

## The *Amistad* Case—Suggestions for Judges

Judges can make an important contribution to students' understanding of the cases included in the Federal Judicial Center's Teaching Judicial History project. When meeting with students who are studying the cases, judges may wish to draw on these suggested discussion topics.

### Overview

In 1839, a group of Africans who had escaped their recent enslavement in Cuba were taken into custody by U.S. naval officers and became the subject of conflicting claims in the federal courts. With the help of abolitionist lawyers, the Africans challenged the legal claims that would have returned them to slavery, and in 1841 the Supreme Court declared the Africans to be free. The federal court proceedings associated with the Africans on the *Amistad* took place in each type of federal court and involved criminal charges, admiralty suits, writs of habeas corpus, and an appeal to the Supreme Court. The case illustrates the organization and jurisdiction of the federal courts in the nineteenth century, just as it explains the growing anti-slavery movement, the federal government's frequent support of slavery and slaveholders, and the international conflicts over the illegal slave trade. The compelling narrative of the *Amistad* captives and their search for freedom played out within the complicated context of admiralty law, treaty obligations, and a legal system that treated some humans as property and disregarded the arguments for the natural rights of all people. Although the *Amistad* proceedings have few parallels in modern courts, judges can be a useful resource for explaining the procedures in the case and discussing the role of the judges.

### *Understanding the court procedures and legal questions*

In studying historic cases, students find it helpful to understand the differences between historical and current procedures in the federal courts, and how the current courts now handle cases similar to historic ones. In several important ways, *Amistad* stands in sharp contrast to court procedures following Emancipation, because in 1839–1841 the federal courts upheld the laws supporting slavery. The questions below highlight features of the *Amistad* proceedings that can frame conversations between judges and students.

1. Each of the judges in the *Amistad* proceedings recognized the extent of popular interest in the case and offered the public careful explanations of

their decisions. How do the courts respond to publicity surrounding a notable case?

2. Justice Smith Thompson, sitting in the U.S. circuit court, denied the release of the African captives on a writ of habeas corpus because they were the subject of what he considered a reasonable claim as the slave property of Spanish planters from Cuba. How do judges determine when to issue a writ of habeas corpus and when to release a prisoner?
3. The abolitionist lawyers used the court proceedings to advocate their natural rights arguments against the institution of slavery at the same time that they offered statute-based and treaty-based arguments in defense of the African captives. What challenges do courts face in litigation related to controversial public debates or broader political movements?
4. Justice Thompson dismissed the criminal charges against the *Amistad* captives because the alleged crime took place on a foreign ship in international waters. When might foreign citizens be subject to criminal prosecution in the federal courts?
5. How do admiralty proceedings differ from civil cases? Why was there no jury in the district court trial?
6. Attorneys for the federal government argued that the Africans on board the *Amistad* should be conveyed to representatives of the Spanish government in accordance with the 1795 treaty in which Spain and the United States agreed to return property salvaged from pirates or distress at sea. What authority do treaties have in the federal courts?

## Focus on Documents

The excerpted documents below can be the basis of a classroom discussion with students who have read about the *Amistad* case and who have reviewed these selections in advance of a judge's visit.

### 1. Plea of the Mende, November 19, 1839, in the U.S. District Court for the District of Connecticut

The committee of abolitionist lawyers who represented the Mende from the *Amistad* made the Africans parties in the case by submitting for them this plea that countered the several claims, or libels, alleging that the Mende were slave property. The plea asserted that the Mende were kidnapped and enslaved in violation of Spanish law and then argued that the Mende had a natural right to resist their

captors and return to their homeland. Which argument was more effective in court?

The said Respondents severally, by protestation, not confessing or acknowledging any of the matters and things in said Several libels to be true, as therein alleged, for plea thereto respectively say that they are severally natives of Africa and were born free, and ever since have been, and still of right are and ought to be free, and not slaves, as is in said several libels pretended or surmised; that they were never domiciled in the Island of Cuba, or the dominions of the Queen of Spain, or subject to the laws thereof; that on or about the 15th day of April 1839 they and each of them were, in the land of their nativity, unlawfully kidnapped & forcibly and wrongfully carried on board of a certain vessel, near the coast of Africa then & there unlawfully engaged in the slave trade, by certain persons to them unknown, and were thence in said vessel contrary to the will of the respondents, unlawfully transported to the Island of Cuba for the unlawful purpose of being there sold as slaves, . . .

. . . That the respondents, being treated on board said vessel, by said Ruis & Montes, & the Capt. & crew thereof with great cruelty and oppression, and being of right free as aforesaid were incited by the love of liberty natural to all men, and by the desire of returning to their families and kindred, to take possession of said vessel, while navigating the high seas as aforesaid near said Island of Cuba, as they had right to do, with the intent to return therein to their native country, or to reach an asylum in some free State where Slavery did not exist, in order that they might enjoy their liberty under the protection of its government . . . .

## 2. Judge Andrew Judson's decision, U.S. District Court for the District of Connecticut, January 13, 1840

Judson's decision established the right of the Mende to challenge the claims that they were slave property, and he declared that by Spanish law they could not be considered slaves. At the same time, Judson decided that Antonio, the cabin boy of the *Amistad* captain, was slave property and must be returned to his owners in Cuba. What determined the federal courts' protection of slave property? What rights did individuals have to challenge their enslavement?

Here we have her majesty, the queen of Spain, by her resident minister, at the court of the United States, unequivocally demanding for her subjects these Africans, as their property in the fulfillment, as he says, of treaty stipulations, solemnly entered into by this nation. These Africans come in person, as our law permits them to do, denying this right. They say, that they are not the slaves of Spanish subjects, and are not amenable to Spanish laws.

I find, then, as a matter of fact, that in the month of June, 1839, the law of Spain did prohibit, under severe penalty, the importation into Cuba of negroes from Africa. These negroes were imported in violation of that law, and be it remembered that, by the same law of Spain, such imported negroes are declared to be free in Spain . . . If, by their own laws, they cannot enslave them, then it follows, of necessity, they cannot be demanded.

. . . and to show that I abide by the treaty, and that authority, I take another branch of this case. Antonio is demanded, and the proof from him is that he is a Creole, born, as he believes, in Spain. He was, at the time his master was murdered by Cinquez, a slave, so recognized and known by the laws of Spain. The property in him was in Raymond Ferrer, a Spanish subject, at the time of his death on board the schooner, and now is in his legal heirs. Here is both right and property in Spanish subjects. I shall decree a restoration of this slave, under the treaty of 1795.

### 3. Justice Joseph Story, opinion in the Supreme Court, March 9, 1841

Justice Story's opinion, which upheld the district court decision that the Mende were not slaves under Spanish law, explained why the treaty between Spain and the United States did not require the return of the Mende to the Spanish owners who claimed them as slaves. Story wrote that the case must be decided "upon the eternal principles of justice and international law." What were those principles as they applied to the *Amistad* case? Would Story's opinion help other enslaved people gain their freedom?

It is also a most important consideration in the present case, which ought not to be lost sight of, that, supposing these African negroes not to be slaves, but kidnapped, and free negroes, the treaty with Spain cannot be obligatory upon them; and the United States are bound to respect their rights as much as those of Spanish subjects. The conflict of rights between the parties under such circumstances, becomes positive and inevitable, and must be decided upon the eternal principles of justice and international law. If the contest were about any goods on board of this ship, to which American citizens asserted a title, which was denied by the Spanish claimants, there could be no doubt of the right of such American citizens to litigate their claims before any competent American tribunal, notwithstanding the treaty with Spain. A fortiori, the doctrine must apply where human life and human liberty are in issue; and constitute the very essence of the controversy. The treaty with Spain never could have intended to take away the equal rights of all foreigners, who should contest their claims before any of our courts, to equal justice; or to deprive such foreigners of the protection given them by other treaties, or by the general law of nations.