

Case No. 3,307.

COX v. WATKINS.

{3 Cranch, C. C. 629.}¹

Circuit Court, District of Columbia.

May Term, 1829.

DISSOLUTION OF ATTACHMENT.

If goods be attached under the Maryland act of 1795, and the defendant be taken on the capias before the return of the attachment, it will be dissolved upon the personal appearance of the defendant in custody being entered.

The marshal had attached certain goods of the defendant under the Maryland act of 1795, c. 56, during his absence. Before the return of the attachment, the defendant was committed upon a criminal charge, so that the marshal was bound to return the capias "cepi," and being brought into court, in custody of the marshal, his appearance in proper person was entered by the clerk.

Mr. Coxe, for defendant, moved that the attached effects should be discharged, as the marshal was bound to take the defendant

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upon the capias, and the plaintiff had no right to proceed against the goods while he had the body of his debtor in custody.

Mr. Wallach, for plaintiff.

THE COURT being of that opinion, ordered the goods to be discharged.

¹ [Reported by Hon. William Cranch, Chief Judge.]