

Case No. 2,515.

CATLETT v. COOKE.

[2 Cranch, C. C. 9.]¹

Circuit Court, District of Columbia.

July Term, 1810.

JUDGMENT BY CONFESSION—FIERI FACIAS—DEATH OF PLAINTIFF.

In Virginia a judgment on confession is equal to a release of errors, and this court will not grant a writ of error coram vobis upon a suggestion of the death of the plaintiff, where the justice of the case does not seem to require it; nor will they quash a fieri facias issued in favor of the plaintiff's administrator upon a suggestion of the death of the administrator after the award of execution.

Motion by Mr. Swann, for the defendant [Leonard T. Cooke], for writ of error coram vobis, on the ground that the plaintiff died before judgment.

The judgment was confessed, and there had been a forthcoming bond, and an execution thereon by the administrator of Catlett, and a writ of error thereupon to the supreme court, where the judgment was affirmed, and the cause remanded by mandate.

This court refused to grant the writ of error (FITZHUGH, Circuit Judge, contra.) The confession of judgment by the act of assembly of Virginia of the 19th December, 1792, p. 113, § 43, is equal to a release of errors. It is not necessary for the justice of the case that the writ should be granted.

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Mr. Swanthen moved to quash a fieri facias issued by Manning, the administrator of Catlett, because Manning died after the award of execution.

THE COURT refused to quash it. (FITZ-HUGH, Circuit Judge, contra.)

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