

Peyton Vs. Brooke

Peyton Vs. Brooke

SooperKanoon Citation : sooperkanoon.com/78341

Court : US Supreme Court

Decided On : 1805

Appeal No. : 7 U.S. 92

Appellant : Peyton

Respondent : Brooke

Judgement :

Peyton v. Brooke - 7 U.S. 92 (1805)

U.S. Supreme Court Peyton v. Brooke, 7 U.S. 3 Cranch 92 92 (1805)

Peyton v. Brooke

7 U.S. (3 Cranch) 92

ERROR TO THE CIRCUIT COURT FOR THE DISTRICT

OF COLUMBIA FOR THE COUNTY OF ALEXANDRIA

Syllabus

A judgment for costs generally includes all the costs belonging to the suit, whether prior or subsequent to the rendition of the judgment. If new costs accrue, the judgment opens to receive them.

This case came before the Court, upon a bill of exceptions to the opinion of the Circuit Court of the District of Columbia for the County of Alexandria upon a motion for execution on a forthcoming bond, taken under the act of assembly of Virginia.

The bond upon which the motion was made recites a *ca. sa.* against Peyton in favor of Brooke, for \$525 and 624 pounds of tobacco at thirteen shillings and four pence per hundred weight, and marshal's fees and commissions, and all costs, \$19.96, amounting in the whole to \$578.82.

The execution on which the bond was taken was for \$525, and \$20, and 624 pounds of tobacco, at thirteen shillings and four pence per hundredweight.

Page 7 U. S. 93

The whole amount of costs taxed on the original judgment was \$20.12 and 602 pounds of tobacco, including the costs of issuing an execution.

The bond was taken upon an alias *ca. sa.* the first having been returned non est. The first execution was for \$525 and \$20.12 and 602 pounds of tobacco.

The execution upon which the bond was taken, included 22 pounds of tobacco (the clerk's fees for issuing the

alias *ca. sa.*) and did not include \$ 0.12, part of the costs taxed upon the original judgment.

The plaintiff in the court below released 44 pounds of tobacco, the costs of issuing both executions, and the court below gave judgment for the plaintiff. The defendant brought his writ of error.

The court called for statements of the case, agreeable to the rule of court.

Page 7 U. S. 96

MR. CHIEF JUSTICE MARSHALL.

The Court is of opinion that the act of assembly contemplates the case where the first execution is not returned nor executed -- that is, where it is out and may be served.

The clerk was right in adding the costs of the alias *ca. sa.* The judgment is for costs generally, which includes all the costs belonging to the suit, whether prior or subsequent to the rendition of judgment. If new costs accrue, the judgment opens to receive them.

Judgment affirmed with costs.