

Case No. 18,161.

YOUNG v. MANDEVILLE.

[2 Cranch, C. C. 444.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov. Term, 1823.

SUIT ON ADMINISTRATION BOND.

An action will not lie against the sureties in an administration bond until a devastavit has been established in a suit against the administrator.

Debt [by E. Young, Judge, etc.] against the sureties in the administration bond of John Mandeville, administrator of Jonathan Mandeville. The breach assigned was, that the administrator had failed to pay to one Joseph Janney \$111.94, and \$26.86, due from the intestate, for which a judgment had been obtained in this court by the said Joseph against the said administrator.

Mr. Taylor, for defendant, demurred to the replication in which the breach was assigned, and contended that no action would be against the sureties in the administration bond until a devastavit has been established against the administrator in a separate suit against him, as this court decided in the case of Gilpin v. Crandell [Case No. 5,449], at November term, 1812.

Mr. Swann, for plaintiff, admitted the law to be so, according to the decisions in Virginia; but this court is not bound by those decisions.

THE COURT rendered judgment upon the demurrer, for the defendant, at May term, 1824.

<sup>1</sup> [Reported by HON. William Cranch, Chief judge.]