

Case No. 6,091.

HARPER ET AL. V. REILY.

[1 Cranch, C. C. 100.]¹

Circuit Court, District of Columbia.

Nov. Term, 1802.

WITNESS—IMPEACHMENT—CREDIBILITY.

The declarations of a witness not under oath, may be given in evidence to discredit his testimony.

Trover for two hogsheads of sugar. The defendant moved for the continuance of the cause to the next term on account of the absence of a witness. The affidavit stated that the witness would prove a conversation between himself and Gilpin, a witness who it was supposed would be produced on the part of the plaintiffs [Harper and Lyles].

THE COURT refused a continuance, because the testimony of the defendant's witness would not be competent, on the principle that the declarations of a witness not under oath, shall not be adduced against the witness' declarations on oath. Quære. See Peake, Ev. 84, 85, and 3 Burrows, 1244. On motion, THE COURT granted a new trial.

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