

Any laches or negligence, by the party making the application, will destroy his title to this kind of relief. This is abundantly shown by the authorities which have been cited, and by many others to be found in the books.

The petition, in this case, alleges, that Joshua Reece, by whom the new facts are proposed to be proved, lived in the family of Jesse Hughes, before the year 1815, and until after the death of Josiah Hughes, which occurred in 1821. That the said Reece, removed from Somerset county many years ago, that he has been a seafaring man, engaged for many years commanding a vessel trading from Baltimore down the Chesapeake bay to the western shore of Virginia, and elsewhere, and that the petitioner was not aware, until within the week succeeding the 28th of April, 1851, that he knew, or could testify to, the facts stated in the petition.

An answer has been filed to this petition, and whilst the defendant neither admits or denies that the witness will, or can prove the facts relied upon, it denies that it has been many years since he removed from the county, and avers that it has been but a few years, and long since the pendency of the suit, and that he has lived in Baltimore ever since, and has always been accessible to the complainant.

The case is brought before the court upon the petition and answer, no affidavits on either side having been filed. And in view of the facts thus disclosed, and of the principle which must govern the court in exercising its discretion, I do not think it would be proper to grant the application.

The great point in controversy in the cause, had reference to the title to the negro Isaac, and a mass of testimony relating thereto, had been collected by the parties. The question chiefly disputed, had respect to the possession of this slave, it being supposed that the title would be adjudged to be in that party who had the possession. The petitioner does not allege that he did not know before the order of the 29th of April was passed, that Joshua Reece lived in the family of Jesse Hughes, and there is no reason to suppose he did not know it. It is true; the complainant did not attain his majority until the year 1839,