

Case No. 7,805.

KING v. SIMM.

[2 Cranch, C. C. 234.]¹

Circuit Court, District of Columbia.

April Term, 1821.

INSOLVENCY—DISCHARGE OF PRINCIPAL UNDER STATE LAW—EXONERATION OF BAIL.

If the principal be discharged under the insolvent law of one of the states after the judgment against him in this court, and the motion to discharge the bail be made at the return term of the scire facias against the bail, the court will discharge him, upon payment of the costs of the scire facias.

[Cited in *Channing v. Reiley*, Case No. 2,596.]

The scire facias against Thomas Simm, special bail of Richard H. Love, was returned at December term, 1820, at which term the motion was made to exonerate the bail, on the ground that the principal has been discharged under the insolvent law of Virginia, since the judgment rendered against him in this court.

Mr. Turner, for plaintiff [C. B. King], cited the following cases in this court, viz.: *Boyer v. Herty* [Case No. 1,753] in July, 1805; *Byrne v. Carpenter* [Id. 2,271] June term, 1808; *Bussard v. Warner* [Id. 2,229] at June term, 1815. And also *Woolley v. Cobbe*, 1 Burrows, 244; *Cockerill v. Owston*, Id. 436; *Har. Ent. Plea of Insolvency of the Principal*; 1 Saund. 2, 61; *Walker v. Giblett*, 2 W. Bl. 811; *Donnelly v. Dunn*, 1 Bos. & P. 448; 2 Bos. & P. 45; *Martin v. O'Hara*, Cowp. 823; *Southcote v. Braithwaite*, 1 Term R. 624.

Mr. Randall, for defendant.

THE COURT (nem. con.) ordered the exoneretur to be entered, on payment of the costs of the scire facias. The court at a former term had decided the same point in the case of *Robert Bayley* [unreported].

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