

Case No. 13,814.

TEASDALE v. JORDAN.

{Brunner, Col. Cas. 19;¹ 2 Hayw. N. C. 281.}

Circuit Court, D. North Carolina. June Term, 1803.

PLEADING AT LAW—ADMINISTRATOR—FAILURE OF ASSETS.

An administrator may be permitted to amend by adding a plea where judgments have been obtained to the amount of the assets in his hands since he first pleaded.

This case being called for trial Woods moved to aid a plea and stated that since the defendant [Jordan, administrator in right of the wife of Brandon] pleaded, judgments had been obtained against him to the amount of the assets in his hands.

And by MARSHALL, Circuit Justice (to which POTTER, District Judge, assented): It is in the discretion of the court to permit the addition of a plea at any time before the trial; and the court will admit the plea where the justice of the case requires it. And the plea now offered is such an one as justice requires the admission of. It would be a monstrous position that when judgments, after plea, had taken away all the assets, the executor or administrator should, notwithstanding, be compelled to answer the debts first pleaded to.

The plea was added.

{See Case No. 13,813.}

¹ [Reported by Albert Brunner, Esq., and here reprinted by permission.]

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