

Case No. 16,267.

UNITED STATES v. SHAW.

[4 Cranch, C. C. 593.]¹

Circuit Court, District of Columbia.

Nov. Term, 1835.

ACTIONS ON ADMINISTRATION BONDS.

An action may be maintained upon an administration bond, by a creditor of the intestate, after a return of non est upon a *capias ad respondendum* against the administrator, although thirteen months have not elapsed since the granting of the letters of administration. The Maryland act of 1720 (chapter 24) is still in force in the county of Washington, D. C.

Debt on administration bond. Breach assigned in not paying a note due by the intestate to Keirle & Son, and averring a previous return of non est inventus upon a *capias ad respondendum* against the defendant, in this county, in which he resided. General demurrer.,

W. L. Brent, for defendant, contended that the Maryland act of 1720 (chapter 24) was repealed by the inconsistent provisions of the act of 1798 (chapter 101), as stated in the preceding case against Kenedy's administrator, and

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that no suit could be brought upon the bond before the expiration of thirteen months after administration granted, except in the particular cases specified in the act of 1798.

C. Cox, for plaintiff, contra, to show that the act of 1720 was still in force notwithstanding the act of 1798, and that a return of non est is sufficient to justify a suit on the administration bond, cited Dorsey's Case, 4 Gill. & J. 471, and the case of *Laidler's Adm'r v. State*, 2 Har. & G. 277, 281.

THE COURT, being of opinion, as in the preceding case, that the act of 1720 was not repealed by the act of 1798, and that an action may be brought against the administrator within the thirteen months allowed by the 14th section of the 8th sub-chapter, overruled the demurrer, and rendered judgment for the plaintiff (nem. con.).

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