

**Ammidon Vs. Smith**

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**Court :** US Supreme Court

**Decided On :** 1816

**Appeal No. :** 14 U.S. 447

**Appellant :** Ammidon

**Respondent :** Smith

**Judgement :**

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**Ammidon v. Smith**

**14 U.S. (1 Wheat.) 447**

*ON CERTIFICATE OF DIVISION OF OPINION AMONG*

*THE JUDGES OF THE CIRCUIT COURT OF RHODE ISLAND*

## **SYLLABUS**

If an imprisoned debtor fraudulently obtains a judgment in his favor, in consequence of which he goes at large, the sheriff cannot retake him on suspicion that the judgment is fraudulent, nor be liable for an escape on the proof of such

fraud.

A debtor who has departed from the prison rules under a judgment of discharge granted in due form by a competent tribunal has not committed an escape even to charge himself, much less will it impose on his security a liability for the debt.

This was an action of debt brought by the plaintiff against the defendant, in the Circuit Court of

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Rhode Island on a bond dated 31 August, 1810, with a condition that if Simon Smith, a prisoner in jail, at the suit of the said Philip Ammidon, shall

"continue and be a true prisoner in the custody, guard, and safekeeping of Roger Allenton, keeper of the said prison, &c.;, within the limits of the said prison until he shall be lawfully discharged, without committing any manner of escape or escapes during the term of his restraint, then this obligation to be void. . . ."

The defendants pleaded, severally, two several pleas:

First. That said Simon did remain a true prisoner until lawfully discharged, and made no escape.

Second. That after notifying his creditors, he did take the oath provided by the law of the State of Rhode Island for the relief of poor prisoners confined for debt before proper authority, which oath is as follows:

"That he had not any estate, real or personal, in possession, remainder, or reversion over ten dollars, and that he had not, since the commencement of the said suits against him or at any other time, directly or indirectly sold, leased, or otherwise conveyed or disposed of to or entrusted any person or persons whomsoever with all or any part of the estate, real or personal, whereof he hath been the lawful owner or possessor with any intent or design to secure the same or to receive or to expect any profit or advantage therefrom for himself or any of his family, nor had he caused or suffered to be done anything whatsoever whereby

any of his creditors may be defrauded. "

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To the first plea the plaintiff replied that he did not remain a true prisoner until lawfully discharged, &c.; To the second he replied that after the commencement of the action on which he was imprisoned, and after the contracting of the debt on which the action was brought, the said Simon was seized and possessed of real estate to the value of \$40,000, and that, fraudulently contriving with his sons Darius and Simon, Jr., his sureties in said bond, to defraud him of his said debt, did lease, sell, and convey to said Darius and Simon, Jr., and his other children, all his said real estate, and did entrust them with it, for his and their benefit with intent to defraud the plaintiff, and that he might be admitted to the benefit of the oath mentioned in said plea; that said Simon did entrust with said Darius and Simon, Jr., and his other children, all his estate, both real and personal, of the value of \$50,000, with the advice, counsel, and assistance, and under the direction of said Darius and Simon, Jr., and his other children, with an intent and design to secure the same to the said Darius and Simon, Jr., and his family, to defraud the plaintiff of his said debt, and he avers that the said Simon did falsely and fraudulently take said oath, with intent willfully, falsely, and fraudulently to hinder, delay, and defraud the plaintiff of his just debt aforesaid and avoid the payment thereof, and thereby hinder, delay, and defraud the other creditors of the said Simon of their just debts. And this he is ready to verify, wherefore he prays judgment, &c.; In his replication to

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the pleas of the two sureties, the plaintiff adds an averment that the said Simon took the said oath, they, the defendants, well knowing that the same was false and fraudulent, and that the said Simon did willfully, falsely, and fraudulently take the said oath with intent thereby to hinder, delay, and defraud the plaintiff of his just debt aforesaid and avoid the payment thereof, and thereby hinder and defraud the other creditors of the said Simon of their just debts.

To this replication the defendants demurred, and the plaintiff joined.

On the argument of this demurrer, the judges of the circuit court were divided in opinion whether the replication was sufficient to avoid the plea, which division of opinion was certified to this Court.

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MR. CHIEF JUSTICE MARSHALL, delivered the opinion of the Court, and after stating the facts, proceeded as follows:

The act of the Legislature of Rhode Island on which this case depends enacts

"That it shall and may be lawful for the sheriffs of the several counties, to grant to any person imprisoned for debt a chamber in any of the houses or apartments belonging to such prison and liberty of the yard within the limits thereof on his giving bond to the creditor, with two sufficient sureties, in double the amount of the debt, with condition to remain a true prisoner until lawfully discharged and not to escape. And in case the creditor shall put the bond in suit and recover judgment thereon for breach of the condition, he is to recover his debt with thirty per centum on the principal sum for his damages,"

and the principal and his sureties, shall be committed to close

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jail until the judgment be paid. The law, then, prescribes the manner in which a poor prisoner may obtain his discharge. On application to any judge of the court of common pleas or justice of the peace in the county, notice is to be given to the creditor to appear at such time and place as the judge or justice shall appoint to show cause why the prisoner should not have the benefit of the act. Any one judge of the court of common pleas and any one disinterested justice are then authorized to administer the oath prescribed in the law "if, after fully examining and hearing the parties, the said justices shall think proper so to do." A certificate being given to the jailer, the prisoner is to be discharged, on leaving with the jail keeper,

to be delivered to his creditor, his note payable to the creditor in two years, with interest, for the amount of the execution. It is then enacted that if any such prisoner shall be convicted of having sold, leased, or otherwise concealed, or disposed of or entrusted his or her estate or any part thereof directly or indirectly contrary to his or her oath or affirmation, he, or she, shall not only be liable to the pains and penalties of willful perjury, but shall receive no benefit from said oath or affirmation.

The question to be decided by this Court is whether a prisoner obtaining a discharge according to the forms of law by means of fraud and falsehood has broken the condition of his bond.

There is so much turpitude in the act confessed by the demurrer, such reluctance to allow any man to avail himself of so flagitious a defense, that it is

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not without some difficulty this question can be considered as a naked point of law. It is, however, the duty of the Court so to consider it, and this has been attempted.

The object for which this bond was given is of decisive importance in the inquiry respecting the extent of the obligation it imposes. It is certainly not given for the purpose of improving the security of the creditor, but simply for the purpose of allowing the debtor the benefit of the prison yard without impairing the right of the creditor to the custody of his person. The yard and a comfortable chamber are substituted for the walls of a jail, but as this substitution would facilitate an escape, it was deemed reasonable to secure the creditor against the abuse of an indulgence which the humanity of the law afforded. This consideration would suggest the propriety of provisions against an actual escape, the means for making which were furnished by allowing the use of the prison yard, but not against the employment of fraud or artifice to obtain a discharge in the manner prescribed by law, which may be employed in jail as well as in the yard, and the means of employing which are not in any degree facilitated by substituting the yard for the walls of the jail. The condition of the bond is to remain "a true prisoner, until

lawfully discharged, without committing any escape, or escapes, during the term of his restraint," and the certificate is a mode of discharge prescribed by law which terminates "his restraint." If, as is conceived, this bond was intended to guard against the dangers created

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by allowing the prisoner the liberty of the prison yard, not against a fraud already committed which is entirely unconnected with the bond and the enlargement of his limits, then it is not broken by the practice of such fraud. The persons perpetrating it are in a high degree, criminal, and ought not to be permitted to avail themselves of such conveyances. The jurisprudence of Rhode Island must be defective indeed if it does not furnish a remedy for such a mischief. The replication charges these conveyances to have been executed by the defendant pending the suit for the purpose of defrauding the plaintiff, of defrauding his creditors generally, and of enabling himself to take the oath of an insolvent debtor. It further charges that after the execution of the bond, the false oath was taken with the knowledge of the sureties. However criminal this act may be, it cannot be punished by extending the obligation of the bond on which this suit was instituted. The judgment rendered by the magistrates was obtained by perjury, but the discharge of the prisoner, which was the consequence of that judgment, was in the course of law, and is not deemed an escape.

This question appears to have been considered by the court in the case of [Simms v. Slacum](#), 3 Cranch 300, and although the question was not there decided, because in that case the sureties alone were sued, and did not appear to be concerned in the fraud of their principal, yet the reasoning of the court certainly applies to this case. The decision in the case of *Simms v. Slacum* has been revised, and the Court feels no

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disposition to depart from it. The reasoning it contains need not be repeated, but is considered as applicable to this case.

There is some difference in the provisions of the two statutes, but not enough to induce a different construction as to the extent of the obligation of the bond for keeping the prison rules. The law of Rhode Island enacts that if any prisoner shall be convicted of having disposed of any part of his estate contrary to his oath or affirmation, "he shall not only be liable to the pains and penalties of willful perjury, but shall receive no benefit from said oath or affirmation." Conviction is a technical term applicable to a judgment on a criminal prosecution, not to a proceeding on this bond. The act contemplates a prosecution on which the party may be adjudged to suffer the penalties of perjury, in addition to which he is to be deprived of all benefit from the oath or affirmation. If this section has any influence, it would be to show that in the contemplation of the legislature, such conviction is necessary previous to the establishment of the absolute nullity of the oath or affirmation. The Court, however, does not mean to indicate that the effect of the oath and of the discharge granted by the magistrates might not be controverted in any proceeding against the parties, either in law or equity, other than in a suit on the bond for keeping the prison rules.

CERTIFICATE. This cause came on to be heard on the transcript of the record from the Circuit Court for the District of Rhode Island containing the points

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on which the judges of that court were divided in opinion and was argued by counsel. On consideration whereof this Court is of opinion that the replication of the plaintiff is insufficient to avoid the plea of the defendant. All which is ordered to be certified to the said circuit court.

*Certificate for the defendant.*