

Case No. 1,642.

BOONE v. JANNEY.

[2 Cranch, C. C. 312.]<sup>1</sup>

Circuit Court, District of Columbia.

May Term, 1822.

DEPOSITION—MISNOMEK IN CAPTION—AMENDMENT.

The mistake of the clerk in misnaming one of the parties in a commission to take the deposition of a witness may be amended by the order in case of the death of the witness before the trial.

[See *Keene v. Meade*, 3 Pet. (28 U. S.) 1.]

BOONE v. JANNEY.

An order had been given to the clerk to issue a commission to take the deposition de bene esse of one J. B. Hewes in the cause of Arnold Boone v. John Janney. The clerk, in the commission, had misnamed the defendant Thomas, instead of John. After the deposition was taken, the witness died before the trial.

Mr. Jones, for the plaintiff, moved for an order to the clerk to amend the commission; it being a clerical error, there being no such suit against Thomas.

Mr. Swann, for the defendant, objected.

But THE COURT overruled the objection, and ordered the amendment.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]