

**Walker Vs. Gibbs**

**Walker Vs. Gibbs**

**SooperKanoon Citation :** [sooperkanoon.com/78073](http://sooperkanoon.com/78073)

**Court :** US Supreme Court

**Decided On :** 1793

**Appeal No. :** 2 U.S. 211

**Appellant :** Walker

**Respondent :** Gibbs

**Judgement :**

WALKER v. GIBBS - 2 U.S. 211 (1793)

U.S. Supreme Court WALKER v. GIBBS, 2 U.S. 211 (1793)

2 U.S. 211 (Dall.)

Walker et al.

v.

Gibbs et al. Garnishees

Supreme Court of Pennsylvania

January Term, 1793

A Foreign attachment issued in the Common Pleas of Philadelphia, returnable to March Term, 1788, at the suit of the plaintiffs against Joseph Waldo, and the defendants were summoned as garnishees. Judgment being entered at the third Term, a writ of enquiry was executed, and the sum of L 3,778 9 9 was found in

damages. A Scire Facias was, thereupon, issued against the garnishees, returnable to March Term, 1789; but the cause was removed into this Court by a writ of Certiorari, returnable to July Term, 1789; and was tried on the 24th of September 1790; when the Jury found a verdict for the plaintiffs for L 1,204 12 4 1-2; and, at the instance of their Counsel, added the following words at the bar, which the Court directed to be entered in the Record, 'being exclusive of certain outstanding debts, and exclusive also, of a bond for L 10,000 from the garnishees to Waldo, dated the 17th of November 1786, and payable the 17th of November, 1790;' which bond was admitted in the garnishees' answers to interrogatories filed by the plaintiff. On this verdict, judgment was entered generally; and, the time for paying the bond having elapsed, a Scire Facias, returnable to January Term, 1792, was issued upon the judgment, requiring the garnishees to shew cause why execution should not issue for the amount.

The questions arising upon these facts were submitted to the Court, upon a motion to quash the Scire Facias, which was argued by Cox, Rawle, and Dallas, for the garnishees; and by Ingersoll, Lewis and M'Kean, for the plaintiffs.

For the garnishees it was contended, 1st, That no verdict, or judgment had been given for the bond; in respect to that, as well as to the outstanding debts, the language is exclusive; and what is excluded cannot be included. Where there is no verdict, there can be no judgment; for, the consideration of the Court is on the finding of the Jury: A judgment must be warranted by the verdict. A verdict is void in all cases where it finds the matter in issue, by way of argument. 5 Com. Dig.

Page 2 U.S. 211, 212

Tit. 'Pleader.' s. 22. 2nd. That the bond, not being due could not be attached. 3 Leon. 236. Roll. Abr. 553. pl. 2. Cro. E. 713. 7 Vin. Abr. 229. pl. 2. 3. 4. 7 Vin. Abr. 169. 189. 3rd. That the Scire Facias ought to have been brought upon the original judgment in the Common Pleas, and not upon the judgment in this Court. Styl. Pr. Reg. 573 5. 6. 8. 4 Bac. Abr. Tit. 'Scire Facias.' s. 1. Hob. 280.

For the plaintiffs it was answered, 1st. That if the verdict was informal, the Court could mould it into form, from the materials placed by the Jury on the Record. 1 Dall. Rep. 462. Hob. 54. 2 Burr. 699. 3 T. Rep. 749. 349. Doug. 121. 2nd. That, from the uniform practice under the act of Assembly (1 Vol. Dall. Edit. p. 60.) as well as from the authorities under the custom of London, debts payable at a future day might be attached. 3 Lev. 236. Vin. Abr. 1 Sid. 327. 1 Bac. Abr. 691. 1 Roll. Abr. 553. 2 Daw. 316. 3rd. That the jurisdiction was recognized by the act, which provides for the garnishees answering interrogatories. 2 Vol. Dall. Edit. p. 734.

By the Court: This Seire Facias is issued to revive and effectuate a judgment obtained in this Court; and, therefore, is regularly instituted here. It is true, that a bond is assignable in Pennsylvania; but if the bond in question had been actually assigned, the fact might have been pleaded to the former Scire Facias. As to the question, whether the debt was liable to attachment, we have no doubt. It was debitum in presenti, solvendum in futuro: And it has been the uniform construction of the act of Assembly, that such debts were affected by the attachment.

It must be allowed, that the judgment is, in some degree, informally entered; but we can have no difficulty in fixing the meaning of the Jury, though their verdict might have been better expressed. The fact, indeed, being admitted in the answers of the garnishees to the interrogatories, judgment would have been given on motion; and, of course, on all the facts now stated, we are equally competent to decide.

Let judgment be entered for the plaintiffs.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**