LAVERTY ET AL. V. SNELLING.

Case No. 8,124.

{3 Cranch, C. C. 290.}[1]

Circuit Court, District of Columbia. May Term, 1828.

BAIL IN CIVIL CAUSE—AFFIDAVIT TO HOLD TO BAIL—SUFFICIENCY OF SAME—MERITS OF CASE.

1. If the affidavit to hold to bail be in itself sufficient, the court will not, upon a motion to appear without bail, inquire into the merits of the case.

2. An affidavit that the defendant is justly indebted to the plaintiff in a certain sum, for goods

sold and delivered to a third person upon the written guaranty of the defendant, is sufficient to hold the defendant to bail.

The affidavit to hold to bail stated that the defendant [Josiah Snelling] was justly indebted to the plaintiffs, [Laverty and Gantley,] in the sum of $4,393.43, for goods sold and delivered to one O. P. Hunt, at the defendant's request, and upon his written guaranty, which was produced.

Mr. Lear moved for leave to enter his appearance for the defendant without special bail; contending that the guaranty was void because it does not show a consideration for the guaranty; and that it did not appear that the plaintiffs had given notice to the defendant that they had accepted the guaranty, or had notified him of the amount of goods sold to Hunt upon the credit of the defendant; that the defendant had a right to go into the merits of the case and show that the contract was void. Sumner v. Green, 1 H. Bl. 301; Clarke v. Russell, 3 Dall. [3 U. S.] 415; Forrester, 153.

Mr. Wallach, contra.

THE COURT overruled the motion.

END OF CASES IN BOOK 14.

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

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