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Smith, *Ex Parte*.

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SMITH, *Ex Parte*.

HELD; that, on an application for a supersedeas to an execution issued by a justice of the peace, if the transcript does not exhibit the execution, or a copy of it, but simply states that an execution was issued, this court, in the absence of affirmative evidence to the contrary, must presume that the justice acted in conformity to law, and refuse the supersedeas.

But, if the execution is produced, and it appears that a *ca. sa.* issued, on an affidavit that the defendant, *as the plaintiff believes*, "is secret his property, or is putting it out of his hands, for the purpose of defrauding his just creditors;" and that the plaintiff verily believes that the debt will be lost or greatly delayed, unless an execution issue forthwith, this court will issue a supersedeas, without recognizance, the execution having improvidently issued, and without a sufficient legal affidavit.