

Case No. 13,124.

SMITH ET AL. V. WATSON.

{1 Cranch, C. C. 311.}¹

Court Circuit Court, District of Columbia.

June Term, 1806.

BAIL—AFFIDAVIT.

An affidavitt tohold to bail must be positive.

[Cited in *Graham v. Konkapot*, Case No. 5,670; *Lee v. Welch*, Id. 8,204; *Travers v. Hight*, Id. 14,151; *Clarke v. Druet*, Id. No. 2,850.]

Motion by Mr. Caldwell, for defendant [John F. Watson], to appear without bail. The cause of action was an account and affidavit by one of the plaintiffs, that the above account, as stated, is “true and correct, according to the best of his knowledge and belief.” 1 Sell. Prac. 112.

PER CURIAM. The affidavit is not sufficient to hold to bail. It is not such as would support a prosecution for perjury. In general the court will rule bail upon the production of any written instrument purporting to be signed or sealed by the defendant, whereby he promises or obliges himself to pay a certain sum of money or quantity of tobacco, without an affidavit. In other general cases they will require an affidavit stating a certain sum due for the debt or damages, or that damages have been sustained to some certain amount; and if the cause of action arise upon an open account, the affidavit ought to be at least as certain and positive as that which the act of assembly of Maryland, 1729 (chapter 20, § 9), requires to make the account evidence in cases where the dealings do not exceed £10 in one year. See *Graham v. Konkapot* [Case No. 5,670],

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

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