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CHEW vs. GARY.

[NO NUMBER IN ORIGINAL]

COURT OF APPEALS OF MARYLAND

6 H. & J. 526; 1825 Md. LEXIS 34

JUNE TERM, 1825, Decided

DISPOSITION: [**1] JUDGMENT AFFIRMED.

COUNSEL: Brice, for the Appellant. The only question for the consideration of this court is, whether the petitioner who, it is by the pleadings conceded, was born after the death of Mary Ann Wood, but during the life of Ann Brown, is by virtue of the clause in the will of Mary Ann Wood, liberating the petitioner's mother at the decease of Ann Brown, entitled to his freedom? He cited *Hughes vs Negro Milly*, et al. 5 Harr. & Johns. 310. The act of 1809, ch. 171; and *Negro Jack vs Hopewell*, (ante 20, note.)

Brewer, jr. for the appellee, relied upon *Hamilton vs. Cragg*, (ante 16.)

OPINION

[*526] APPEAL from *Anne Arundel* county court. The appellant, on the 14th of June 1822, filed in that

court his petition for freedom, against the appellee, representing that *Mary Ann Wood*, on the 10th day of October 1800, made her will, in which is this clause: "My will and desire is, that all my negroes shall be free, except my negro woman *Nanny*; and my will is that she shall serve my mother, *Ann Brown*, during her life, and at her death my said negro woman *Nanny* to enjoy her freedom." This woman was the mother of the appellant. The appellant was born during the life [**2] of *Ann Brown*, and subsequent to the death of *Mary Ann Wood*, the testatrix, and claimed his freedom in virtue of the above clause in the said will. The defendant demurred generally to the petition; and the county court ruled the demurrer good, and gave judgment for the defendant. From that judgment the petitioner appealed to this court. The case was argued before BUCHANAN, Ch. J. EARLE, and STEPHEN, J.

JUDGMENT AFFIRMED.