

Case No. 3,337.

CRAIG v. RICHARDS.

[1 Cranch, C. C. 84.]¹

Circuit Court, District of Columbia.

April Term, 1802.

PRODUCTION OF COURT RECORDS.

A subpoena duces tecum will not be ordered to the clerk of a court in Virginia, to bring here original papers filed in his court.

Assumpsit for money had and received.

The defendant was indorser of Robert Alexander's note. Suit had been brought against Alexander in the Dumfries district court in Virginia, and execution returned nulla bona.

Mr. Swann testified that he was counsel for the plaintiff in that suit, and that the original note was by him filed in that cause in the district court at Dumfries. That he was well acquainted with the handwriting of the defendant, and that the indorsement of that note appeared to him to be in the defendant's handwriting.

E. J. Lee, for defendant, contended that a subpoena duces tecum might issue to the clerk of the Dumfries district court to bring in the note.

But THE COURT, being inclined to think that they could not compel the clerk to bring his records out of Virginia, refused to instruct the jury that it was necessary for the plaintiff to produce the original note.

Bill of exceptions taken, but no writ of error was prosecuted.

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