

Case No. 655.

AULT v. ELLIOT.

[2 Cranch, C. C. 372.]¹

Circuit Court, District of Columbia.

April Term, 1823.

JUDGMENT—SETTING ASIDE—IRREGULARITY—QUASHING SCIRE FACIAS.

Upon motion of the special bail, at the return of the scire facias, the court will set aside the original judgment against the principal, for irregularity, and will quash the scire facias against the bail.

[Cited in *Jones v. Kemper*, Case No. 7,472.]

At law. Upon the return of the scire facias against Elliot, who was special ball of Morte, Mr. Redin, for the bail, obtained a rule upon the plaintiff to show cause why the original Judgment against Morte should not be set aside for irregularity, and the subsequent proceedings against the ball, quashed. The original Judgment was rendered in December, 1819, by confession without any declaration, or rule to declare, or to plead.

In support of the rule, Mr. Redin cited *Tidd*, Pr. 242, 1093, 1094. 1146; *Hayward v. Ribbons*, 4 East, 310, 313; *Barlow v. Kaye*, 4 Term R 688; *Hardy v. Moore*, 3 Har. & McH. 389; and *Bowie v. State of Maryland*, Id. 408.

On the 22nd of June, 1824, THE COURT made the rule absolute, and ordered the original judgment to be set aside, and the continuances entered up, and all the subsequent proceedings to be quashed.

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