

Case No. 4,231.

DYSON v. WHITE.

[1 Cranch, C. C. 359.]¹

Circuit Court, District of Columbia.

Nov. Term, 1806.

COSTS OF CONTINUANCE—ATTACHMENT.

The costs of continuance await the event of the cause, unless there be a special order to the contrary; an attachment will not lie for non-payment of the costs of a continuance until after a rule to show cause, nor unless there has been a personal service of the order of the court to pay the costs; nor unless the bill of costs state the particular items.

Mr. Youngs, for plaintiff [Dyson's administrator], moved for an attachment against the defendant [Thomas White, Jr.], for not paying the costs of the last term, (the cause having been continued at his costs,) grounded on a paper signed by the clerk, stating the costs of the continuance in general terms to be, for witnesses' attendance, \$48, and marshal's fees, \$3, without stating who were the witnesses, nor how long they attended, nor for what services the marshal's fees arose; nor did it contain any certificate of the order of the court, or even a copy of the entry respecting the continuance. On the back of the paper was an order from John A. Burford, (the plaintiff's husband,) to pay the money to—, and a memorandum purporting to be signed by the defendant, refusing to pay the bill unless compelled by law.

THE COURT refused the attachment, because there did not appear to be a personal service of the order to pay the costs, or of the entry on the minutes, and because the bill of costs did not state the particulars. The clerk stated that it was not the practice in the court to issue attachments in such cases, but the costs awaited the event of the cause. It also seemed to be the practice, that a rule to show cause why an attachment should not issue, should be granted.

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