

Case No. 3,679.

DAY v. HACKLEY.

{2 Cranch, C. C. 251.}¹

Circuit Court, District of Columbia.

Oct. Term, 1821.

ACTION OF DEBT—BAIL—PRACTICE.

1. In order to hold the defendant to bail in debt on a bond, it need not be produced until

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oyer demanded, if there be a sufficient affidavit of debt.

2. The court will not decide upon the merits, on a motion to appear without bail.

Debt on a bond. The plaintiff made affidavit that the defendant is justly indebted to him in the sum of \$2,000, and upwards, on his bond. The declaration and a copy of the bond were filed.

Mr. Lear, moved for leave to appear for defendant without special bail; and contended that the original bond ought to be produced; and that, if produced, it would appear that it was of more than twelve years' standing, and therefore, according to the Maryland statute, could not support an action.

Mr. Caldwell, for plaintiff, opposed the motion.

THE COURT (nem. con.) said that the affidavit is sufficient. The plaintiff is not bound to produce the bond until oyer is demanded, and THE COURT will not now go into the merits of the case as to the validity of the bond.

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