

Fortuna ^[1]

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by Peter Graham Fish, 2006

The *Fortuna* case, decided by U.S. Supreme Court chief justice [John Marshall](#) ^[2] in the U.S. Circuit Court for the District of North Carolina on an appeal from Judge [Henry Potter](#) ^[3]'s district court, involved the validity of a maritime prize carried into the port of Wilmington by a commissioned American privateer ^[4] during the [War of 1812](#) ^[5]. Representative of similar prize cases originating in the District of North Carolina, the case of the *Fortuna* was the only one to receive publication of both the circuit and Supreme Court opinions.

The *Fortuna's* true nationality, whether Russian and thus a neutral vessel or British and a belligerent ship, would determine the validity of the capture and the ability of a federal court to condemn it as a "[good prize](#)" ^[6]. That determination depended on the facts as found by the court. Marshall diligently sought to pierce the confused, if not feigned and deceptive, facts. His tedious opinion delivered at Raleigh construed nearly every word in every piece of paper found aboard the vessel. He concluded that the *Fortuna* was most likely British-owned and therefore a valid American prize. The Supreme Court affirmed the chief justice's circuit court decision in favor of the captors.

References:

Herbert A. Johnson, ed., *The Papers of John Marshall*, vol. 8 (1990).

John P. Roche and Stanley B. Bernstein, eds., *John Marshall: Major Opinions and Other Writings* (1967).

Additional Resources:

"The Fortuna - 15 U.S. 161 (1817)." Justia.com. <http://supreme.justia.com/cases/federal/us/15/161/case.html> ^[7] (accessed August 17, 2012).

"The Fortuna - 16 U.S. 236 (1818)." Justia.com. <http://supreme.justia.com/cases/federal/us/16/236/case.html> ^[8] (accessed August 17, 2012).

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