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NEGRO WILLIAM vs. KELLY.

[NO NUMBER IN ORIGINAL]

COURT OF APPEALS OF MARYLAND, EASTERN SHORE

5 H. & J. 59; 1820 Md. LEXIS 8

June Term, 1820, Decided

PRIOR HISTORY: [**1] APPEAL from Somerset county court. The appellant, (the petitioner in the court below,) filed his petition against the appellee for his freedom. The following case was stated for the court's opinion, viz. That the petitioner was the slave of L. Goslee, deceased, who in his life-time was possessed of a considerable real and personal estate; and being so possessed, on the 18th of September 1808, by his will, amongst other things, bequeathed as follows: "Item. I give and bequeath to all my negroes their freedom; that my heirs, executors, nor administrators, shall have no right nor title to them after they arrive at the ages hereafter mentioned--the males at twenty-eight years of age, and the females at twenty-five years of age, according to the ages in my book." That E. Goslee, the widow of L. Goslee, renounced the devises and bequests in the said will mentioned, and agreed to take her thirds of the said estate, as allowed by law. That some time afterwards she intermarried with the defendant. That L. Goslee, the testator, left personal estate, exclusive of his negroes, more than sufficient to pay all the debts due by him, and that the said debts have been all paid. After which, to wit, [**2] on the 14th of January 1817, the orphans court of Somerset county appointed C. J. and W. M. to divide and make distribution of the negroes mentioned in the said will, between the defendant and his wife, and the children of L. Goslee; and that C. J. and W. M. on the 20th of January 1817, made a distribution and allotment of the said negroes accordingly. That the petitioner was a part of the allotment made to the defendant in right of his wife, and that he accepted and

received the petitioner as a part of the said allotment so made to them, and that the petitioner was and is claimed by the defendant as a slave for life. That the petitioner, on the 10th of March 1819, arrived to the age of 28 years, according to the ages in the testator's book, and is of a sound healthy constitution, and able to get his living, and to support himself by labour. The county court rendered judgment on the case stated for the defendant, and the petitioner appealed to this court.

DISPOSITION: Affirmed.

HEADNOTES

If the personal estate of a deceased, after the payment of his debts, is not sufficient to compensate his widow for her thirds, negroes bequeathed to be free may be allotted to her as slaves for life.

COUNSEL: J. Bayly, for the appellant; and by Bullitt, for the appellee.

JUDGES: The cause was argued at this term before BUCHANAN, EARLE, JOHNSON and DORSEY, J.

OPINION

[*60] THE COURT OF APPEALS affirmed the judgment [**3] of the county court.