

and a part of Baron and further yo. upon sayth not. Upon the foregoing Evidenced
the Jury got out to Consider and after make an order Consideration Return and
bring in their Verdict in these words (viz.) We find for the Defendant. Not cause of
Informacion whereupon it is Considered by the Court that the said John Abington
pay unto the said William Kidd his reasonable Costs expended in defending the said
Informacion then the said John Abington by George Parker his Attorney appeared
to the Provinciall Court and for the due prosecution of the same produced in
testimony unto in open Court acknowledged himself bound to the said William Kidd
in the sum of three thousand pounds of Tobacco for prosecuting the said appeal
with Effect.

On the said Eleventh day of May in the fifth year of the Dominion of the
Right Honorable Charles Lord Baltimore aforesaid the said John by his Attorney
aforesaid and according to the Act of Assembly in that behalf made and Provided
Entitled an Act for appeal and regulating Writts of Error offered to the
Court the for Cause and reason of the said John appealing from the
Judgment of the Court of Subort County aforesaid for that the Record and proceedings
before writted are manifest Erroneous in this.

- 1. In the Record the said did not appear any writt or Summons to Comand the said William
Kidd to appear and answer the said the want of writt appearing upon Record is Error.
- 2. The Court by their Commission had not power to hold plea of any Informacion upon any
small Statute wherefore all the proceedings in the said Cause was Forum non Jurid.
- 3. The Judgment of the Court is Erroneous in giving Judgment for Costs against the
Informant Abington who brought and Exhibited the Informacion on the behalf of
the Lord Prop. and though the Jury acquitted the Defendant yett the Informant profiting
on the behalf of his Lord ought not to be Comanded in any Costs according to the Statute
Twenty fourth Henry the Eighth Chapter the Eighth which positively sayd that no
Costs be awarded the Defendant when any Action is sued to the Kings use all which is
undeniable Error. And the said John is ready to abate the same. And prayeth the said
Judgment for the Defendant aforesaid and offered in the Record being many be reversed
annulled and made void. And that the unto all writts by occasion of the Judgment
aforesaid Given shall be restored.

John Abington Appalo.
William Kidd Defendant

And the aforesaid William Kidd by Charles Boteler his Attorney sayth that in the
Proceedings aforesaid within in the Record there of there is not Error neither that in
the Record aforesaid is contained sufficient matter to stay the Judgment of the County Court
aforesaid One of this he prayeth the Judgment of this Court. And the said prayeth
a Prohibition from this Court to the Commission of the said Subort County Court to affirm and
Ratify the aforesaid Judgment. And that the said Defendant may be fully restored to all
that he hath lost by the occasion of the said Error.

Boteler d. p.

Now on the said day to wit the Sixth day of March in the seventh year of the Dominion
of the Right Honorable Charles the Second. On the thousand Six hundred Eighty and One
the said parties by their Attorneys aforesaid and thereupon the Record and Proffs aforesaid
to the Rendering of Judgment thereupon and the aforesaid Cause and matter by the aforesaid Plaintiff