 1995.

Norgren, Jill. *The Cherokee Cases: The Confrontation of Law and Politics.* New York: McGraw-Hill, 1996.

Polenberg, Richard. *The World of Benjamin Cardozo: Personal Values and the Judicial Process.* Cambridge: Harvard University Press, 1997.

Smith, Jean Edward. *John Marshall: Definer of a Nation.* New York: H. Holt & Co., 1996.

Stebenne, David L. *Arthur J. Goldberg: New Deal Liberal.* New York: Oxford University Press, 1996.

Urofsky, Melvin. *Division and Discord: The Supreme Court Under Stone and Vinson, 1941–1953.* Columbia: University of South Carolina Press, 1997.

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