

Case No. 8,926. MCSHERRY V. QUEEN ET AL.
[2 Cranch, C. C. 406.]⁴.

Circuit Court, District of Columbia.

April Term, 1823.

JUDGMENT—SUPERSEDEAS—EXECUTION—IMPROPER RECITAL.

The court will, on motion, quash an execution upon a supersedeas judgment and also the supersedeas judgment itself, if it does not truly recite the original judgment.

[Cited in *Chesapeake & O. Canal Co. v. Barcroft*, Case No. 2,644.]

{This was a suit by Dennis McSherry against R. T. Queen, Charles J. Queen, and James King & Co.}

Mr. Wallach, for defendants, moved the court to quash an execution issued upon supersedeas; and also the supersedeas itself, because it did not truly recite the original judgment. The original judgment was for \$200 damages, to be released on the payment of \$100 with interest from the 13th of April, 1820. A payment of \$50 is noted on the docket. The supersedeas stated the debt to be \$50, taking no notice of the damages to be released on the payment of a smaller sum.

THE COURT (THRUSTON, Circuit Judge, absent) quashed the execution and supersedeas, because the original judgment was not truly recited in the supersedeas judgment, and because a judgment against James King & Co. was too uncertain.

⁴ [Reported by Hon. William Cranch, Chief Judge.]