

Case No. 16,261. UNITED STATES v. SHACKELFORD.
[3 Cranch, C. C. 287.]¹

Circuit Court, District of Columbia.

April Term, 1828.

INDICTMENT FOR MISDEMEANORS—PROSECUTOR'S NAME.

The name of a prosecutor must be written at the foot of every indictment for a misdemeanor, in Alexandria county, before it is sent to the grand jury, unless it be founded upon a presentment made upon the knowledge of two of the grand jurors, or upon the testimony of a witness called upon by the court or the grand jury.

Indictment for assault and battery upon Jacob Millan. The indictment had been sent to the grand jury by Mr. Swann, attorney of the United States, in consequence of a presentment of the grand jury at November term, 1827, which stated that evidence had been heard before them whereby it appeared that Richard Shackelford, one of the constables of the county of Alexandria, was guilty of an assault on the body of Jacob Millan, but that the time limited by law for the prosecution of misdemeanors had passed.

Mr. Taylor, for defendant, moved to quash the indictment because the name of a prosecutor was not written at the foot of it according to the law of Virginia (page 105, § 24); and cited the case of *U. S. v. Helriggle* [Case No. 15,344], at the last term.

THE COURT (MORSELL, Circuit Judge, absent) quashed the indictment, and said they would hear a motion to order the witness to be sent to the grand jury.

See Rev. Code Va. p. 105, § 24; Id. p. 106, § 38; Id. pp. 346. 431; and *U. S. v. Hollinsberry* [Case No. 15,380].

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