

UNION BANK OF GEORGETOWN V. RIGGS.

{2 Cranch, C. C. 204.}¹

Circuit Court, District of Columbia. June Term, 1820.

CONTINUANCE—SUPPLEMENTAL
AFFIDAVIT—ABSENT WITNESS.

1. The court will not receive a supplemental affidavit, to obtain a continuance of the cause.
2. The affidavit for a continuance, on the ground of the absence of a witness, must state 566 that the affiant believes that the cause cannot be tried with safety to the party applying for the continuance, without the attendance of the witness.

The defendant's affidavit, did not aver that he verily believed that the cause could not be tried with safety to himself, without the attendance of the absent witness.

Mr. Key, for plaintiff, objected to the continuance, upon the ground that the affidavit was imperfect by reason of the omission of that averment.

Mr. Jones, for defendant, contended that that averment is only matter of form, and that it is to be inferred from the facts stated.

Mr. Swann, on the same side, stated that it was by his inadvertence that the averment was omitted.

The defendant, being in court, offered an additional affidavit containing the averment.

Mr. Key objected that it was too late; that supplemental affidavits were dangerous, &c.

Mr. Jones contended that it was not too late, as the court had not given its opinion that the affidavit was insufficient.

THE COURT (CRANCH, Chief Judge, contra) refused to continue the cause, because the affidavit, without such an averment, was insufficient; and said they would not receive a supplemental affidavit, after

the original affidavit had been laid before the court, and the defect has been pointed out by the opposite counsel; on account of the strong temptation it would hold out for perjury.

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

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