

Case No. 3,660.

DAVIS v. WYER.

{1 Cranch, C. C. 527.}¹

Circuit Court, District of Columbia.

Dec. Term, 1808.

ATTACHMENT ON ASSIGNED CAUSE OF ACTION—PARTIES.

The proceedings upon attachment, upon an assigned cause of action, must be in the name of the legal plaintiff; and all the requisites of the statute must be complied with.

Attachment under the act of 1795, c. 56. The justice certified that William Davis made oath that the defendant is bona fide indebted to him in the sum of \$92,50, &c, according to the act, and that William Davis at the same time produced before him a memorandum of a settlement betwixt the said Uriah Wyer and Jacob Todhunter, which memorandum was assigned to the aforementioned William Davis, by which it appeared that the said Uriah Wyer is indebted as aforesaid, and upon which memorandum of a settlement, the said oath was granted. The memorandum produced to the clerk was in the words following: "December 8th, 1807, this—settled with Jacob Todhunter and am due him \$9250 as witness my hand. Uriah Wyer." "I do hereby assign all my right, title, claim, and interest to the above to William G. Davis. Jacob Todhunter."

F. S. Key moved (if the court should suppose an amendment necessary) to amend the *capias ad respondendum*, by striking out the name of William Davis, and inserting in lieu thereof the name of Jacob Todhunter. The *capias* had been returned non est. No copy of the short note had been set up, &c. The proceeding by attachment is an equitable proceeding. It must issue in the name of the equitable plaintiff. Such has been, the uniform practice in Maryland.

THE COURT (*nem. con.*) on motion, quashed the attachment. There was no evidence that a copy of the short note had been set up at the court-house door, nor that the proofs exhibited to the justice, were lodged with the clerk. The attachment was in the name of W. Davis, but the assignment of the account was to W. G. Davis. The handwriting of Todhunter was not proved.

CRANCH, Chief Judge, said the attachment must be in the name of the legal plaintiff.

DAVIS JEFFERSON, Case of. See Case No. 3,621a.

DAVIS v. WYER.

DAVIS, The JOSEPH A. See Case No. 7,534.

DAVIS, The S. L. See Case No. 12,939.

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