

Case No. 3,649.

DAVIS v. ROBB.

[2 Cranch, C. C. 458.]¹

Circuit Court, District of Columbia.

April Term, 1824.

SCOPE OF AGENCY—HOW SHOW—DECLARATIONS OF AGENT.

1. If the agency be special, the plaintiff must show the transaction to be within the scope of the agency.
2. The declarations of the agent in support of his authority, will not be received in evidence, unless cotemporaneous with, and constituting part of, the res gestae.

Assumpsit on a promissory note signed "Adam Robb by John N. Robb."

To prove the agency of John N. Robb, the plaintiff [Richard Davis] produced evidence that John N. Robb carried on a tan-yard for his father, the defendant, who had confessed judgment on a note signed as the present note is signed, and given for articles furnished to the tan-yard.

THE COURT (THRUSTON, Circuit Judge, doubting) refused to permit the note to be given in evidence, unless the plaintiff could show that it was given in relation to the business of the tan-yard.

Mr. Redin, for the plaintiff, then offered to give in evidence to the jury the declarations of the said John N. Robb, made after the transaction, to show that the goods for which the note was given, were furnished by the plaintiff for the tan-yard.

THE COURT (THRUSTON, Circuit Judge, contra) refused to permit them to be given in evidence, unless they were cotemporaneous with the giving of the note, and part of the res gestae.

Verdict for the plaintiff.

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