

Case No. 5,498.

GODFREY v. GILMARTIN.

{2 Blatchf. 340.}¹

Circuit Court, S. D. New York.

Oct 15, 1851.

ADMIRALTY

APPEALS—JURISDICTIONAL

AMOUNT—INTEREST—AFFIRMANCE—COSTS.

1. Where an action in personam is brought in the district court, in admiralty, on a money demand amounting to less than \$50, but the libellant's claim, with interest, amounts to more than \$50 at the time the decree is made by the district court, and he has a decree in that court for more than \$50, an appeal lies to this court from such decree.
2. On such appeal, the action becomes a plenary suit in this court, and, if the decree is affirmed by this court with costs, full costs of this court may be taxed.

This was an appeal [by Jonathan Godfrey] from the clerk's taxation of costs. The suit was an action in personam, brought in admiralty, in the district court, on a money demand amounting to less than \$50. The libellant's claim, with interest, amounted to more than \$50 at the time the decree was made by the district court, and he had a decree in that court for more than \$50. After this court had, on appeal, affirmed the decree with costs, the clerk taxed full costs of this court against the respondent [Daniel Gilraartin], from which taxation he appealed.

THE COURT held that the case was one in which an appeal was allowed by law, and that, on the appeal, the action became a plenary suit in this court and carried full costs of this court

¹ [Reported by Samuel Blatchford, Esq., and here reprinted by permission.]