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Issue #1: *Hall v. Mullin*

[I am very honored to be one of the first projects posted to this journal. It is my hope that this article cleaves tight to Jerry Hynson's *ethos* of helping everyone understand the history of Maryland, and that it is a resource for others pursuing their own historical work. In particular, I aim to show how legal records neglect to record a great deal of life, and how we should read between the lines of legal archives. The first of a trilogy, this article aims to show how Black Marylanders defended their freedom prior to the Civil War. For the Mullin family, counterintuitively, this involved staying on good terms with their former enslavers.]

The 1819 case of *Hall v. Mullin* is an intergenerational drama between the Black Mullin family, and the white Hall family. The Mullins worked hard to extract their freedom from the Hall family, defending it despite some underhanded tricks by one of the later Halls. While the Mullins freedom wasn't perfect, they managed to carve out important self-protections, and productively leverage their relationship with the Hall family.

Our story starts in 1803, when Benjamin Hall freed Basil Mullin via testamentary manumission.[1] A manumission was when an individual slaveholder freed an individual enslaved person or group of enslaved persons.[2] Testamentary means that Benjamin Hall did this through his will. At the time of Benjamin's[3] death in 1803, three things were true: Basil Mullin was older than forty-five, Basil Mullin had a daughter, Dolly,[4] and Benjamin Hall's son inherited Dolly and bits of

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[1] *Hall v. Mullin*, 5 H. & J. 190 (Md. Ct. App. 1821).

[2] In contrast, an emancipation was when the whole society freed all enslaved persons. People sometimes use emancipation and manumission interchangeably. That's ok, but I will be using their precise definitions in this article.

[3] Since the following cases will involve numerous members of the same families, I will be using first names to keep everyone straight. I will refrain from cluttering things up with surnames unless there are multiples of the same given name (e.g. multiple Williams).

[4] The records also call her Doll and/or Mullen, but I will use Dolly Mullin since it is the name of record on the appellate case.

Benjamin's property. In 1810, this son, Henry Lowe Hall, sold Dolly to her father for £50 (~$5,200 in 2022), who immediately filed a deed of manumission to free her.[5]

The Mullins evidently lived quiet lives and stayed on good terms with the Halls. Basil Mullin set up his household on land directly adjacent to the Halls' farmlands. Henry Lowe Hall's 1817 will actually bequeathed to (the now free) Dolly "one hundred and forty-one acres of the land. . . adjoining the now dwelling house of Basil Mullen [sic]."[6] The land was to be Dolly's during her lifetime, then pass immediately to her son, the tellingly named Henry Mullin. Henry Lowe Hall also felt strongly enough to devise[7] to Dolly two enslaved persons named Aaron and Joan, a bay mare with colt, three milk cows, and two yearling cows.[8] The young Henry Mullin also received several direct bequests: a feather bed, four sets of sheets, two table clothes, all of Henry Hall's dishes, three milk cows, twelve head of sheep, the enslaved woman named Patey, a grey horse, and eight leather chairs. These were quite generous bequests, and two had everything they needed to support themselves.

However, trouble soon turned up. Henry Lowe Hall's executor[9] was his nephew, William A. Hall. Rather than give Dolly her goods, William sold everything.[10] Dolly evidently kept some land

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[5] Roughly calculated using online Consumer Price Index rates and currency conversion rates.

[6] *Hall v. Mullin* Trial Judgments at 18.

[7] When a will grants land or other forms of real estate, that's called a devise. A bequest is when a will grants personal property (essentially anything not land or big machinery) to someone. According to Maryland law, enslaved persons were real property, and therefore devisable.

[8] *Hall v. Mullin*, 5 H. & J. at 191.

[9] The person in charge of handling the will, making sure all the heirs received their inheritances, and closing out the deceased's debts and contracts.

[10] Dolly would later sue in chancery court for the value, but the case never proceeded beyond the pleadings state. *See Henry Mullen v. Benjamin H. Clarke & William A. Hall*, Chancery Court (Chancery Papers), MSA S512-9845.

because two years later, William (or his workers) cut down some 300 "oak, ash, and poplar" trees she had grown to sell as timber.[11] Dolly immediately filed a trespass suit against William, asking for £150-300 (~$14,500-30,000 in 2022) in damages.[12]

What does this have to do with defending one's freedom? Well, in order to avoid paying Dolly back, William argued that there could be no trespass because Dolly was a slave and therefore could not own the land at all. Hall's logic was simple: Basil was older than forty-five at the time of his manumission. He was therefore barred from freedom by a 1796 statute which banned the freeing any enslaved person older than forty-five or otherwise incapable of supporting themself.[13] Since enslaved persons could not legally own property, the never-manumitted Basil could never have owned Dolly much less freed her in 1810. As a slave herself, Dolly could not accept Henry Hall's bequests and devises as enslaved persons' property was all legally owned by their proximate slaveholder…one William A. Hall. Furthermore, as Henry's executor, William held legal control and disposition over the land and timber Dolly claimed, so there could be no trespass.

The Prince George's County court wanted nothing to do with this mess, and so immediately punted the case to the Court of Appeals.[14] In the beginning, the appellate court agrees with Hall. Basil's manumission was invalid, as he was too old for freedom. Furthermore, the sale itself was invalid. According to Maryland law, "all persons are prohibited to. . . commerce. . . with any slave

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[11] *Hall v. Mullin* Trial Judgments at 2.

[12] Dolly Mullin's initial complaint stated each destroyed grove was worth £50 (£150 total), but her later filings assess the value at £100/grove (£300 total).

[13] Maryland law assumed that anyone older than forty-five was somehow incapable of earning a living. *See Proceedings and Acts of the Maryland General Assembly, 1796*, Ch. LXVII, sec. XIII. Located in Archives of Maryland Online, Volume 105, page 249. <https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000105/html/index.html>.

[14] *Hall v. Mullin*, 5 H. & J. at 190 ("In order to bring the cause speedily before this court, where, let the decision of the county court be what it might, the case was only to terminate, a judgment *pro forma* was entered in favour of the plaintiff, subject to revision and determination of this court.")

without the leave" of the proximate slaveholder.[15] Since Henry and Basil did not have the posthumous consent of Benjamin, Basil could not claim any right to free his daughter under the bargain.[16] This double blow to Basil's abilities left Dolly's liberty on shaky ground.

However, Dolly (or her legal counsel) quickly turned the tables on William. Sure, they conceded, Basil's manumission was invalid and so Henry Hall's sale of Dolly to Basil was too. But would Henry Hall leave an enslaved woman so much stuff? The appellate court was deeply skeptical that Henry Hall would be foolish enough to leave such enormous bequests to someone incapable of receiving them.[17] After all, "her freedom by implication is indispensably necessary to give efficacy to [the bequests and devises].

This all seems rather straightforward: a would-be slaveholder accused Dolly Mullin of being a slave, she showed she wasn't, and therefore preserved her freedom. However, things are slightly more complicated than that. From a legal perspective, Hall was correct. Dolly's manumission wasn't valid, so Henry Hall might have just made a big mistake. Law frequently punishes people for their mistakes (or that of their lawyers). In many other cases, the court had invalidated manumissions because of slaveholders' mistakes.[18]

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[15] *Id.* at 193 (internal quotations omitted).

[16] It is not clear why the court is unwilling to code Henry Hall as Basil's owner. First, Henry Hall was Benjamin's sole executor, so he technically held ownership of Basil until his status was ironed out. Second, as one of Benjamin Hall's heirs, there is a good faith argument that Henry would have inherited Basil. Either way, the court ignores that Henry Hall would only need to consent with himself.

[17] *Id.* at 194-95.

[18] *See e.g. James v. Gaither* 2 H. & J. 176 (1807) (holding a manumission only had one of two required witness signatures because one of the witnessing persons was illiterate, and therefore signed with an "X"); *Bland v. Negro Beverly Dowling*, 9 G. & J. 19 (1837) (holding that a contract between slaveholder and enslaved person is invalid, as is any manumission promised under that contract); *Proceedings and Acts of the General Assembly, 1796*. (Annapolis: Frederick Green 1797) Vol 105, ch. 67., sec. 29. p. 255. Accessed via Maryland State Archives <http://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000105/html/am105--255.html> [accessed 10 Feb. 2025]. This law invalidated any manumission made at the prejudice of creditors. What this means is that if a decedent tried to free their enslaved persons through their will, those manumissions could only occur if the decedent's debts could be paid off *without* selling the enslaved persons. So, if a slaveholder didn't watch their spending, any attempted manumissions would not go through.

Dolly's success likely comes from two separate factors. First, her relentless self-advocacy. In many of the other bad manumission cases, the enslaved persons are not represented in the case. Usually, it's just two or more heirs battling about the deceased's property. That was by design. Black Americans were barred from serving on Maryland juries, could not testify against any white person, and enslaved persons could only filed freedom suits, which were lawsuits to prove the plaintiff was unlawfully enslaved.[19] Dolly was lucky to have standing to sue William. From there, she possessed the money, reputation, and energy to actively protect herself and her freedom.

Simply having enough money, land, or work to be self-sufficient was also a protection in its own right. Maryland's vagrancy laws permitted those without identifiable or recognized employment to be fined, imprisoned, and put to work in the state penitentiary.[20] This meant anyone who was out of seasonally out of work, who had been laid off, or whose employer had collapsed. If one turned to crime to survive, Black (and only Black) Americans convicted of certain felonies could be enslaved for 3-14 years.[21]

Poverty (real or imagined) also endangered the freedom of Black children. Apprenticeship was a system in which children (white and Black) were bound to serve a particular "master." This was a contractual arrangement in the child worked for the master in exchange for room, board, and learning a trade. This could be anything from domestic work, to gunsmithing, carpentry, farming, or being a waiter. Children served their "indenture holder" until the age of 21 (for boys) and 18 (for girls).

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[19] These took many forms, such as a promise of freedom that had gone unfulfilled, an executor dragging their feet on fulfilling testamentary manumissions, or a free Black person kidnapped into slavery.

[20] Seth Rockman, *Scraping By: Wage Labor, Slavery, and Survive in Early Baltimore* 43 (2009).

[21] AN ACT to modify the punishment of free negroes, convicted of Larceny and other crimes in this State, Mar. 10 1858, *General Assembly (Laws)*, 1858, MdHR 820935-1, 2/2/6/18

Apprenticeships could often be a path to a better life; skilled artisans could make a good living plying their trade and all apprentices supposedly learned marketable job skills. However, indenture holders held great power over their apprentices. They could "discipline" their apprentices as they saw fit (often involving corporal punishment), sell the apprentice to another indenture holder (even if it meant the apprentice had to start learning a different trade), and parents had little formal power to influence their child's upbringing.

Unsurprisingly, apprenticeship disproportionately targeted Black families. According to Maryland law, Black children whose parents were considered "lazy, indolent, and worthless" could be bound out as apprentices, even without their parents' consent.[22] There was no equivalent for white families. While anyone trying to apprentice a Black child was required to show that the parents were "paupers," "vagrants," or otherwise unable to support the child, there are many instances were indenture holders just stole a kid who looked poor.

For example, a man named Thomas Knighton managed to apprentice a 5-year-old Black girl named Elizabeth Smith, claiming she was being left home alone.[23] Ignoring the very real possibility that Smith's parents were simply at work, he claimed she was abandoned and convinced a court to bind her as an apprentice. It took over a month before Elizabeth's mother, Susan Smith, managed to find out, much less file a lawsuit to recover her daughter. While Susan Smith managed to rescue her

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[22] An Act, Entitled a Further Supplement to An Act for the Better Regulation of Apprentices, Nov. 1808. Clement Dorsey, *The General Public Statutory Law and Public Local Law of the State of Maryland: From the Year of 1692 to 1839 Inclusive, with Annotations thereto, and a Copious Index*, 294; An Act Authorizing the Judges of the Orphans' Court to Bind Out Children of Free Negroes and Mulattoes, 1818,
Ch. 189; Clement Dorsey, *The General Public Statutory Law*, 697; An Act to provide for the better regulation of the Free Negro and Mulatto Children within this state, Mar. 1840. *General Assembly* (Laws), 1839, MdHR 820921-1, 2/2/6/15.

[23] *Petition of Susan Smith, 27 Nov. 1852*, Anne Arundel County Register of Wills, Petitions & Orders (1840-1851), MSA C122-4 at 532-4.

daughter, the speed and ease with which Knighton kidnapped a little girl show it was dangerous for Black Marylanders to be (or even look) poor during this era.

The Mullins' long relationship with the Halls becomes more understandable. The Halls represented a form of material security. By living next door to the Halls, Basil and Dolly had a relatively safe source of employment. Basil was a skilled carpenter, and he had roughly fourteen other souls living in his household. The Hall farmlands would need labor every season, while fences, home fixtures, and furniture would all need built or repaired. The wages from this work would both provision the family, but also insulate them from charges of vagrancy, or attempts to apprentice their children under "more productive" guardians.

Dolly's profession is not clear from the record. Henry Hall's will evidences that she would have known how to manage enslaved persons and keep livestock, and she certainly owned productive timber groves. These bequests would have set up Dolly and Henry Mullin to be self-sufficient. From there, careful management and some luck would have kept them comfortable by the day's standards.

While it's not clear why Henry Hall was so generous to Dolly Mullin and her son, Henry Mullin, it's possibly because the Mullins had worked so hard, for so long, to cultivate good relations. By being helpful, they managed to avoid the South's usual suspicion of free Black persons, and earn some goodwill from a prominent family. It's also possible that Henry Hall was the father of Henry Mullin (as evidenced by his name, the bequests, and the fact Henry Hall had no direct, white, male heirs). While slaveholders did not frequently acknowledge the children they fathered to enslaved mothers, it's possible the bequests were Henry Hall's attempts to protect his son. What is clear is that the Mullins expended a great deal of time and effort to shore up their material security and liberty.

Admittedly, it's strange to think about this method of self-protection. We would expect that freedpersons would try to get as far away from their former slaveholder as possible. To establish

separate lives and be fully, truly, *free* of their former enslavers. This doesn't necessarily mean a distant move. Friends, family, and community had their own gravity, keeping freedpersons in the neighborhood.[24] While that meant continued proximity to former enslavers, it also meant freedpersons had plenty of help and options when it came to finding new lodgings, work, and help.

The Mullins demonstrate a different path. By building a new type of relationship with their former enslavers (or evolving the old one), the Mullins built steady work into their lives, and the fortunate grant of resources. In doing so, they built a life for themselves, and protected themselves from both would-be slaveholders and the coercive labor forms used to "alleviate" poverty.

[24] *See* Melvin Patrick Ely, *Israel on the Appomattox: A Southern Experiment in Black Freedom from the 1790s Through the Civil War* (2004)*;* Christopher Phillips, *Freedom's Port: The African American Community of Baltimore, 1790-1860* (1997)*;* Anthony E. Kaye, *Joining Places: Slave Neighborhoods in the Old South* (2007).