

Case No. 7,042.

INGLE v. COLLARD.

{1 Cranch, C. C. 134.}<sup>1</sup>

Circuit Court, District of Columbia.

July Term, 1803.

COVENANT—SURETY—EVIDENCE.

In an action against A, who was surety for money advanced to B, the acknowledgments of B, as to receipts of money may be given in evidence to charge A.

Collard covenants that Ambrose White shall repay to Ingle money which Ingle might advance over and above what White might be entitled to for building a house for Ingle.

P. B. Key, for plaintiff, offered to prove White's acknowledgment of the receipt of certain moneys and materials on account of the building.

Mr. Mason, for defendant, objected to giving

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White's admissions in evidence. A judgment against White would not be evidence to charge Collard. A judgment against a sheriff shall not bind his sureties; so on an administration bond, the sureties are not bound by plea of the administrator, but may show a plene administravit. Ingle, if he chose to risk it, might examine White himself as a witness. Collard could not object.

THE COURT (MARSHALL, Circuit Judge, absent) suffered the plaintiff to give evidence of the acknowledgment of White, as to the receipt of all such moneys and all such payments for labor and materials as came within the covenant.

[Verdict having been rendered for the plaintiff, defendant moved in arrest of judgment thereon. The motion was granted. Case No. 7,043.]

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]