

Case No. 16,484. UNITED STATES v. THOMPSON.
[2 Cranch, C. C. 409.]¹

Circuit Court, District of Columbia.

May Term, 1823.

WARRANT OF ARREST—SIGNATURE BY LEAD PENCIL—RESISTANCE TO ARREST.

1. A signature, in black lead pencil, of a warrant, by a justice of the peace, is not a sufficient signature in law.
2. If a warrant contains, on its face, a cause of arrest within the jurisdiction of the magistrate and purports to have been issued within his local jurisdiction, and is, in other respects, formal, the officer is bound to execute it, and resistance is unlawful, although, in fact, the offense was not committed within the local jurisdiction of the magistrate.

Indictment for assault and battery on Leonard Adams, a constable, who came to the assistance of R. Stevens, a constable, to take the defendant upon a warrant from N. S. Wise, a justice of the peace for this county, upon a charge, upon the oath of Samuel Thompson, of having violently beaten negro Griffin, the slave of Jonah Thompson. The

UNITED STATES v. THOMPSON.

warrant was signed with a black lead pencil.

Mr. Taylor, for defendant, contended that the warrant was void, and did not justify the arrest, because the justice does not state that he acted within this county; because the county is not named in the warrant; nor does it state that the offence was committed in this county; nor that N. S. Wise is a justice of the peace; and because it was not signed by the justice, and Mr. Wise himself states that he omitted to take the oath of the complainant. The beating was proved, in fact, to have been in Virginia. The authority and the jurisdiction must appear upon the face of the warrant.

THE COURT (THRUSTON, Circuit Judge, absent) instructed the jury that the warrant was void because not signed by the justice; the signature in pencil not being deemed by the court a signature, because it is liable to be so easily obliterated.

But THE COURT said that if a warrant contains on its face a cause of arrest within the jurisdiction of the magistrate, and purports to have been issued within his local jurisdiction, and is, in other respects, formal, the officer is bound to execute it, and resistance is unlawful; although, in fact, the offence was not committed within the local jurisdiction of the magistrate.

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