

Case No. 16,475. UNITED STATES v. THOMAS.
[3 Cranch, C. C. 293.]¹

Circuit Court, District of Columbia.

May Term, 1828.

PERJURY—AFFIDAVIT.

Perjury may be committed in an affidavit to an account, for the purpose of getting it passed by the orphans' court.

Indictment [against Thomas D. Thomas] for perjury in making affidavit to an account of Barton against Bryan's estate, for \$157 for five years' board of a child, for the purpose of getting it passed by the orphans' court.

The question submitted by Mr. Key, for defendant, and Mr. Swann, for the United States, was, whether the affidavit made by the defendant, on the 27th of December, 1827, before Robert Clarke, a justice of the peace, was perjury, if false.

Mr. Key contended that it was not in a judicial proceeding. The defendant had sworn, in that affidavit, that he knew the account to be just and true; and that the creditor (Barton) had boarded a child for Bryan for five years; and that Bryan had agreed to pay him \$30 a year for the board of the child.

But THE COURT, upon consideration of the testamentary act of Maryland of 1798 (chapter 101, el. 9, § 8), and the act of 1785 (chapter 46), was of opinion (nem. con.) that the affidavit was taken in a judicial proceeding, and if knowingly false, it might be perjury.

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