

Resler Vs. Shehee

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Court : US Supreme Court

Decided On : 1801

Appeal No. : 5 U.S. 110

Appellant : Resler

Respondent : Shehee

Judgement :

Resler v. Shehee - 5 U.S. 110 (1801)

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Resler v. Shehee

5 U.S. (1 Cranch) 110

ERROR TO THE CIRCUIT COURT

OF THE DISTRICT OF COLUMBIA

SYLLABUS

The courts of Virginia have been very liberal in admitting any plea at the next term after an office judgment, which was necessary to bring forward the substantial merits of the case, but at a subsequent term it is matter of discretion with the court

whether it will admit any plea at all. A writ of error will not lie in a case where this discretion has been exercised.

In the Court of Hustings of the Town of Alexandria, the defendant in error instituted an action for a malicious prosecution against the defendant in error, and obtained an office judgment against him, on 2 February, 1801, for want of a plea, and a writ of inquiry was awarded returnable to the court of hustings, which, by the law of Virginia organizing that court, would have been held on the first Monday of April, 1801. On 27 February, 1801, the act of Congress passed providing for the government of the District of Columbia, and by that law a circuit court for the district was erected and all cases depending in the court of hustings were transferred to the circuit court.

After two terms of the circuit court of the United States had elapsed without the writ of inquiry being set aside, the defendant in that court moved to set it aside on filing a special plea in justification to the action. This was refused by the court, and a bill of exceptions to the opinion of the court refusing the plea was tendered. After judgment for the plaintiff in the circuit court, the defendant in that court prosecuted this writ of error.

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By the Court.

It is true that the courts of Virginia have been very liberal in admitting any plea at the next term after an office judgment which was necessary to bring forward the substantial merits of the case, whether it was strictly an issuable plea or not. But at a subsequent term it is matter of discretion with the court whether they will admit any plea at all.