December Term 1828

The State of Maryland
vs
John Murray

In this case I do hereby say and award, that there is due to the Plaintiff from the Defendant the sum of four thousand and fifty seven dollars and forty three cents with interest from the fourth day of May eighteen hundred and twenty, until paid, and costs of suit.

Th. Harwood, Balt. May 9th 1823.

And afterwards, to wit, on the seventh day of September in the year of our Lord one thousand eight hundred and twenty two, the said John Murray, by virtue and in pursuance of the act of the General Assembly of Maryland, passed at November session eighteen hundred and eleven entitled "A supplement to the act entitled, an act for regulating writs of error and granting appeals from and to the courts of common law within this province" did apply to and direct the Clerk of Baltimore county court, to enter an appeal from the judgment aforesaid, so as aforesaid rendered, to the Court of Appeals for the Western Shore of the State of Maryland: And thereupon the said John Murray filed in the office of the Clerk of said court, a certain writing obligatory, commonly called an appeal bond, and which is in the words and of the tenor following to wit: "Know all men by these presents that we John Murray, Francis Murray and Joshua Turner, are held and firmly bound unto the State of Maryland, in the just and full sum of fifty three thousand, three hundred and thirty three dollars, and thirty three and one third cent, to be paid to the said State of Maryland, or its certain attorney or assigns. To the payment whereof well and truly to be made and done, we bind ourselves, our heirs, executors and administrators jointly and severally firmly by these presents: In Witness whereof we hereunto set our hands and seals this third day of September in the year of our Lord, one thousand eight hundred and twenty two. Whereas the said State of Maryland did obtain judgment against the said John Murray in Baltimore county court at March Term, in the year of our Lord, one thousand, eight hundred and nineteen, for the sum of twenty six thousand six hundred and sixty six dollars and sixty six and two thirds of a cent, penalty and costs: to be released on payment of four thousand and fifty seven dollars and forty cents, with interest from the fourth day of May eighteen hundred and twenty, and costs: from which judgment the said John Murray has prayed an appeal to the next Court of Appeals, to be held for the Western Shore of Maryland. Now the condition of the above obligation is such, that if the said John Murray shall not pursue the directions of the act of Assembly entitled "an act for regulating writs of error, and granting appeals from and to the courts of common law within this province" at the next ensuing Court of Appeals which shall be held for the Western Shore of the State of Maryland, and prosecute the same with effect: and also satisfy and pay to the said State of Maryland or its certain attorney or assigns, in case the said judgment shall be affirmed, as well all and singular the debt, damages and costs adjudged by the county court aforesaid, as also all costs and damages, that shall be awarded by the Court of Appeals aforesaid, then the said bond to be and remain in full force and virtue otherwise of no effect.

Signed sealed and delivered in the presence of William Gould.

John Murray (seal)
Francis Murray (seal)
Joshua Turner (seal)

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Which said bond is thus endorsed to wit. "I believe the within securities to be good. W. H. Gatch.

Bond approved. Wm H. Ward 4th September 1823."

And thereupon in virtue of the said act of assembly, and in pursuance of the application and direction aforesaid, a record of the proceedings in the plea aforesaid, with all things thereunto relating, is transmitted to the said Court of Appeals accordingly

Test. Wm. Gibson Clk.

In Testimony that the foregoing is a transcript is truly and faithfully taken from the Record of proceedings of Baltimore county court. I have hereto set my hand and affixed the seal of my office, this seventh day of October, in the year of our Lord one thousand eight hundred and twenty two. Wm Gibson Clk of Balto co ty Ct

And now come into the Court of Appeals here, as well the said John Murray by Upton & Gatch his attorney, as the said State of Maryland by Thomas B. Dorsey its attorney: and thereupon on motion of the said State of Maryland by its attorney aforesaid, it is ordered by the Court here, that the said John Murray assign the errors in the record of proceedings aforesaid, or in the giving the judgment aforesaid, so as aforesaid brought before the Court of Appeals here, for conceding the errors supposed to be therein or judgment by the Court of Appeals here will be entered against him in default thereof: And the said John Murray by his attorney aforesaid, says that in the record of proceedings aforesaid, and also in the giving of judgment aforesaid, there is manifest error in this to wit: that by the record aforesaid it appears that the judgment aforesaid in the plea aforesaid given, was given for the said State of Maryland against the said John Murray when by the law of the land that judgment ought to have been given for the said John Murray against the said State of Maryland therefore in that there is manifest error: and he prays that the judgment aforesaid for that error, and others being in the record of proceedings aforesaid, may be reversed, annulled and held entirely for naught, and that he, the said John Murray may be restored to all things which he hath lost by occasion of the said judgment, and that the said State of Maryland rejoin to the errors aforesaid and so forth: And thereupon it is ordered by the Court of Appeals here, that the said State of Maryland join in the errors by the said John Murray above assigned in the record of proceedings aforesaid & or judgment will be rendered against it in default thereof: and the said State of Maryland by its attorney aforesaid, says there is no error in the record of proceedings aforesaid, nor in the giving of the judgment aforesaid, and it prays that the Court of Appeals here will proceed to the examination as well of the record of proceedings aforesaid, as of the matters aforesaid by the said John Murray above, for error assigned, and that the said judgment may be in all things affirmed and so forth. Thereupon further process of and upon the premises, between the parties aforesaid, is by virtue of an act of assembly in such case made and provided, further continued before the Court of Appeals here, until the second Monday in June next: the same day is given to the said parties, there then to hear the judgment of the Court of Appeals here, of and upon the said premises and so forth.

And now at this day, to wit, the said second Monday in June being the ninth day of the said month, in the year of our Lord one thousand eight hundred and twenty three come again into the Court of Appeals here as well the said John Murray by Upton & Gatch