

RINGGOLD v. RENNER.

[2 Cranch, C. C. 263.]¹

Circuit Court, District of Columbia. Oct. Term, 1821.

PRACTICE AT LAW—BAIL
BOND—APPEARANCE—WITHDRAWAL OF
ACTION.

The defendant has the whole of the return term to appear in, and if the plaintiff withdraws his action before the end of the term, he cannot maintain a suit on the bail-bond.

Debt on bail-bond. Pleas: 1st A release. 2d. That John Renner came during the term and offered to appear, but the plaintiffs, Lindsay & Hill, had struck off their suit 3d. That the defendant, John Renner, appeared at the day, &c.

Mr. Key and Mr. Dunlop, for defendant, contended that this court had decided, in the case of *Rhodes v. Brooke* [Case No. 11,747], at December term, 1804, that the defendant had a right to appear at any time during the first term, although the plaintiff should have taken an assignment of the bail-bond. The bail-bond cannot be forfeited until the expiration of the time for appearance, given by the rules of the court *Bullock v. Lincoln*, 2 *Strange*, 914. The plaintiffs, by voluntarily dismissing their suit, confess that they have no cause of action against the principal, and then the bail-bond cannot be assigned. The plaintiffs prevented the defendant from appearing, according to the condition of the bond.

Mr. Marbury, contra, Contended that the defendant was bound to appear on the first day of the term, when the appearance docket is called; and, if he does not, the plaintiff may amerce the marshal, or take an assignment of the bail-bond Although the plaintiffs had ordered the suit to be stricken off, the

defendant might have had leave of the court to enter his appearance to save the forfeiture of the bond.

THE COURT decided that the defendant had, by the practice of this court, the whole term in which to appear and give special bail; and that the plaintiffs, by dismissing their action during the term, had prevented the defendant from complying with the condition of the bond. Verdict, subject to the opinion of the court.

Judgment for the defendant.

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

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