

Case No. 16,959.

VIRGINIA v. DULANY.

{1 Cranch, C. C. 82.}¹

Circuit Court, District of Columbia.

April Term, 1802.

CRIMINAL LAW—COSTS—DISCONTINUANCE.

A prosecutor liable for costs upon an indictment for a misdemeanor, has no right to withdraw the prosecution without the consent of the attorney for the United States.

Indictment {against Daniel Dulany} for assault and battery on J. D. Westcott. I. V. Thomas's name was indorsed as prosecutor and liable for costs.

Mr. Jones, for defendant, stated that Westcott was satisfied and wished, with the consent of Thomas, that the defendant might be allowed to confess judgment for costs only.

Mr. Mason, attorney for the United States, objected on the ground that it was a prosecution in the name of the commonwealth, and no private prosecutor could compound, or interfere in the business.

THE COURT decided that the prosecutor had no right to withdraw the prosecution, and refused to permit it to be done without the consent of the attorney for the United States.

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