

Case No. 17,013.

VOSS v. HOWARD.

[1 Cranch, C. C. 251.]¹

Circuit Court, District of Columbia.

July Term, 1805.

ASSAULT AND BATTERY—BEATING SERVANT.

In an action of assault and battery, for beating the plaintiff's servant per quod, &c The plaintiff cannot recover without evidence of loss of service.

Assault and battery on plaintiff's servant, per quod, &c.

Verdict for the plaintiff, one cent damages, subject to the opinion of the court, on the following statement of facts, viz.: Joseph Cole, a mulatto slave, the property of a citizen of Maryland, hired himself, with his owner's permission, in the city of Washington, to Nicholas Voss, by the month; the said negro received the wages for his labor, and lived, not with Mr. Voss, but with his own wife, a free white woman, and came daily to his labor; that an affray and fight took place between the defendant and said Cole; that the defendant struck and beat the said Cole, but not so as to occasion any loss of labor to the said Voss. The declaration was a common count, in assault and battery, per quod servitium amisit.

The opinion of THE COURT was for the defendant. The loss of service is the gist of the action, and the statement admits that there was no loss of labor, which the court considered as synonymous with service. Judgment for the defendant.

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