

Case No. 17,241.

WASHINGTON v. YOUNG.
BRENT ET AL. v. DAVIS.

[2 Cranch, C. C. 632.]¹

Circuit Court, District of Columbia.

Jan. 10, 1826.

LOTTERY MANAGERS—SUIT ON BOND.

The holders of tickets in the Washington lottery have no right to sue the managers upon the bond given by them to the corporation of Washington, without the leave of the corporation; nor to sue the contractor for the lottery, on his bond given to the managers, without their consent.

[These were suits by the corporation of Washington, for the use of the holder of ticket No. 1,037, against Moses Young's administrator; and by Brent and others against Gideon Davis.] These causes, in which the judgment of this court had been reversed in the supreme court of the United States in January term, 1825, were sent down to this court by mandate, setting aside the verdict and proceedings up to the declaration.

Mr. Jones, for defendants, now moved this court to dismiss these suits, according to intimation given in the opinion of the supreme court in 10 Wheat. [23 U. S.] 410; that court having decided that the holders of the tickets had no right to use the names of the corporation and the managers without their leave. This motion is made in behalf of the corporation of Washington and of the managers, as well as of Gideon Davis.

Mr. Key, contra. The bonds were given for the benefit of the public; and any person interested has a right to sue upon them. They are like the bonds of an auctioneer. As no objection was made until after verdict and judgment, and the causes have been carried up to the supreme court by writ of error, and sent down again by mandate, and no special order of the corporation to make this motion is shown, the assent of the corporation to the suits is to be presumed.

THE COURT (THRUSTON, Circuit Judge, not having heard the argument, gave no opinion) were of opinion that the plaintiffs had a right to dismiss their suits, and ordered them to be dismissed.

WASHINGTON, The GEORGE. See Case No. 4,100.

WASHINGTON, The MARTHA. See Case Nos. 1,513 and 9,148.

WASHINGTON, The MARY. See Case No. 9,229.

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