

Case No. 7,671.

KELLY v. HUFFINGTON.

[3 Cranch, C. C. 81.]¹

Circuit Court, District of Columbia.

April Term, 1827.

PRACTICE AT LAW—SLANDER—SPECIAL DAMAGE NOT STATED IN
DECLARATION—PROOF OF SAME—PLAINTIFF'S RIGHT TO RECOVER.

In slander, the plaintiff is not permitted to prove special damage not stated in the declaration; and the plaintiff may recover, although he shall have failed to prove the special damage laid in his declaration.

Slander, in saying of a master of a vessel that he is a drunkard, and incapable of managing a vessel. The declaration stated, as a special damage, that Captain Rose refused to take him as mate of the ship Shenandoah. The plaintiff offered evidence

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of special damage, not stated in the declaration.

Mr. Taylor, for defendant, objected to it, and THE COURT (THRUSTON, Circuit Judge, absent) sustained the objection.

Mr. Taylor then prayed the court to instruct the jury, that if they should be of opinion that the plaintiff has not supported the averment of the special damage in the declaration, the plaintiff is not entitled to recover any damages in this action.

But THE COURT refused.

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