



HANEY vs. WADDLE.

[NO NUMBER IN ORIGINAL]

COURT OF APPEALS OF MARYLAND

3 H. & J. 557; 1815 Md. LEXIS 27

May, 1815, Decided

PRIOR HISTORY: [**1] APPEAL from Baltimore County Court. This was a petition for freedom. At the trial the petitioner, (now appellee,) produced a witness, who proved that John Haney, the brother of the defendant, (now appellant,) wrote a letter to him from St. Mary's county in this state, where he resided, and sent it by the petitioner, who was then living in Virginia, where he was born and raised, and by whom it was delivered to the witness in the city of Baltimore, where the witness resided, sometime in the month of February 1810, and shortly after the said letter was written. The letter contained a request that the witness would keep the petitioner until he, John Haney, or his brother Samuel Haney, should arrive in Baltimore; and it also stated, that the petitioner was the property of his said brother, who was under age, and that he was the guardian of his said brother. That accordingly the witness did keep the petitioner in his service from that time for about two months and an half, when the defendant arrived in Baltimore from St. Mary's county, where he was bound in 1803 by his father, for seven years, to learn the business of a pilot, and where he then lived. That the defendant then called on the [**2] witness, and received the hire for the time the petitioner had been with the witness. That the defendant left the petitioner with Robert Long, his brother-in-law, who resided in Baltimore, and who some short time afterwards hired the petitioner to Joseph Nevitt, the captain and owner of the Alexandria packet, which sailed between Alexandria and Baltimore; that the said packet was licensed at the port of Alexandria, and the captain and owner resided and lived in Alexandria.

That sometime after the petitioner was so hired to Nevitt, he met with the defendant at Baltimore, who agreed that he, Nevitt, might keep the petitioner in his hire and service until the 17th of December 1810, and longer if he chose. That in consequence thereof Nevitt did keep the petitioner in his service until the 17th of December 1810, when being with him in his packet at Baltimore, he deserted and run away from him, and shortly after filed this petition for his freedom. The petitioner further proved, that he was born and raised in the state of Virginia, and was brought into this state from the state of Virginia in the manner herein before stated. The defendant then proved, that the petitioner was born the slave [**3] of the defendant's father, and was given to the defendant by his father, who always has resided, and still resides, in the state of Virginia. That the defendant arrived at the age of 21 years on the 13th of December 1810, at which time his apprenticeship expired; and has since followed his business as a pilot in the waters of the Chesapeake Bay, and was sometimes at Norfolk, sometimes at Alexandria, sometimes at St. Mary's, and sometimes at Baltimore, just as his business called him; was an unmarried man, and had no fixed place of residence. He then prayed the court to direct the jury, that if they believed the foregoing testimony, the petitioner was not entitled to recover. But the Court, [Nicholson, Ch. J.] was of opinion, and so directed the jury, that if they believed that the petitioner was born and raised in the state of Virginia, and continued to reside there until the month of February 1810, that he was then sent by the defendant, or with his consent and approbation, to

Baltimore, to be hired, that he was so hired and resided in Baltimore, and that the defendant himself was not a resident of this state, and did not move into this state for the purpose of residing here, that [**4] the circumstance of the defendant's being under the age of 21 years could not operate against the petitioner. That a minor had no other authority to import slaves into this state than an adult, and that neither the one nor the other had such authority, except in the special cases provided for in the several acts of assembly of this state, none of which embraced this case. The court therefore refused the defendant's prayer. The defendant excepted; and the verdict and judgment being against him, he appealed to this court, where the case was argued before CHASE, Ch. J. and BUCHANAN, EARLE, JOHNSON, and MARTIN, J. by

DISPOSITION: JUDGMENT REVERSED.

COUNSEL: Winder, for the Appellant; and by W. Dorsey, for the Appellee.

OPINION

[*558] THE COURT dissented from the opinion of the County Court, on the ground that a minor could do not act to affect his rights, nor could his guardian for him. That the guardian of a minor importing a slave, did not entitle him to freedom, nor did the assent of the minor, during his minority, give such title.

JUDGMENT REVERSED.