

State of Maryland,

STATE OF MARYLAND

City of Baltimore, to wit:

At a Criminal Court of Baltimore, begun and held at the Court House, in the City of Baltimore, in and for the City of Baltimore, on the Second Monday of May (the same being the Eighth day of said Month,) in the year of our Lord Eighteen Hundred and Sixty-five for the trial of all felonies, and other crimes, offences and misdemeanors committed in said City.

Present, The Honorable, Hugh L. Bond, Judge,
John J. Daneker, Sheriff. John B. Aikew, Clerk.

Among other, were the following proceedings, to wit:

LEAH GOSTON,

next friend of

SIMON & WASHINGTON GOSTON.

VS.

SAMUEL S. GOSTON.

Be it Remembered, that heretofore, to wit, on the Sixth day of May in the year aforesaid Leah Goston, mother and next friend of Simon and Washington Goston, by her Attorneys A. Winter Davis, William Daniels and Archibald Sterling Jr. Esq. exhibits to the Court here a Petition for the Writ of the State of Maryland

of Habeas Corpus in form following, to wit,

To the Honorable Hugh L. Bond, Judge of the Criminal Court of Baltimore City,

The Petition of Leah Goston, mother and next friend of Simon and Washington Goston, respectfully represents to your Honor that said Simon and Washington Goston have been illegally arrested, and are now held in custody by Samuel S. Goston of Somerset County, Maryland.

Your Petitioner therefore prays that your Honor will order the issue of the Writ of Habeas Corpus in his behalf, directed to the said Samuel S. Goston, commanding him to produce before this Honorable Court the bodies of the said Simon and Washington Goston, with the date and cause of their caption and detention.

And he will ever pray

A. Winter Davis,

Wm. Daniel,

A. Sterling for Petitioners.

Which being read and duly considered by the Court here it is ordered and adjudged by the Court here, on the same day and year last aforesaid, that said Petition be filed, and that the Writ of the State of Maryland of Habeas Corpus issue as prayed to be made returnable on the Seventeenth day of May in the year aforesaid, which is accordingly done, and on this Sixth day of May in the year aforesaid the said Writ of Habeas Corpus issues in form following, to wit

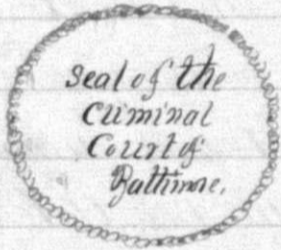
and directed to Samuel Boston, and delivered into the hands of the Sheriff of Baltimore City for service.

STATE OF MARYLAND

To Samuel S. Boston Greeting;

You are hereby commanded that all excuses and delays being set aside, you be and appear before the honorable the Judge of the Criminal Court of Baltimore, on Wednesday May 17th 1865 at 10 o'clock, A. M., and that you bring with you the bodies of Simon Boston and Washington Boston (now illegally detained by you as it is said) together with the Cause of their caption and detention, and abide by the Judgment of the Court in the premises.

Witness the honorable Hugh L. Bond Judge of our said Court, the 9 day of January 1865
Issued the 6 day of May 1865



John B. Arken,
Clerk,
Criminal Court of Baltimore.

And the Sheriff of Baltimore City, to wit, John J. Daneker, Gentleman, to whom the foregoing writ was delivered makes return of service thereof, to wit,

"State vs. Samuel S. Boston
Habeas Corpus Copy served
on Samuel S. Boston defendant
May 9th. 1865 in the presence
of Joseph Grafflin."

Served in Somerset Co
John J. Daneker. Sheriff Bath. City.

And thereafter, to wit, on the Seventeenth day of May in the year aforesaid the day upon which the aforesaid Writ of Habeas Corpus was made returnable, Comes here into Court the said Petitioner by her Attorneys A. Winter Davis, Wm. Daniel, and Archibald Sterling, Jr. Esqs., And here also Comes into Court here the said Samuel S. Boston the party to whom the foregoing Writ of Habeas Corpus was in form directed, and by his Attorneys Wm. Schley, and Wm. J. Waters make return thereof endorsed, to wit;

In obedience to the exigency of the within writ, I now make return thereof together with the Causes of the Caption and detention of the said Simon Boston and Washington Boston therein mentioned and have their bodies here in Court,
Saml. S. Boston.

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And thereupon the said Samuel S. Coston, the respondent, by his Attorneys
Wm Schley, and Wm. J. Waters, Esquires, files in Court here, on the day and
year last aforesaid, the following in form, to wit,

Return of Samuel S. Coston, to the Writ of Habeas Corpus
commanding him to produce the bodies of Simon Coston and Washington
Coston

In the Criminal Court of Baltimore

May Term 1865.

To the Honorable Hugh L. Bond, Judge of the Criminal Court
of Baltimore.

In compliance with the exigency of the annexed summons,
the undersigned comes into Court here and produces the bodies of Simon
Coston and Washington Coston, as by the said summons he is commanded,

And he states, as the cause of detention by him of the said persons
respectively, that they are his apprentices; and in verification of his title to
claim and hold the said Simon Coston as his apprentice, he exhibits herewith,
as part of this return, the document herewith filed, marked S. C.; and, in
verification of his title to claim and hold the said Washington Coston as
his apprentice, he exhibits herewith, as a part of this return, the document
herewith filed, marked W. C. said documents being official copies of original
indentures filed and recorded in the office of the Register of Wills for Somerset
County.

And he states and avers, that on the eleventh day of November,
in the year eighteen hundred and sixty four, he was, and for many years
before that time had been continuously, and has ever since continued to be,
and now is, a citizen and resident of Somerset County; and that he has
come hither, bringing with him from his home in said County the bodies of his
said apprentices, solely in obedience to said summons, And he respectfully
prays to be hence discharged with his said apprentices.


Samuel S. Coston,

Exhibit S. C.

In the Orphans' Court for Somerset County

Upon information given to the said Court, Simon Coston the child of Leah
Coston free negro of said County, was summoned before the Court and the
said parent, having also been summoned, and the said parent and child
being before the Court, upon examination, it appeared to the Court, that the said
child has been raised by Samuel S. Coston to whom the Court awarded
; and that the said parent has not the means to support such child, and
keep the same employed so as to teach habits of industry, and that it
would be better for the habits and comfort of such child that it should
be bound as an apprentice to some white person to learn to labor, and the
said parent having selected Samuel S. Coston a person to whom the said
child may be bound, who is approved by the Court; the said Court, on this

11.th day of November in the year eighteen hundred and Sixty four do hereby bind out and place the said Simon Costen aged nine years on the ninth day of May in the year aforesaid unto Samuel S. Costen the said Simon to serve the said Samuel S. Costen as an apprentice until the said apprentice shall arrive to the age of twenty one years; And the said Samuel S. Costen in consideration thereof doth hereby Contract with the State of Maryland, to instruct and teach, or cause to be instructed and taught, the said apprentice in the art, trade and calling of a Farmer after the manner of an apprentice, and to find and provide for said apprentice good and sufficient food, clothing, and other necessaries fit and proper for said apprentice during the said apprenticeship, and at the expiration thereof to furnish said apprentice with two suits of wearing apparel and twenty five dollars in money

Taken in open Court Samuel S. Costen 

Test. John J. Dashiell

Reg. U.S. Co

Maryland, Somerset County, to wit; I hereby Certify, that the within is truly Copied from the Original now on file and of record in the office of the Register of Wills for Somerset County, within the State of Maryland,



In Testimony whereof I herunto subscribe my name and affix the Seal of the Orphans' Court for Somerset County aforesaid this ninth day of May Eighteen hundred and Sixty four

John J. Dashiell, Reg. W. S. C.

Exhibit. W. C.

In the Orphans' Court for Somerset County,

Upon information given to the said Court, Washington Costen the child of Leah Costen free negro of said County, was summoned before the Court and the said parent, having also been summoned, and the said parent and child being before the Court, upon examination, it appeared to the Court, that the said child has been raised by Samuel S. Costen to whom the Court awarded; And that the said parent has not the means to support such child, and keep the same employed so as to teach habits of industry, and that it would be better for the habits and comfort of such child that it should be bound as an apprentice to some white person to learn to labor, and the said parent having selected a person to whom the said child may be bound, who is approved by the Court; the said Court, on this 11th day of November in the year Eighteen Hundred and Sixty four do hereby bind out and place the said Washington Costen aged seven years on the 20th day of November in the year aforesaid

unto Samuel Boston the said Washington Boston to serve the said Samuel S. Boston as an apprentice until the said Apprentice shall arrive to the age of twenty one years; and the said Samuel S. Boston in consideration thereof doth hereby contract with the State of Maryland, to instruct and teach, a cause to be instructed and taught, the said Apprentice in the art, trade and calling of a Farmer after the manner of an apprentice, and to find and provide for said apprentice good and sufficient food, clothing, and other necessaries fit and proper for said apprentice during the said Apprenticeship, and at the expiration thereof to furnish said apprentice with two suits of wearing apparel and twenty five dollars in money

Taken in open Court

Test. John J. Dashiell, Regr. W. S. Co.

note, no signature to this }
copy. clk. cr. cr. Barn. }

Maryland, Somerset County, to wit; I hereby Certify that the within is truly Copied from the Original now on file and of record in the Office of the Register of Wills for Somerset County, within the State of Maryland.



In Testimony whereof I heretofore subscribe my name and affix the Seal of the Orphans' Court for Somerset County aforesaid this ninth day of May in the year eighteen hundred and sixty five.

John J. Dashiell Regr. W. S. Co.

And thereupon further process of and upon the premises between the parties aforesaid by order of the Court here is Continued until the Eighteenth day of May in the year aforesaid.

On which Eighteenth day of May, Comes into Court here the said Petitioner by her Attorneys H. Winter Davis, Wm. Daniel and Archibald Sterling Jr. And here also Comes in Court the said Respondent by his Attorneys Wm. Schley, and Wm. J. Waters, Esquires,

Whereupon said Petitioner by her Attorneys as aforesaid files in Court the following Pleas in form, to wit,

In the Matter of the Habeas Corpus on the

petition of Complainant, for the person of Leah Boston next friend of Simon and Washington Boston.

The Petitioner by Henry Winter Davis, William Daniel, and A. Sterling Jr. her Attorneys says

That the parents of the said Infants in the return named were not summoned to be present at the binding in said Return set out

And for a second plea the petitioner says that the said Infants in said Return mentioned were not at the time of the binding in said Return set out the children of free negroes, but were born in Slavery of Mother who were Slaves and that said Infants were the Slaves

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of the defendant until set free by the Constitution of 1864. And the mother of said Infants was also the slaves of the defendant until set free as aforesaid, and that the detention of said Infants under color and pretence of the apprenticeship in the return mentioned is a detention in slavery, or involuntary servitude contrary to the constitution.

And for a third plea the petitioner says that the parents of said Infants in said return mentioned had at the time of the binding in said return set out the means and were willing to support said Infants, and keep the same employed so as to teach habits of industry to said Infants, and that said parents now have the means and are willing to support and keep employed the said Infants so as to teach habits of industry to said Infants

H. W. Davis

Wm. Daniel

A. Stirling, Jr.

Attys for
Petitioner

And thereupon on the day and year last aforesaid, the said respondent by his attorneys Wm. Schley, and Wm. J. Waters, Esq. files in Court here a motion of Exception in form following, that is to say

The Respondents except to the proposed traverses of the returns in the above cases, upon the following grounds.

1. Because the matters of said proposed traverses are not matters of fact set forth in said returns.
2. Because the said several matters are wholly immaterial; and wholly irrelevant to the question of the sufficiency of said returns.
3. That the said proposed traverses relate to matters of fact, not properly triable upon these writs; and improper, if material, for the consideration and determination of the Orphans' Court for Somerset County.

And the said Respondents, therefore, object to said proposed traverses, for the reasons aforesaid, & pray that they may not be received, & that they may not be required to answer the same.

Which being read and duly considered by the Court here, it is ordered by the Court here that the aforesaid "motion of exception" be and the same is overruled.

Whereupon, to wit, in the day and year last aforesaid, the said Respondent by his Counsel aforesaid, files in Court here a Demurrer to Pleas of Petitioner in form following, to wit,

Leah Coston,

next friend of

Simon & Washington Coston
vs. Samuel S. Coston.

In the Criminal Court of Baltimore City.
And the said Samuel S. Coston saith that the said pleas of the said next friend of Simon

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& Washington Coston in manner and form as the same are above pleaded and set forth are not sufficient in law, and that he is not bound by the law of the land to answer the same, and thus the said Samuel S. Coston is ready to verify, wherefore for want of a sufficient plea in this behalf the said Samuel S. Coston prays judgment, and that the said Simon & Washington Coston by their next friend may answer further to his said return &c.

Wm. Schley &
M. J. Waters }
Attys for Rept.

And the said Petitioner joins issue to the above demurrer.

Whereupon, to wit, on the twenty seventh day of May in the year aforesaid, all and singular the premises, being seen, heard and by the Court here fully understood, and mature deliberation being thereupon had, it appears to the Court here that the said Pleas of the said Petitioner above pleaded, and the matters therein contained, in bar of the "Return" aforesaid, are sufficient in Law, to bar the said Respondent from the detention of the Infants as aforesaid in manner and form in the said Pleas, as the said Petitioner hath above alleged: It is therefore ordered by the Court that the following order be entered and passed in relation thereto, in manner and form as follows. (which is accordingly done), that is to say,

In the Criminal Court of Baltimore City
In the matter of the petition of Leah Coston, mother and next friend of Simon and Washington Coston for Habeas Corpus
Ordered by the Court this Twenty seventh day of May 1865
that the infants Simon and Washington Coston be discharged from the Custody of the respondents and be delivered to their parents in the petition mentioned.

Hugh L. Bond
Judge of the Criminal Court.

And afterwards, to wit, on the Tenth day of June in the year aforesaid the said Respondent, by his Counsel as aforesaid, files in Court here a prayer of Appeal from the judgment of the Court here so as aforesaid rendered to the Court of Appeals of Maryland, in form following, to wit

Leah Coston, mother & next friend
of Simon & Washington Coston } Criminal Court of
Baltimore City.
Wm Coston. } Habeas Corpus.

To the Hon. the Criminal Court of Baltimore City

The Respondent in the above case
Um. Costen prays an Appeal from the judgment of the Court
in the above case June 10. 1865.

Um. Schley,
W. J. Waters
Atty. for Resp.

Whereupon to wit, thereafter, on the Twenty-eighth day of June
in the year aforesaid, it is ordered and adjudged by the Court here,
that the aforesaid Prayer of appeal be overruled, because in the
opinion of the Court no appeal lies in Habeas Corpus.

Hugh L. Bond,
Judge, &c.

And afterwards to wit, on the Tenth day of July in the year
aforesaid the said Respondent Samuel S. Costen, by Um. Schley and
Um. J. Waters, his Attorneys produced to the Court here, the Writ
of the State of Maryland for the Correcting of errors of and upon
the premises aforesaid, commanding that the Judgment aforesaid,
so as aforesaid rendered, with all things thereto relating, be
transmitted to the Court of Appeals to be holden for the State
of Maryland, the tenor of which said writ is as follows, that
is to say,

Samuel S. Costen }
vs. } Circuit Court
The State of Maryland. } of Baltimore City.

Maryland Sci:

The State of Maryland
To the Honorable,
Hugh L. Bond Judge of the Criminal Court of
Baltimore City

Because in the record and process,
and also in the rendering of Judgment upon the proceedings upon
a certain writ of Habeas Corpus of the State of Maryland, directed
to Samuel S. Costen, for the production in the Criminal Court of
Baltimore of the bodies of Simon and Washington Costen, with
the Cause of their Caption and detainer, issued at the instance
of Leah Costen, Mother and next friend of the - Simon and
Washington, at a Criminal Court of Baltimore, held before you
our said Judge, at the City of Baltimore for May Term 1865, manifest
error, as it is said hath appeared to the great damage of the said

9.

Samuel L. Boston as of his Complaint we have received,
And we being willing, that the errors, if any there be, should
be duly corrected and full and speedy justice done to the said
Samuel L. Boston in his behalf Command you that of Judgment
be thereof rendered, that then the record and Process aforesaid with
all things thereunto relating, under your seal, distinctly and openly,
you send, and this writ so that the same may be had before the
Judges of our Court of Appeals at the City of Annapolis on
the Second Monday of October next, that the record and process
aforesaid being inspected into, we may further do therein, for correcting
that error, which of right, and according to the Laws and customs
of this State may be done

Witness the Honorable William Alexander
Judge of the Circuit Court of Baltimore City the eighth day
of May A. D. 1865.

Issued the eighth day of July
A. D. 1865.

Samuel M. Evans
Clerk

In pursuance whereof, and according to the Act of Assembly
in such case made and provided, a record of the Judgment aforesaid,
with all things thereunto relating, together with the said writ of
error annexed, is truly transmitted to the Court of Appeals
accordingly.

Test, - Jehu B. Askeu,
Clerk.

of the Criminal Court of Baltimore,
State of Maryland,
City of Baltimore, to Wit:

I hereby Certify, that the foregoing transcript is a full and
true record of the proceedings in the Case of Leah Boston, Mother and
next friend of Simon and Washington Boston, against the said Samuel
L. Boston in Petition for Writ of Habeas Corpus.

In Testimony whereof I have hereunto subscribed
my name and affixed the seal of the Criminal Court of Baltimore
on this Eighth day of
September A. D. 1865.

Jehu B. Askeu,

Clerk.

of the Criminal Court
of Baltimore.

445
3/4
575.710

May Term 1865.

²³⁶ Samuel S. Coston,

vs

Leah Coston,

²³⁶ Mother and next friend of
Simon & Washington Coston.

HABEAS CORPUS.

Transcrib'd.

not appear

not to be removed

but

Writ of error Oct Jan 1865

\$6.25 Petition,
costs \$11.50. Respondents.

Decr'd 1st 1862

White Term 1864

Costs \$139.35

Filed September 9th 1865.

W. J. Davis

W. J. Davis

W. J. Davis

Costen } No 27
" } Court of Appeals
Costen }

It is agreed in this
Case that it be argued before
the court on motions to be
filed.

~~Wm S Watkins~~

~~Att in Error~~

Wm Daniel
for Deft in error

Filed June 9th 1866