

## RUTHERFORD v. MOORE.

{ 1 Cranch, C. C. 404.}<sup>1</sup>

Circuit Court, District of Columbia. June Term, 1807.

## WITNESS—COMPETENCY—HOW SHOWN.

Quære, whether a witness, who has declared his disbelief of a future state of rewards and punishments, is a competent witness. And whether such declarations can be given in evidence to the court, to prevent the witness from being sworn and examined.

Slander. The plaintiff offered J. A. as a witness.

F. S. Key for defendant, objected that the witness had declared his disbelief in a future state of rewards and punishments, and stated that he had witnesses ready to prove such declarations.

CRANCH, Chief Judge, stopped him, and doubted whether that mode of proceeding had ever been adopted in any court; and whether the fact, if proved, did not go rather to the credit than the competency of the witness.

THE COURT asked Mr. Key for authorities. He cited Esp. N. P.; and Peake, Ev. 90; *Omychund v. Barker*, 1 Atk. 21; 1 Wils. 84; Willes. 538.

THE COURT inclined to think that the only mode of proving the fact of belief has heretofore been by an examination of the witness himself, and that it ought to go rather to the credit. But Mr. Key waived the question as to the competency, and examined his witnesses as to the credibility.

{See Case No. 12,173.}

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]

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