

Case No. 1,322.

BENNETT v. PENDLETON.

{1 Cranch, C. C. 146.}¹

Circuit Court, District of Columbia.

Dec. Term, 1803.

RECOGNIZANCE—TAKEN OUT OF COURT—JUSTIFICATION—EXONERATION OF MARSHAL.

{A recognizance of bail taken out of court is only de bene esse, and upon the return of the writ and recognizance the plaintiff may object to the sufficiency of the bail, and if adjudged insufficient, the marshal is not discharged. In order to save himself he must take a bail bond, for the appearance of the defendant in all cases. *Poe v. Mounger*, Case No. 11,240, followed.}²

Recognizance of bail. The same order was made in this case as in the preceding, [*Poe v. Mounger*, Case No. 11,240;] the plaintiff's counsel having alleged that the recognizers resided out of the District of Columbia.

The defendant was committed for want of bail; and a rule entered that the bail should not be received without justifying.

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

² [The syllabus of this case is taken from *Poe v. Mounger*, Case No. 11,240.]