

UNITED STATES v. GOLDSTEIN'S SURETIES.

[1 Dill. 413.]¹

Circuit Court, D. Kansas.

1871.

RECOGNIZANCE—REQUISITES OF VALIDITY.

Bonds to secure the appearance of a person charged with crime must be taken and executed in pursuance of the order of the proper court or officer; and where, in distinct offences, two bonds, in different sums, were required, one bond for the aggregate amount was adjudged to impose no liability upon the sureties.

[Cited in *U. S. v. Horton*. Case No. 15,393; *U. S. v. Hudson*, 65 Fed. 73.]

[Cited in *Roberts v. State*. 34 Kan. 151 8 Pac. 246.]

A United States commissioner, on proper complaint and proceedings before him required a person charged with receiving stolen property of the United States, knowing it to be stolen, to give bail in the sum of \$500 to appear at the next term, and the commissioner at the same time, on another charge of like nature, required the same person to give bail in the sum of \$200 to appear at the next term. &c; and one bond for \$700 was taken; and the principal cognizor having failed to appear, it was declared forfeited. This proceeding is a scire facias against the sureties.

Mr. Horton, U. S. Dist. Atty.

Stillings & Fenlon, for defendants.

Before MILLER, Circuit Justice, and DILLON, Circuit Judge.

DILLON, Circuit Judge. Bonds or recognizances of this character are binding only when taken in pursuance of law and the order of a competent court or officer. No order was made authorizing a single bond for \$700, and the bond taken was a substantial departure from the bonds required by the commissioner, and was not therefore obligatory on the

sureties. ¹³⁵⁵ State v. Buffum, 2 Fost (N. H.) 267.
Judgment accordingly.

Recognizance to secure appearance on criminal charge binding only when in pursuance of order of proper officer. Cited U. S. v. Horton [case No. 15,393].

¹ [Reported by Hon John F. Dillon, Circuit Judge, and here reprinted by permission.]

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