

SLADE v. MINOR.

{2 Cranch, C. C. 139.}¹

Circuit Court, District of Columbia. April Term, 1817.

MARSHAL—ACTION AGAINST FOR ILLEGAL
LEVY—JUSTIFICATION—PRESUMPTIONS.

1. In an action of trespass against the marshal of the District of Columbia for levying a distress for a militia fine, it is only necessary for him, in his justification, to prove those facts which give jurisdiction to the military court, and that it was regularly constituted, and imposed the fine.
2. The acts of such a court are presumed to be correct, and it is not competent for the plaintiff to show their irregularity.
3. An alien is not liable to militia duty.
4. Naturalization cannot be proved by parol

{Cited in *Charles Green's Son v. Salas*, 31 Fed. 111.}

{Cited in *Bode v. Trimmer*, 82 Cal. 518, 23 Pac. 187. Cited in brief in *Rump v. Com.*, 30 Pa. St. 477.}

This was an action {by Richard Slade} against {Daniel Minor} the deputy marshal of the District of Columbia, for levying a distress for a militia fine, imposed by a battalion court of inquiry, under the acts of congress of the 3d of March, 1803, and 1st of July, 1812 (2 Stat. 215, 769), “more effectually to provide for the organization of the militia of the District of Columbia.”

E. J. Lee, for plaintiff.

Mr. Taylor, for defendant.

THE COURT (THRUSTON, Circuit Judge, absent) was of opinion, that it was only necessary for the defendant, in his justification, to prove those facts which gave the battalion court of inquiry jurisdiction, and ³¹⁸ which showed that the tribunal was regularly constituted; and that having shown this, the acts of that court were to be presumed to be correct, and that

it was not competent for the plaintiff to show their irregularity.

THE COURT also decided that an alien was not liable to militia duty, and that the naturalization of Charles Slade, the plaintiff's father, could not be proved by parol.

Verdict for plaintiff, \$56.

¹ [Reported by Hon. William Cranch chief Judge.]

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