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BURROUGHS'S Adm'r. vs. NEGRO ANNA.

[NO NUMBER IN ORIGINAL]

COURT OF APPEALS OF MARYLAND

4 H. & J. 262; 1817 Md. LEXIS 10

June, 1817, Decided

PRIOR HISTORY: [**1] APPEAL from Saint Mary's County Court. A petition for freedom filed by the appellee against the appellant.

The facts as agreed upon were these: The petitioner was the slave of a certain L. Burroughs, deceased, who by his will, dated the 12th of September 1811, bequeathed as follows: "I give and bequeath unto my negro woman called Anna, her liberty, and the advantages of her son as a labourer, so long as she lives, and a young bay mare three years old next spring, and four barrels of Indian corn, and three hundred weight of pork, and one black cow about six years old, and a hoe and an axe, and a spinning wheel, and cards, cotton cards, and one iron pot, holding three gallons or thereabouts, and half a dozen pewter plates, and the balance of the wool after clothing the family, and one young white sow, and all the dunghill fowls, and half a barrel of wheat; also it is my will and desire that my man Josias, her son, be the entire right and property of her the said Anna." The will was duly proved and admitted to record. The petitioner is the negro Anna mentioned in the will and petition, and at the time of the death of the testator, she was above the age of forty-five years. The testator [**2] died during the present year, (1815,) and the defendant is his administrator. The county court, [Johnson, Ch. J] gave judgment upon these facts for the petitioner, being of opinion that she was entitled to her freedom. From this judgment the defendant appealed to this court.

DISPOSITION: REVERSED.

HEADNOTES

L B by his will dated in 1811, bequeathed freedom to his negro woman A, who was above the age of 45 years; he also bequeathed to her the advantages of her son as a labourer so long as she lived, and a young bay mare, and four barrels of corn, 300 weight of pork, a cow, hoe and axe, and sundry other articles; and that her son J be the entire right and property of the said A--*Held*, that under the act of 1796, *ch. 67*, prohibiting the manumission of any slave above the age of 45 years, &c. A was not entitled to freedom.

COUNSEL: Magruder and C. Dorsey, for the Appellant, referred to the acts of 1715, *ch. 44, s. 22*, and 1796, *ch. 67, s. 13, 29*.

Stephen, for the Appellee, referred to the act of 1796, *ch. 67, s. 29*. Stat. 1 Edw. II. st. 2. Stat. 2 Westminster, *ch. 12. 6 Bac. Ab. tit. Statute, (I 5, 6) 384, 385, 386, 387. 1 Tucker's Blk. part 2. 2 Bac. Ab. tit. Error, (K 4) 490, 491; and Zouch vs. Parsons, 3 Burr. 1794.*

JUDGES: The cause was argued before CHASE, Ch. J. and BUCHANAN, MARTIN, and DORSEY, J.

OPINION

[*262] JUDGMENT REVERSED, a.

UNKNOWN a. See this case referred to by the

Court in *Hamilton vs. Cragg*, 6 H. & J. 16.