

Case No. 16,629. UNITED STATES V. WADE ET AL.  
[2 Cranch, C. C. 680.]<sup>1</sup>

Circuit Court, District of Columbia.

May Term, 1826.

JOINT INDICTMENT—COMPETENCY OF WITNESS.

If two be indicted jointly for assault and battery, the wife of one of them cannot be a witness for the other, although they sever in their pleas.

The defendants [Judson Wade and David Young] were indicted jointly for assault and battery upon Joseph Fagan, and severally pleaded not guilty.

Mr. Key, for defendants, offered to examine the wife of the defendant Young as a witness for the other defendant, Wade.

But THE COURT (nem. con.) refused; and said, if Young himself could not be a witness, his wife could not; and cited the case of *Rex v. Frederick*, 2 Strange, 1095.

Verdict guilty.

Key & Frost, for defendant Wade, moved for a new trial, because the court had rejected the testimony of Young's wife; and contended that if the defendants had been tried separately, as they had a right to be, her testimony would have been competent in behalf of Wade, and that, having pleaded separately, there was the same reason for admitting it, as to Wade, as if they had been tried separately.

But THE COURT refused the new trial. See *Com. v. Easland*, 1 Mass: 15, and 5 Esp. 107.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]