

Case No. 2,629.

CHASE v. SMITH.

[4Cranch, C. C.90.]¹

Circuit Court, District of Columbia.

May Term, 1830.

ACTION ON UNAUTHORIZED APPEAL BOND.

Although an appeal will not lie to the judgment of a justice of the peace upon a verdict

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of a jury, yet, if the defendant does, in fact, appeal and give an appeal-bond, the plaintiff may maintain an action upon that bond.

Debt on an appeal-bond given upon an appeal from the judgment of a justice of the peace, upon the verdict of a jury. The declaration set forth the condition of the bond, which was in the usual form, except that it stated that the judgment was rendered upon the verdict of a jury before the justice. The breach assigned was the not prosecuting the appeal with effect; and not satisfying the judgment of the justice.

Z. C. Lee, for defendant, demurred to the declaration, without oyer of the bond; contending, that inasmuch as the condition of the bond, set out in the declaration, showed that the judgment was upon a verdict before the justice of the peace; and as this court, upon the appeal in the same case, decided that this court had not jurisdiction by appeal where the judgment of the justice was upon a verdict, the bond was void.

But THE COURT overruled the demurrer.

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