Case No. 10,629.

OWEN ET AL. v. GLOVER.

{2 Cranch, C. C. 522.}[1]

Circuit Court, District of Columbia. Dec Term, 1824.

JUDGMENT ON PRISON-BOUNDS BOND—ARREST IN ORIGINAL SUIT.

If a debtor be taken on a ca. sa. in the District of Columbia, and give a prison-bounds bond, upon which also judgment is rendered against him, he may be retaken on the original ca. sa. after the expiration of a year from the date of the bond, and committed to close custody in execution.

Mr. Jones, for the defendant, moved the court to quash the ca. sa. upon which the defendant was committed in execution. The original judgment was rendered in June, 1818. {Case unreported.} On the 20th of May, 1820, the defendant having been taken upon the ca. sa. issued upon that judgment, gave a prison-bounds bond. On the 6th of July, 1820, he broke the bounds, and the plaintiffs {Owen & Longstreth} brought suit on the bond against him and his surety, in which suit judgment was, at the last term, rendered against him, but the suit is still pending against his surety. The year from the date of the prison-bounds bond having expired, the marshal, in obedience to the act of congress of the 24th of June, 1812 (2 Stat. 755,) recommitted him to close jail, upon the original ca. sa. {For the marshal's action for his fees, see Case No. 11,845.}

Mr. J. Dunlop, for plaintiff. The original arrest on the ca. sa. and the giving of the prison-bounds bond, are no satisfaction of the judgment. The plaintiff may retake his debtor, although he has recovered part of the debt in an action against the sheriff for an escape. They are concurrent remedies. Esp. N. P. 611; Blumfield's Case, 5 Coke, 86. The plaintiff may have a fi. fa. against his debtor, and may proceed against

the sheriff for an escape at the same time. Jackson v. Bartlett, 8 Johns. 281. So, in Maryland, the plaintiff may proceed upon the original judgment, or upon the supersedeas.

Mr. Jones, contra. The plaintiff can, in no case, have more than one execution at the same, time upon the same judgment. In Maryland the plaintiff cannot have execution at the same time against the original debtor on the original judgment and on the supersedeas. The case in 8 Johnson, depends upon the statute of New York, which gives a fi. fa. after escape upon a ca. sa. After a prison-bounds bond given upon a ca. sa. there is no remedy under the act of congress, but a suit upon the bond.

THE COURT (THRUSTON, Circuit Judge, absent) decided that the marshal had the 922 right to take the debtor under the original ca. sa. and that he cannot now be permitted to have the benefit of the prison bounds, the year having expired.

{NOTE. The defendant was discharged under Act March 3, 1803 (2 Stat. 237), "for the relief of insolvent debtors." The plaintiffs then issued writs of fi. fa. and took in execution lands formerly belonging to defendant, but conveyed to divers persons. Motion to quash there was overruled. Case No. 10,630. Affirmed by supreme court. 5 Pet. (30 U. S.) 358.}

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