

Case No. 4,388.

ELLIOT v. HAYMAN.

[2 Cranch, C. C. 678.]¹

Circuit Court, D. District of Columbia.

May Term, 1826.

DEPOSITIONS—AFFIRMATION OF WITNESS—CERTIFICATE OF
MAGISTRATE—HANDWRITING OF CERTIFICATE.

1. The certificate of a magistrate who takes a deposition of a witness, upon his affirmation, in Pennsylvania, that the witness was conscientiously scrupulous of taking an oath, is sufficient evidence of that fact to admit the deposition to be read in evidence in this court.
2. The court will not permit persons skilled in comparison of handwriting to prove that the body of the certificate of the magistrate, to a deposition, is not in his handwriting.

A deposition was offered, in evidence, by the plaintiff's counsel, which was taken upon the solemn affirmation of the witness, who, the magistrate certified, was "conscientiously scrupulous of taking an oath."

Mr. Marbury and R. S. Coxe, for defendant, objected that it did not sufficiently appear to the court, "by testimony," that the deponent "is one of those who profess to be conscientiously scrupulous of taking an oath," according to the provisions of the constitution of Maryland, as amended by the act of November, 1797, c. 118.

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THE COURT (CRANCH, Chief Judge, contra), overruled the objection, being of opinion that the certificate of the magistrate was sufficient evidence of that fact. The defendant then offered to examine persons skilled in the comparison of handwriting, to prove that the body of the certificate of the magistrate was not in his handwriting. But THE COURT (nem. con.) refused to permit them to be examined.

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