

Case No. 16,972.

VIRGINIA V. WISE ET AL.

{1 Cranch, C. C. 142.}¹

Circuit Court, District of Columbia.

Nov. Term, 1803.

SHERIFF'S BOND—EVIDENCE.

1. In debt on a sheriff's bond, his return upon an execution that he had satisfied the plaintiff, is not evidence for the defendants. Upon a breach assigned in not paying money received upon a fi. fa. the plaintiff must prove that the sheriff received the money before the return day of the execution.
2. If the plaintiff produce the return as evidence of the receipt of the money, it is also evidence of the payment of it to the plaintiff, it being so stated in the return.

{Suit by the governor of Virginia against Wise and others, sureties of C. Turner, town-sergeant.}

Debt, on the official bond of the town-sergeant. The breaches assigned were in not paying over to the plaintiff money received upon sundry executions.

THE COURT refused to suffer the defendants to produce in evidence the return of the town sergeant upon the executions, in which he stated that he had satisfied the plaintiff.

THE COURT also, on the motion of Mr. C. Lee, for the defendant, instructed the jury that the plaintiff must prove that the sergeant received the money before the return day of the execution; because after that day he had no authority to receive it.

Mr. Taylor, for plaintiff, offered the execution-book as evidence of the return of the execution, and of the receipt of the money by Turner, and insisted that the word "satisfied" was a part of the return, which he was not authorized to make.

But THE COURT instructed the jury that if the return was produced as evidence of the receipt of the money, it must be also admitted as evidence of the payment over to the plaintiff.

{See Cases Nos. 16,970 and 16,971.}

¹ {Reported by Hon. William Cranch, Chief Judge.}