IN PURSUIT OF FREEDOM: SLAVE LAW AND EMANCIPATION IN LOUISVILLE AND JEFFERSON COUNTY, KENTUCKY

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The lives of both free and enslaved African-Americans were constrained to varying degrees by the powerful and paradoxical role of race in antebellum American society. According to Michael Omi and Howard Winant, this role was a consequence of the institutionalization of the United States as a "racial state," a nation in which racial classification was a more important determinant of status than either socio-economic class or gender.[1] In practical terms, this meant that "blackness" was considered prima facie evidence of slave status, that only persons of African descent were subject to the "social death" of slavery, and that, even if free, they were still black, and the visible marker of their Africanness consigned them to a place marginal to the American mainstream.[2] In this context, the journey

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[1] Michael Omi and Howard Winant, *Racial Formation in the United States* (New York: Routledge and Kegan Paul, 1986).

[2] Winthrop D. Jordan, *The White Man's Burden: Historical Origins of Racism in the United States* (New York: Oxford University Press, 1974), 37-54; Orlando Patterson, *Slavery and Social Death* (Cambridge: Harvard University Press, 1982).

from the "social death" of slavery to the full enjoyment of freedom—such as African-Americans or their ancestors last experienced in their home African societies—was long, arduous, and, even now, remains unfinished. However, a careful reading of historical literature that reflects the perspective of African-Americans themselves indicates that there were several crucial milestones on this journey toward which the aspirations and efforts of African-Americans were directed: first, to maximize the freedom and human dignity possible within the confines of slavery; second, to become free—whether through legal or illegal means; and third, ultimately to achieve full equality and empowerment as free people in this country or, failing that, elsewhere.[3]

As Frederick Douglass observed, for enslaved African-Americans trapped in the most horrendous and degrading circumstances, simply finding a "good master" or a less demanding work regimen or both was often viewed as a dramatic improvement in status.[4] Unfortunately, for most, this first milestone was never reached; for the fortunate few, even this limited improvement was achieved at great cost over long years and was the best they could hope for in one lifetime. However, while escaping the most egregious evils of slavery was clearly desirable, slavery was still slavery, and freedom remained the ultimate goal. That the achievement of freedom was not an end in itself but only the beginning of another struggle for equality and empowerment did not lessen its attractions. Freedom was still preferable, by far, to bondage. It was for this reason that efforts by whites to ameliorate the conditions of slavery invariably failed to reduce the

[3] John Hope Franklin and Alfred A. Moss, Jr., *From Slavery to Freedom: A History of African-Americans* (New York: McGraw-Hill, 1994), 148-70.

[4] Frederick Douglass, *The Life and Times of Frederick Douglass* (New York: MacMillan, 1962; reprint of 1892 edition), 95-144.

likelihood of escape or revolt—and often made these responses more likely.[5]

In this broad context, there were several paths to the milestone of freedom in the antebellum period and each of these paths warrants careful analysis. As a general rule, African-Americans would choose the path of least resistance and minimum risk—whenever possible. Such paths, of course, were few and—because they were legal and depended on the good faith, if not the good will, of whites—were closed to most enslaved African-Americans. Such paths were important nonetheless, and all were traveled to varying degrees at various times by African-Americans in Kentucky. Thus, it is appropriate to complement the previously published account of illegal routes to freedom with an analysis of how African-Americans in Louisville and Jefferson County pursued and achieved freedom through legal means during the antebellum period.[6]

Slave Law and Emancipation

Until the ratification of the Thirteenth Amendment to the United States Constitution on 18 December 1865, the presumptive status of all African-Americans in this country was that of "slave." However, not all African-Americans were enslaved. An African-American could be born free—to free African-American parents

[5] Alan G. Cobley and Alvin Thomson, eds., *The African-Caribbean Connection: Historical and Cultural Perspectives* (Bridgetown, Barbados: University of the West Indies, 1990), 1-27; David B. Davis, *Slavery and Human Progress* (New York: Oxford University Press, 1984), 51-82; Herbert S. Klein, *African Slavery in Latin America and the Caribbean* (New York: Oxford University Press, 1986), 10-12.

[6] J. Blaine Hudson, "Crossing the Dark Line: Fugitive Slaves and the Underground Railroad in Louisville and North-Central Kentucky," *Filson History Quarterly* 75 (2001): 33-83.

or to a white mother. Furthermore, an enslaved African-American could become legally free in only five ways:

1. Emancipation by executive order or proclamation, such as, the Emancipation Proclamation, effective 1 January 1863.
2. Emancipation by congressional action, such as, the ratification of a constitutional amendment abolishing slavery in a state, territory, or the nation, such as the Thirteenth Amendment as noted above or the Northwest Ordinance (1787).
3. Emancipation by state legislative action, such as, the abolition of slavery in northern states.
4. Emancipation by a slaveholder by the issuance and certification of a "deed of emancipation."
5. Emancipation by a will or other private action recognized by the law.[7]

The key to understanding slave emancipation was the simple fact that enslaved African-Americans could not legally free themselves. Rather, white Americans set the terms and conditions under which freedom could be granted.

Kentucky law regarding the status of enslaved and free African-Americans evolved from precedents in the "Black Laws" of Virginia. The first Kentucky constitution, despite strong antislavery opposition led by Father David Rice, established the institution of slavery in the commonwealth.[8] Through Article IX and a 1794 statute, slaveholders were permitted to emancipate their slaves and, initially, free people of color occupied a legal status comparable, at least in theory, to that of whites. For example, free people of color were not expressly denied the rights to vote, bear arms, serve in the militia,

[7] Leonard P. Curry, *The Free Black in Urban America, 1800-1850: The Shadow of the Dream* (Chicago: University of Chicago Press, 1981), 1-14.

[8] *Kentucky Constitution* (1792), Article IX.

or defend themselves against attacks from whites.[9] However, as the frontier moved westward and Kentucky settlements became more secure, this relative equality was soon eliminated.

The comprehensive 1798 law concerning slaves, free Negroes, mulattoes and Indians and the second Kentucky constitution created an essentially intermediate status between slavery and freedom for free people of color.[10] Through these and later provisions, free African-Americans were recognized as having the right to marry, have families and pass their free status to their children, to own, inherit, and bequeath property—subject to some limitations on their rights to freedom of association, assembly, and movement. However, the rights to vote, bear arms (except under "frontier" conditions), and self-defense evaporated, and in most other respects, free people of color became subject to the same laws that regulated the lives of slaves.[11] Additional limitations were often imposed by county and municipal enactments which, for example in Louisville, barred free people of color from obtaining licenses to engage in a host of occupations.[12]

The 1798 slave code and 1799 constitution also defined more clearly the right of slaveholders to emancipate enslaved African-Americans and the conditions by which emancipation could be

[9] Edward M. Post, "Kentucky Law Concerning Emancipation and Freedom of Slaves," *Filson Club History Quarterly* 59 (1985): 345; Juliet E.K. Walker, "The Legal Status of Free Blacks in Early Kentucky, 1792-1825," *Filson Club History Quarterly* 57 (1983): 384-86.

[10] William Littell, ed., *The Statute Laws of Kentucky* (5 vols.; Frankfort, 1808), 2:113-23; *Kentucky Constitution* (1799), Article VII.

[11] *Kentucky Digest: 1785 to Date, Covering Cases from State and Federal Courts* (St. Paul: West Publishing Company, 1953), 17: 361-84; Walker, "Legal Status," 387-88.

[12] Oliver H. Stratton and John M. Vaughn, *A Collection of the State and Municipal Laws in Force and Applicable to the City of Louisville* (Louisville, 1857), 336-37.

effected. These and successive acts permitted slaveholders to free slaves, subject to the rights of creditors, provided that the freed persons did not become an economic burden to the community or state. Because the presumption of slave status applied generally to all African-Americans, freed persons of color were required to have proof of their free status. Thus, beginning in 1798, emancipated African-Americans were required to obtain a "certificate of freedom" (a deed of emancipation or "free papers") from the clerk of the county court on parchment, witnessed, and with an official seal. This act was modified in 1800 to allow emancipation by a will or by documents without seal or witnesses, although wise free persons of color would take pains to ensure that the will or document in question was duly entered in the records of their home county. To prevent free people of color from "loaning their free papers" to fugitive slaves, this act was modified further in 1823 to require that emancipated African-Americans appear in court and have their physical description—sex, age, weight, height, color, distinguishing marks, or scars—recorded as well.[13]

Both public and private white attitudes toward free people of color in Kentucky were decidedly ambivalent, and this ambivalence also found its way into the law. For example, fearing the migration of free African-Americans from the northern states where slavery had been abolished, the General Assembly passed a law in 1808 which prohibited the migration of free people of color to Kentucky. Persons found in violation of this statute were required to quit Kentucky within twenty days or be sold into slavery.[14]

Beyond these conflicting tendencies, existing laws were not enforced consistently over time. Only in the 1850 constitution did the

[13] Post, "Emancipation and Freedom," 346; *Kentucky Digest*: 17: 376-82.

[14] C.S. Morehead and Mason Brown, eds., *A Digest of the State Laws of Kentucky* (Frankfort, 1834): 2: 1219-1221.

state require that emancipated slaves leave Kentucky and not return, but how consistently this provision was enforced is open to question as well.[15] In essence, the state constitution and statutes gave Kentucky authorities tools (or weapons) which could be used, or not used, as and when they wished.

Enslaved African-Americans could also be freed by wills, and numerous antebellum wills recorded in Jefferson County contain references to emancipation. For some early Kentuckians, enslaved African-Americans were their most valuable property. For others, slave property was only one portion of a much more extensive estate. If the number of heirs were small or the intentions of the wills were simple and direct, even a large estate might produce a very simple and concise document or none at all. The wills of many slaveholders mentioned slaves as a species of property. In others, slaves were not identified by name but were subsumed under the umbrella category of "estate" or "property"; a will that did not mention slave property specifically was not necessarily the will of a nonslaveholder.

When a slaveholder died intestate or made a will that bequeathed the entirety of the slave property to one person, one might know only that enslaved African-Americans were part of the estate; by consulting tax records or estate inventories, one could determine the size of their slaveholding. On the other hand, if slave property were to be divided or some enslaved African-Americans were to be manumitted or receive some special consideration or gift, those African-Americans would probably be mentioned by name and sex, often with a rough indication of their age. These documents, in some cases, also provide insight into the "occupations," naming practices, and family and other relationships of enslaved African-Americans.

[15] *Kentucky Constitution* (1850), Article X; Gertrude Pettus, "The Issue of Slavery in the Kentucky Constitutional Convention of 1849-1850" (MA thesis, University of Louisville, 1941), 29-31.

Ironically, while limiting migration to the state, the laws allowed emancipation within the state, and so one segment of Kentucky's middle-and upper-class white population could create the "problem" which another segment was attempting to solve.

Primary Sources: Analytical and Interpretive Framework

Given this background, the very body of laws and procedures associated with slave property and slave emancipations created a rich vein of largely unexamined historical evidence. However, there are no primary-source repositories for these records as such. Rather, slave emancipations by court order or will are scattered throughout thousands of pages of county records—as are other references to African-Americans unrelated to emancipation. As with so many emancipation and other legal actions over roughly eighty years of antebellum history, it is crucial to describe and analyze general patterns in the data—supplemented with an examination of particularly illuminating cases.

As noted above, Kentucky law required certain facts in court documents and wills pertaining to African-Americans. In reviewing these documents, this limited factual information can be extracted and analyzed. Consequently, two databases were constructed. The first contains pertinent information from all available 798 entries in antebellum Jefferson County Court Order Minute (COM), Books 1-23 that referred to African-Americans. Along with variables noting the location of each record, variables identifying the African-American (name, sex, age, "color") subject to a particular court action (emancipation, apprenticeship, criminal case) were encoded as well. The second database contains a distillation of the information from 479 antebellum Jefferson County wills in will books 1-5 that made some reference to slave property. As with the first database, variables necessary to identify and facilitate the location of each entry were

included, as were variables reflecting the types of bequests or directives of each will.[16]

Since free people of color enjoyed the status of "persons" under the law, they too could make wills, have apprentices bound over to their care, and own and emancipate other African-Americans, usually family members. Because of this, some of these records not only pertained to African-Americans but were also created by African-Americans. These references constitute a small but important, subset of each database.

Every effort was made to ensure both the accuracy and comprehensiveness of these master databases which supported this analysis. However, some records of a given series were often incomplete or missing. Notwithstanding these limitations, the databases permitted the enumeration of records pertaining to African-Americans—of which emancipation actions represent a large majority in the court order records and a significant minority in the records of wills—and some analysis of trends, characteristics, and patterns using the statistical analysis capabilities of SPSS-X.[17]

A total of 798 entries referencing African-Americans were identified in Jefferson County Court Order Minute (Books 1-23, 1780-1862). As indicated in Table 1 below, 509, or roughly

[16] These indices are available at the Jefferson County Historic Preservation and Archives in Louisville, Kentucky.

[17] SPSS Base 9.0 (Chicago: SPSS, Inc., 1999). Data were analyzed with this widely used statistical-analysis computer software for social science research. To avoid needless complexity, the key "numbers" in the statistical tests reported are those related to probability (the "p"). If a relationship between any two variables could occur by chance less than five percent of the time, that relationship would be considered statistically significant at the .05 level of confidence—$p<.05$. The lower the probability, the stronger the relationship and the less likely it could occur by chance; $p<.01$ represents a stronger relationship than $p<.05$, one that had a very low probability of occurring by chance.

two-thirds (63.8 percent) of these entries concerned the issuance of deeds of emancipation.

TABLE 1
REFERENCES TO AFRICAN-AMERICANS
IN JEFFERSON COUNTY COURT ORDER MINUTES
BY TYPE OF ENTRY OR ACTION

Type of Action/Entry	*Number*	*Percent*
Deed of Emancipation	509	63.8
Certification of Free Status	134	16.8
Appointment of Guardianship	33	4.1
Prosecution for Illegal Migration	37	4.6
Proof/Affidavit of Ownership of Fugitive Slave(s)	23	2.9
Other Petition or Motion	26	3.3
Other	10	1.3
TOTAL	798	

The chronological distribution of entries reflects changes in the law, population growth, and the more complex social dynamics of Louisville and Jefferson County over time. There is a less than one percent probability that this chronological distribution could have occurred by chance (Chi-Square(N=798) = 1090.53, $p < .01$). For example, no criminal cases were recorded after 1818 because responsibility for handling crimes committed by enslaved and free African-Americans was transferred to the jurisdiction of various levels of the criminal court system. In contrast, only forty-nine deeds of emancipation were recorded before 1830 when Louisville was still a comparatively small town. However, while the African-American population of Jefferson County was much larger during this early period (for example, in 1820 there were 4,853 African-Americans in

Jefferson County compared to 1,124 in Louisville), few African-Americans were free, and acts of emancipation were rare. Furthermore, a single act often manumitted several African-Americans—members of the same family (a mother and her children) or unrelated individuals. Consequently, the total number of African-Americans affected by these actions was far greater than the total number of slaveholders inclined to act through the county court.

Once Louisville grew into a major river town and, somewhat later, a rail center, both the African-American population and the proportion of free people of color in the population grew as well. For example, the representation of free people of color in Louisville's black population increased from only 5.7 percent (232 of 4,049) in 1830 to 22.1 percent (1,538 of 6,970) in 1850.

TABLE 2
SLAVE EMANCIPATION ACTIONS IN JEFFERSON COUNTY BY DECADE

Decade	*Number*	*Percent*
1780–1789	0	0.0
1790-1799	1	0.2
1800–1809	0	0.0
1810–1819	10	2.0
1820-1829	38	7.5
1830-1839	153	30.1
1840-1849	146	28.7
1850–1859	154	30.3
1860-1862	7	1.8
TOTAL	509	

The available records support a partial description of the emancipated population by sex, color, and age. Ages were often unknown or

missing from the records, particularly if children were included in an act that emancipated them and their parents. The "color" references are based on how African-Americans were described in the texts of the emancipation acts.

TABLE 3
DESCRIPTION OF AFRICAN-AMERICANS
REFERENCED IN JEFFERSON COUNTY COURT
ORDER MINUTES, 1785-1862

Criterion	*Number*	*Percent*
Sex		
Male	423	53.5
Female	367	46.5
Unknown/Missing	8	1.0
Age		
Under 10 years	44	5.5
10-19	67	8.4
20–29	80	10.0
30–39	46	5.8
40-49	28	3.5
50-59	15	1.9
60 and older	5	.6
Unknown/Missing	513	64.3
"Color"		
Black	99	12.4
Mulatto	149	18.7
Unknown/Missing	550	68.9

As noted previously, the law did not require the inclusion of descriptive information in emancipation records until 1823. The following examples illustrate the characteristic format of such early

entries and how the emancipation process was controlled by whites. The original spelling and syntax have been retained.

> A bond from Mark Bryan and Jacob Shreader senior to the Commonwealth, to keep Judy, Nancy and Abraham persons of Color, emancipated by the said Mark Bryan from becomming [*sic*] chargeable to this or any other County of this state, was proved by Worden Pope a witness thereto & ordered recorded.[18]

> A deed of emancipation from Martha J. Terrell to Ben A. Sawyer produced in Court and proved by the oaths of Mathew Love and Robert N. Miller.[19]

> A deed of Emancipation from James Overstreet to negro man Moses was acknowledged in Court by said James & ordered recorded, and the Court requires no security of Overstreet under the law regulating the emancipation of slaves.[20]

> A deed of emancipation from William C. Barker to his late slave Esther Sabb was produced in Court and proved to be the act and deed of the said Barker by the oaths of Benjamin E. Payne and Isaac H. Tyler subscribing witnesses thereto and ordered to be recorded—and the Court adjudged that security in said case was unnecessary and should not be required to prevent the said Esther Sabb from becoming chargeable to this County.[21]

[18] Jefferson County Court Order Minute Book (hereafter COM), 9: 155 (10 October 1810).

[19] Ibid., 11: 159 (13 March 1815).

[20] Ibid., 12: 245 (11 January 1819).

[21] Ibid., 13: 44 (10 September 1821).

> Deed of emancipation from John Ketchum and Company to George Murray was produced in court by said Murray & ordered to be recorded.[22]

Even after 1823, court records often noted that such information had been incorporated in the language of the deed of emancipation itself. For example:

> A deed of emancipation from Francis A. Moore executor of the estate of William Taylor, deceased, to Sarah a woman of color was produced in Court and acknowledged by the said Moore to be his act and deed, and ordered to be recorded, and the said Sarah being in Court is found to be correctly described in said deed and the Court does not require any security of the said Sarah.[23]

> A deed of emancipation from Theresa Webb to Elizabeth was this day produced in Court and acknowledged and delivered by said Theresa to be her act and thereupon said Theresa executed bond with Alfred Harris her security conditioned that said Elizabeth shall not become chargeable to this Commonwealth, and said Elizabeth being in Court is found to be described correctly in said deed which was ordered to be recorded.[24]

African-American females were more likely than males to be emancipated by their owners (Chi-Square (N=790, df=8) = 49.16, $p < .01$). In reviewing the texts of the deeds themselves, it is also clear that African-American females were more often freed in groups,

[22] Ibid., 13: 283 (9 June 1823).
[23] Ibid., 17: 214 (5 July 1836).
[24] Ibid., 21: 477 (7 June 1856).

while African-American males were most often freed as individuals. Although such cases are numerous, a few examples will illustrate both this pattern and the format of more descriptive record entries—which often describe African-Americans as though they were livestock.

> A deed of emancipation from James Semple to his negro man slave named Jerry was acknowledged by the said Semple and ordered to be recorded and the Court released the said Semple from giving security that the said Jerry will not become chargeable to the County. And the said Jerry is as the following described, a bright mulatto man about thirty years old, about five feet ten inches high, well built. The first joint of the fore finger of the left hand cut off, a small scar on his forehead.[25]

> A Deed of emancipation from Lloyd D. Addison to Moses a negro about five feet ten or eleven inches high aged about thirty two years of black Complexion, a scar on his right hand running up and down was produced in Court.[26]

> A deed of emancipation from Robert Wickliffe to Basil (called Basil Smith) was produced in Court and proved by the oaths of Amos Throckmorton and William T. Pettet, subscribing...and the said Basil being in Court is found to be of the following description to wit—about fifty five years of age, black complexion, about six feet high, a scar between and near the left eye, and upper part of the nose & spare built—and

[25] Ibid., 15: 7 (3 July 1827).
[26] Ibid., 15: 326 (3 May 1830).

> the Court requiring it, the said Basil gave bond with Jerry Wade, his security in the penalty of five hundred dollars, conditioned according to law.[27]
>
> A deed of Emancipation from Samuel Casseday to Jefferson was produced in Court and acknowledged and delivered by said Casseday and ordered to be recorded and said Jefferson being in Court is found to be described thus, about forty-five years old, black complexion, heavy set, about six feet high, weighs about 195 pounds and has a large scar on the right side of the forehead from a burn.[28]

Consequently, while gender could usually be inferred from names, age and color were missing more often than not. Still, since it is reasonable to assume that both inclusions and omissions were random after 1823, it is likewise reasonable to treat the population for whom such information was available as a representative sample of the whole.

As noted, African-American females were quite often freed with their children and other family members, and their children were more likely to be girls. Although males were a majority in the total slave population, females were a majority both in the urban slave population[29] and in the free-black population.[30] Local patterns were consistent with these national trends as indicated by the following examples.

[27] Ibid., 17: 293 (2 April 1837).

[28] Ibid., 21: 475-76 (5 June 1856).

[29] Richard C Wade, *Slavery in the Cities* (New York: Oxford University Press, 1964): 23-25.

[30] Curry, *Free Black*, 3-13.

A deed of emancipation from Levi Tyler and Samuel Gwathmey trustees and Executors of the will of Matilda Maupin deceased to the following Slaves which the said Matilda directed by her will to be purchased and emancipated to wit...Eliza and her four children, George, Fairfax, Matilda & Thomas, Alice & her son John...Eliza a bright mulatto woman about 34 years of age of the common size—rather inclined to be fleshy—has a mole on the left cheek a small distance from the top of her nose...George a bright mulatto boy aged fourteen years the 22 day of February 1831—four feet eleven and one half inches high—has a scar between his eyebrows...Fairfax (commonly called Fax) aged thirteen years this 17th January 1831 a dark mulatto boy four feet eight inches high—Matilda a dark mulatto girl aged seven years May the first 1831—four feet high—has a scar immediately at the top of her forehead...Thomas or Tom a dark mulatto boy aged four years August the 31st 1831 three feet two inches high—has a large scar on the outside of his right waist.[31]

A deed of emancipation from Lucy F. Speed to Sally and her child Harrod was this day produced in Court and proved by the oaths of James Speed & Philip Speed the subscribing witnesses thereto, ordered to be recorded, and the said Sally and Harrod being in Court are found to be correctly described in said Deed, and the said James with Philip his security executed two bonds in the penalty and with the condi-

[31] COM, 15: 453 (7 June 1831).

tions required by law.[32]

> A Deed of Emancipation from Samuel Maxwell to Sandra and her two children Clermont and Isaac was this day produced in Court and acknowledged and delivered by said Maxwell to be his act and deed which is ordered to be recorded.[33]

The proportion of "mulattoes" (including "quadroons" and "octoroons") in the African-American population was usually underestimated—since mulattos were often considered "living proof" of the sexual depravity of the slave system. Thus, census and other official records indicated that roughly ten percent of the slave population and roughly one-third of the free-black population were racially mixed. On the other hand, travel accounts, slave narratives, and the personal observations of southerners themselves suggest that the racially hybrid subgroup was a far larger segment of both the enslaved and free African-American populations. Clearly, local patterns seemed to follow the "unofficial" record, as African-Americans of mixed ancestry were overrepresented among those granted deeds of emancipation (68 of 129—52.7 percent). This fact may explain something of the unbalanced sex ratio. Some of the African-Americans emancipated were the children of slaveholders and the mothers of those children in many African-American "households." The father was white—and missing.

Sex was related to emancipation in yet another respect. Women had limited rights of property ownership through much of the antebellum era. However, while most slaveholders were male and males tended to own more slaves, many of the early local male slaveholders, such as the Bullitts, Croghans, Hites, and others, divided their

[32] Ibid., 19: 44 (3 February 1845).
[33] Ibid., 23: 34 (24 July 1859).

original estates at their death and, in so doing, bequeathed small to moderate numbers of enslaved African-Americans to their female relations. These women, in the succeeding generations, were less likely to "need" many slaves and more likely than men to emancipate some or all of their slaveholding. For example, women initiated 367 (46.5 percent) of all court actions, but were responsible for 261 (52.1 percent) of all deeds of emancipation (Chi-Square(N=790, df=8) = 49.16, $p < .01$). As suggested by the language of numerous wills, many of these acts of emancipation were probably rewards for "faithful" domestic service.

Beyond these general patterns and examples, some cases were particularly noteworthy. As mentioned previously, many of the leaders and builders of the local free African-American community were emancipated slaves. For example, on 7 July 1835, Samuel Wells freed "David called David Merriwether his negro man."[34] Similarly, James Henning freed Kessiah Carter on 14 August 1858.[35]

These individuals and their families would become fixtures in the community for generations. Another such action concerned the manumission of the founder of the only significant antebellum African-American settlement in Jefferson County (which became the Newburg/ Petersburg community of the present era).

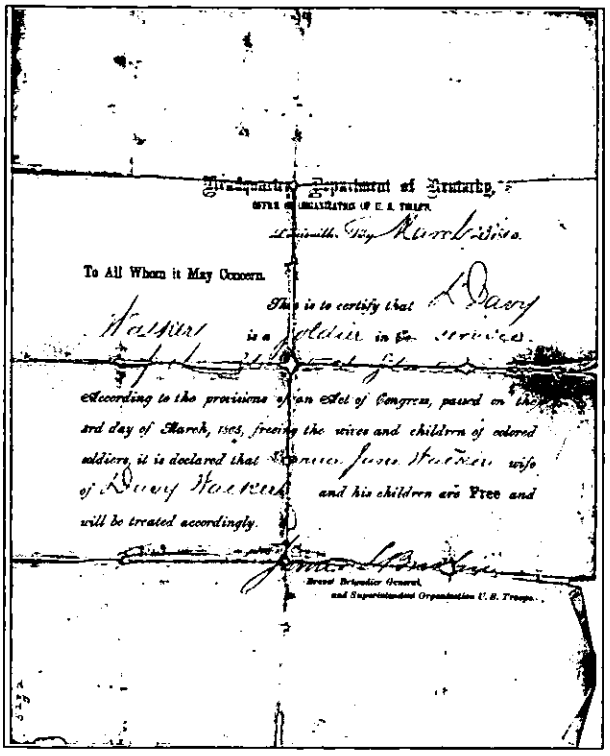
> A Deed of Emancipation from Thomas D. Hundley to Eliza called "Eliza Hundley" was produced in Court and acknowledged by the said Thomas D. Hundley to be his act and deed and ordered to be recorded a Correct description of the said Eliza being contained in the said deed. A majority of the Court not requiring security of her.[36]

[34] Ibid., 17: 87 (7 July 1835).
[35] Ibid., 19: 348 (14 August 1858).
[36] Ibid., 16: 254 (1 July 1833).

Yet another interesting emancipatory act concerns the disposition of the slave property of Dr. John Croghan. As owner of Mammoth Cave, Croghan owned the slaves who conducted much of the early exploration and mapping of the cave and served as guides for visitors. The best known of these guides was Stephen Bishop. Croghan's will freed Bishop and his other slaves several years after his death—on the condition that they emigrate to Liberia. However, the references to Bishop, his wife (who was originally a slave at Locust Grove) and, presumably, their son make no mention of Liberia:

> It is ordered certified that Stephen Bishop who has been this day by deed duly recorded emancipated by J.R. Underwood Trustee of the will of John Croghan deceased is 5 feet 10 inches high, light mulatto, 39 years of age, long curly hair, 2 scars on his forehead, weighs about 160 pounds.[37]
>
> It is ordered certified that Charlotte Bishop who has been this day by deed duly recorded emancipated by J.R. Underwood Trustee of the will of John Croghan deceased is about 29 years of age, about 5 feet high, dark brown Complexion and compactly built.[38]
>
> It is ordered certified that Thomas Bishop who has been this day by deed duly recorded emancipated by J.R. Underwood Trustee of the will of John Croghan deceased is about 13 years old and light brown Complexion.[39]

[37] Ibid., 21: 393-94 (4 February 1856).
[38] Ibid.
[39] Ibid.



To All Whom it May Concern.

This is to certify that Davy

is a Soldier in the

according to the provisions of an act of Congress, passed on the

3rd day of March, 1865, freeing the wives and children of colored

soldiers, it is declared that [illegible] wife

of Davy [illegible] and his children are Free and

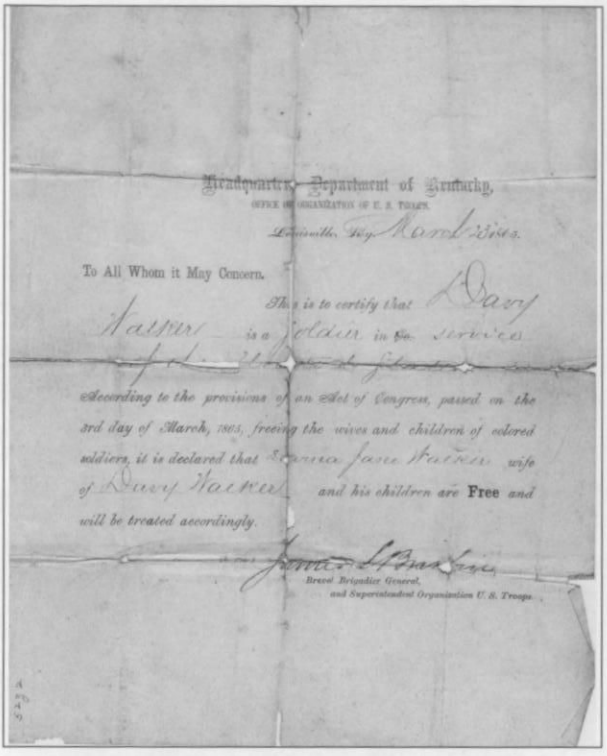
will be treated accordingly.

Davy Walker's emancipation, 1865 Filson Historical Society

Other Actions

Although deeds of emancipation compose the bulk of the court entries concerning African-Americans, several other types of actions were recorded as well. Two types related directly or indirectly to emancipation or freedom achieved as a consequence of emancipation. For example, 134 (16.8 percent) free African-Americans felt the need to have their free status certified by the court.[40] Such a step was often considered necessary by free-born African-American children whose parents may have possessed "free papers" but who possessed none themselves. When such children "came of age" or chose to relocate, having their freedom proved and duly recorded in court and

[40] See COM, books one through twenty-three.


Headquarters Department of Kentucky,
OFFICE OF ORGANIZATION OF U. S. TROOPS.
Louisville, Ky. March 28th 1865.

To All Whom it May Concern.

This is to certify that Davy Walker is a Soldier in the Service of the United States

According to the provisions of an Act of Congress, passed on the 3rd day of March, 1865, freeing the wives and children of colored soldiers, it is declared that Emma Jane Walker wife of Davy Walker and his children are Free and will be treated accordingly.

James S. Brisbin
Brevet Brigadier General,
and Superintendent Organization U. S. Troops.

Davy Walker's emancipation, 1865 Filson Historical Society

Other Actions

Although deeds of emancipation compose the bulk of the court entries concerning African-Americans, several other types of actions were recorded as well. Two types related directly or indirectly to emancipation or freedom achieved as a consequence of emancipation. For example, 134 (16.8 percent) free African-Americans felt the need to have their free status certified by the court.[40] Such a step was often considered necessary by free-born African-American children whose parents may have possessed "free papers" but who possessed none themselves. When such children "came of age" or chose to relocate, having their freedom proved and duly recorded in court and

[40] See COM, books one through twenty-three.

having "free papers" issued was often a wise precaution as indicated by the following examples.

> On the motion of Benjamin Keen, a mulatto man, now here in Court and upon satisfactory proof made to the Court it is considered adjudged by the Court that the said Keen is a free man and is the son of a white woman and was born free in Scott County in this State...of the following description—to wit—He is a bright mulatto, about thirty eight years of age, weighs about one hundred and fifty-four pounds is about five feet four inches high, is tolerably heavy and well made, has a scar made with a knife across his upper lip...is a barber by trade, all of which is ordered to be certified.[41]

> It appearing to the satisfaction of the Court that the original free papers heretofore made out and delivered to Priscilla Cozzens, a woman of color, from the office of the clerk of this Court and detained from her by the Captain of a Steamboat cannot be had. It is therefore ordered that the Clerk of this Court do make a copy of said papers...and deliver them to said Priscilla.[42]

Not coincidentally, such entries appear with greater frequency in the 1840s and 1850s—both as a reflection of the emergence of a second generation of local free people of color and in reaction to the growing vulnerability of free people of color after the passage of the highly restrictive fugitive slave law in 1850. Even the most prominent free African-American family in Louisville, that of Washington

[41] Ibid., 17: 293 (2 April 1837).
[42] Ibid., 18: 45 (9 July 1858).

Spradling, Sr., was careful to certify the freedom of its second and third generations:

> Satisfactory proof of was this day made to the Court that Maria Louisa Spradling was born free of free parents and who being in Court is found to be thus described, about twenty one years old, has straight dark hair, dark eyes, light complexion, slightly freckled and has a mole.[43]

> Satisfactory proof of was this day made to the Court that William Henry Clay Spradling was born free of free parents and who being in Court is found to be thus described, about four years old, light color, blue eyes and has light curly hair.[44]

> Satisfactory proof of was this day made to the Court that James Guthrie Spradling was born free of free parents and who being in Court is found to be thus described, about two years old, has dark eyes, light complexion and a little spot in his right eye.[45]

The second type of action concerns "illegal migration." In this category, there were 37 (4.6 percent) references to African-Americans arrested, jailed, prosecuted, and, usually, either forced to leave Kentucky, if proved to be free, or sold into slavery if satisfactory proof of their freedom could not be produced.[46] For example, Sally Neville was a free woman of color "being in the Jail of this County on a charge of emigrating to this State contrary to law." Neville was tried on 4 February 1829 and agreed to post a five-hundred-dollar bond by

[43] Ibid., 21: 468 (2 June 1856).
[44] Ibid.
[45] Ibid.
[46] See COM, books fifteen and sixteen.

1:00 p.m. the following day.[47] She was unable to post this bond, however, so the court ordered "that the Sheriff do now proceed to sell the said Neville for one year to the highest bidder and thereupon the said Sheriff sold said Neville to George W. Chambers for one dollar, she consenting to this sale."[48] Betsy Peterson was tried for "having come from another state into the City of Louisville and remaining upwards of thirty days" in 1830, and the court "ordered that she give security that she will go out of this State and not return therein again and time is given her to go at large until tomorrow to find security and give the same at that time."[49] Similarly, John Ransom was tried for illegal migration in 1831, and the court ordered that "the Sheriff of this County do forthwith sell the said John Ransom for and during the term of one year to the highest bidder on a credit of twelve months."[50]

It is no coincidence that these and other similar entries all date to 1829 (February and March) and also between 1830 and 1832. During this period, militant abolitionism was born, the Nat Turner Revolt (August 1831) occurred, and mounting racial tensions, fueled by increasing numbers of free people of color in the Ohio Valley, led to a major race riot in Cincinnati in the summer of 1829 which drove many African-Americans from that city.[51] The law regarding illegal migration was not new and had not been changed, but the perceived necessity of enforcing this law prompted what—for lack of a better term—could be deemed occasional "round-ups" of African-Americans.

Other entries involved the appointment of masters for African-American apprentices (33—4.1 percent)—since "binding out"

[47] Ibid., 15: 207-209 (4 February 1829).

[48] Ibid., 15: 219 (4 February 1829).

[49] Ibid., 15: 466 (6 December 1830).

[50] Ibid., 16: 32 (8 November 1831).

[51] Curry, *Free Blacks*, 104-105; Franklin and Moss, *From Slavery to Freedom*, 184.

black children and adolescents was a requirement of the law—and various petitions and motions often initiated by free African-Americans themselves (26—3.3 percent). Furthermore, by the 1850s, there were 23 entries (2.9 percent) attesting to or proving the ownership or disposition of fugitive slaves which embodied a precaution taken by white slaveholders seeking to prevent their runaway slaves, if apprehended, from being claimed by other whites.[52]

Slave Emancipations in Jefferson County Wills to 1860

Antebellum wills provide both more and less information than do local court records—generally more information regarding the maker of the will and less concerning any African-Americans mentioned in it. Still, some major patterns in the disposition of slave property can be discerned. A total of 478 Louisville and Jefferson County wills recorded during this period refer to African-Americans—usually as slave property. The frequency with which such wills were recorded is reflected below.

TABLE 4
REFERENCES TO AFRICAN-AMERICANS
IN JEFFERSON COUNTY WILLS, 1780-1862 BY DECADE

	Emancipations		*Other*		*Total*
	Number	*Percent*	*Number*	*Percent*	*Number*
1780—1789	1	16.7	5	83.3	6
1790—1799	5	35.7	9	64.3	14
1800—1809	2	11.1	16	88.9	18
1810—1819	11	22.0	39	78.0	50
1820—1829	8	11.0	65	89.0	73
1830—1839	23	25.3	68	74.7	91

[52] COM, books eighteen through twenty-three.

1840—1849	24	22.9	81	77.1	105
1850—1859	34	31.2	75	68.8	109
1860—1862	3	25.0	9	75.0	12
TOTAL	111	23.2	367	76.8	478

This pattern corresponded to the increase in the local slave population through 1850 and its slight decline thereafter. Most (368—76.8 percent) contained bequests of slave property to one or more family members, and most (316—66.1 percent) occurred after 1830. Additionally, given property ownership patterns by sex, it is not surprising that 378 wills (78.9 percent) involving African-Americans were made by men. However, roughly one in four wills (111—23.2 percent) referencing enslaved African-Americans provided for the immediate or eventual emancipation of some or all of the enslaved African-Americans as shown below:

TABLE 5
TYPES OF REFERENCES TO AFRICAN-AMERICANS
IN JEFFERSON COUNTY WILLS, 1780—1862

Wills bequeathing slave property		
	Number	*Percent*
None	85	17.7
Some	35	7.3
All	359	74.9
Slaves emancipated		
Yes	111	23.2
No	368	76.8
Terms of Emancipation		
At death of slaveholder	60	55.0
After a period of time	43	39.4
For emigration to Liberia	6	5.5

Information was available for only 109 of the total of 111 emancipations given in table 4.

The architects of the early Louisville free African-American community gained their freedom by emancipation. For example, the Spradling family, noted previously, crossed the threshold between slavery and freedom by virtue of such an action (and the relationship it implies). Specifically, William Spradling directed that his "negroes be sold" and the proceeds applied to settle his debts and to "the purchase and liberation of a woman and four children belonging to Isaac Miller—the woman named Maria, the oldest of her children named Washington, the second Evalina, the third Powetan and the name of the fourth I do not know." The balance of his estate was to be divided among Maria and her children.[53]

A similar action was taken in the will of Richard Morris of Louisa County, Virginia, entered in Jefferson County records on 2 April 1820. The implied biological relationship is, once again, rather obvious.

> I give to my mulatto woman Fanny and her children, Shelton, Richard, Hannah, Elizabeth, John and Alexander their freedom and it is my will and desire that they may be maintained and the children educated at the expense of my estate, in such manner as my son James Maury may think proper, and that he do purchase at the expense of my estate about six hundred acres of land in a western country, have houses built and land cleared...for the comfortable accommodation of her and her children and that my said son do select from my stock of negroes, six, about the ages of

[53] Jefferson County Will Book (hereafter WB), 2: 17 (12 September 1814).

> said children, which land so to be purchased and the six negroes, to be equally divided.[54]

On the death of John Hundley, Eliza Curtis—later, Eliza Tevis—became the property of his brother Thomas. As noted previously, Curtis was emancipated in 1833. However, the existence of a "special" relationship (exact nature unknown) is suggested by Thomas Hundley's action in bequeathing her his cherrywood bedroom furniture and in stating:

> I give and devise to a yellow woman now living with me called Eliza or Eliza Curtis my house and lot on Green Street...together with the use of the alley adjoining the same for and during her natural life either to live in or rent out. I also give two thousand dollars in cash to be paid her...after my death and to be hers forever.[55]

Slaveholders (359—74.9 percent) most often bequeathed the entirety of their slaveholding to an heir or heirs or directed that some or all of said property be sold to pay debts and support family members. A few (35—7.3 percent) bequeathed some of their slave property to heirs of various kinds, while directing that one or more others be emancipated, usually as a reward for service or in recognition, implicit or explicit, of a "family" relationship between slaveholder and slave. For example, along with some of the wills referenced previously, on 4 August 1820, Betty Coleman bequeathed most of her slave property to members of her immediate family but directed that

[54] WB, 2: 146 (2 April 1820). The children did not receive the six children as slaves but rather took the monetary value.

[55] Ibid., 3: 153 (25 May 1838). Although the precise nature of the relationship is not known, there are unsubstantiated oral traditions that identify Eliza Tevis as the half-sister of the Hundleys or the mistress or concubine of one of the brothers.

her "faithful Negroes, Will and Amy, and Charity and Sal (wife of Will) and Tom and Milly, shall become free at my Death."[56] Rebecca Hite directed that her servants Dianna and Amanda be freed from bondage. Each was to receive one hundred dollars.[57] Robert Lloyd bequeathed the bulk of his slaveholding to family and associates. However, he directed that "Rachel, a mulatto, and her infant child, Penelope, be emancipated."[58] Leaven Lawrence bequeathed his entire slaveholding to his wife, with the exception of Lishe "who is to be freed."[59]

A slightly larger group (85—17.7 percent) directed that their entire slaveholding, however large or small, be emancipated. Some of these actions were later entered in court records, but, in other cases, the will itself became a "freedom document." To illustrate, on 28 July 1831, Benjamin Taylor directed that his estate be divided into eight equal parts and that "it shall be unto each and everyone of the following persons, to wit: Frank, Edmund, Reubin, Betsy, Jonathan, Jefferson and Sally unto them and their heirs or assigns to have and to hold forever the said persons are free persons of color and formerly owned by me as slaves until I set them free."[60] John Murphy directed that his entire slaveholding be emancipated. He stipulated further that his property be sold for the support of his former slaves—and that all other property be conveyed to "Israel and his family."[61] Lucy Fine stated that her nine slaves were to be emancipated and that her executor convey them to Cincinnati and have their deeds of emancipation entered in the state of Ohio.[62]

56 Ibid., 2: 196 (4 August 1820).
57 Ibid., 3: 75 (23 May 1836).
58 Ibid., 3: 189 (2 June 1839).
59 Ibid., 4: 1 (23 January 1846).
60 Ibid., 2: 470 (28 July 1831).
61 Ibid., 4:129 (24 August 1848).
62 Ibid., 5: 198 (25 August 1857).

Still, emancipation by a will was not necessarily immediate. Typically, enslaved African-Americans could not claim free status until after the death of the slaveholder—which could occur many years after making and recording the will itself. Others (43—39.4 percent of those freed) were required to serve varying lengths of time or to attain a specified age before emancipation—as in the following cases. On 21 July 1816, Thomas Theobald directed that, after his death, his slaves (number unspecified) were to be "hired out for the support of his children." However, one "Negro man, Harry" was to be emancipated when Theobald's children came of age.[63]

John Hundley, co-owner with his brother of the Bashford Manor "plantation," made the rather unusual bequest:

> That all the negroes who may have been fifteen years in my service from the time of their purchase be immediately set free. That those not born mine, who may not have completed that length of service, shall remain the property of my brother, Thomas C. Hundley, until the expiration of fifteen years from their purchase and then to be liberated. That all which have been mine shall go free when they arrive at the age of twenty-five, or at the death of my brother.[64]

Similarly, on 27 January 1833, William Ray directed that his "two Negro men" be emancipated ten years after his death, provided that neither attempted to run away in the interim. He also provided for the emancipation of "Hilly," but only after she served for six years after his death.[65] Ezekiel Thurston bequeathed most of his slaves to

[63] Ibid., 2: 41 (21 July 1816).
[64] Ibid., 2: 415 (16 October 1829).
[65] Ibid., 3: 36 (27 January 1833).

family members, but he specified that "Simon and Betty" serve his wife and go free at her death.[66] Further, Alice D. Wakefield directed that her slave, Robert (then twenty-three years old), be hired out until he reached the age of thirty, at which time he was to be emancipated. All other slaves were bequeathed to her family with the proviso only that they were "not to be sold."[67]

For a few others (6—5.5 percent of those freed by wills), freedom was contingent on their willingness to emigrate to Liberia under the auspices of the Kentucky Colonization Society. For example, on 4 June 1832, Samuel Shaw willed that his "Negro Boy Frank shall be sent to Liberia...." However, Shaw attached several other conditions; Frank was to be hired out until age twenty-five—and if he then chose not to emigrate to Liberia, the funds to support his transportation would revert to the Kentucky Colonization Society.[68] Similarly, Lee White made the emancipation of his slaves contingent on their willingness to emigrate to Liberia.[69] Delany Washburn bequeathed his three slaves, "Prince, George and Levin," to his son. However, Levin was to be emancipated if he were willing to emigrate to Liberia.[70] Clearly not anticipating the end of slavery, on 14 August 1852, J. L. Martin declared that any of his slaves still alive in 1872 be "offered to the Colonization Society" and that twenty-five hundred dollars be set aside to finance their removal to Liberia.[71]

Thus, if the enslaved African-Americans chose to remain in the United States or the estate incurred excessive debts or the slaves died before completing their additional terms of service—emancipation might not occur at all.

66 Ibid., 3:19 (11 August 1834).
67 Ibid., 4: 609 (25 November 1854).
68 Ibid., 2: 474 (4 June 1832).
69 Ibid., 2: 517 (9 August 1833).
70 Ibid., 4: 493 (15 August 1850).
71 Ibid., 4: 589 (14 August 1852).

Slaveholding was not an exclusively secular practice, and the controversy over whether one could be both a "good Christian" and a slaveholder was as bitter in Kentucky as elsewhere. Ultimately, those who believed that slavery was inconsistent with the teachings of Christianity became a small minority in the state.[72] However, the accommodation between slavery and religion was an interesting one. To illustrate, on 8 January 1849, Bishop Benedict Joseph Flaget bequeathed to his "future successor, the Rt. Rev. Martin John Spalding, all my property real and personal of whatever description as well as that which I hold in my own name as that which has been deeded to me in trust for the use and benefit of various Catholic Congregations lying in the Diocese of Louisville." The property referenced in this will included sixteen enslaved African-Americans.[73]

Two days later, 10 January 1849, Dr. John Croghan, mentioned previously as owner of both Mammoth Cave and Locust Grove, made his will. Croghan directed that one slave, Isaac, "be set free from bondage immediately" as a reward for his faithful service. However, Croghan wished that the remainder of his slaves be hired out for four years for the support of his family and then stated that:

> after the expiration of four years, I direct my said Trustees to hire out all my slaves...for three years so as to prepare them for freedom and to provide the means for their support and removal to Liberia or elsewhere; and at the expiration of said three years to emancipate the said slaves and all their increase.[74]

[72] J. Blaine Hudson, "African-American Religion in Antebellum Louisville," *The Griot: Journal of the Southern Conference on African-American Studies* 17 (1998): 43-54.

[73] WB, 4: 217 (8 January 1849).

[74] Ibid., 4: 121 (10 January 1849).

This set the process in motion which freed Stephen Bishop and his family, as noted previously.

Court Actions and Wills Initiated by African-Americans

Free African-Americans were responsible for 48 (9.4 percent) of all emancipation actions and 19 (4.0 percent) of all antebellum wills in antebellum Louisville and Jefferson County. However, while occasional African-American slaveholdership is often cited by apologists for slavery, the vast majority of slaves owned by African-Americans were family members.[75] This circumstance could occur for several reasons—given the body of laws regulating slave emancipation and the "migration" of free people of color.

Specifically, if African-Americans were emancipated or purchased their freedom, they might at some later time purchase their spouses and children as sufficient funds were accumulated for this purpose. However, this made spouses and children their "slaves." Furthermore, because children took the status of their mother, it was often advisable to free the wife before the husband to ensure that any children, including those born after her emancipation, would be free. If the family did not wish to emigrate from Kentucky or could not muster the money required to finance the emancipation of still-enslaved family members by posting bonds or paying other fees, perpetuating this unusual type of slavery was often the only alternative. Family members who remained enslaved would then be freed by the will of the free parent. Given this background, free African-Americans may have owned little or no property but freeing their families directly or providing for the purchase and emancipation of their families was fairly common. Several wills reflect this strategy for securing freedom. For example, on 1 May 1812, Charles Cole, a free man of color, stated that:

[75] Curry, *Free Blacks*, 44-45.

> whereas I purchased my wife Fanny from Jonathan Horn Clark of St. Mary's County in the state of Maryland, it is my desire that from and immediately after my decease she shall be and remain forever free. Also it is my desire that my Son William from and immediately after my decease shall be and remain free. Also, I give to my wife Fanny one grey horse, four head of cattle, and all my hogs, plantation utensils and furniture.[76]

Jeremiah Sample, a free man of color, put his estate in trust under John W. Sample, presumably a former owner or relative:

> that he shall with such portion of said estate as shall be necessary for that purpose purchase my wife...a slave now belonging to the estate of Thomas Baker deceased and all her children and emancipate them according to the laws of Kentucky and convey to them all the residue of my estate.[77]

In a will that suggests the important and supportive role of local African-American churches, "Winney Williams a free woman of color" stipulated that her property be sold:

> as soon as a fair price can be obtained and the proceeds or such part of them as may be necessary applied to the purchasing and emancipating of my husband Thomas Williams provided he can be obtained at a reasonable price in such manner as directed in the deed of trust for my said lot given by Thomas

[76] WB, 2: 96 (1 May 1812).
[77] Ibid., 3: 55 (28 February 1832).

> Brawner and Sarah his wife to Reverend Henry Adams and dated December 28, 1853."[78]

Reverend Henry Adams was pastor of the First African Baptist Church (now Fifth Street Baptist Church) for nearly forty years.[79]

On 11 July 1855, "Amy Moulder sometimes called Amy Dorsey, free woman of color," directed that her property be "rented out or sold" and the proceeds applied "to the purchase of my son George now the property of Mrs. Matthew Dorsey...and to the purchase of my grandson James now the property of William Tucker of the City of Louisville."[80] Likewise, in a statement that betrays a subtle but unusual degree of warmth and poignancy, Leanna Whitson:

> being of sound mind but of failing body do make this my last will and testament: Firstly, I do hereby manumit and free my husband Willis Whitson whom I purchased from...Martin Williams Sale and do release him from slavery entirely as I do not wish him to remain as a slave after my death.[81]

In addition, numerous free people of color acted directly through the county court to emancipate other African-Americans, usually family members.

> A deed of Manumission from Charles Roberts mulatto man to his wife Elizabeth and her son Reuben Anderson Roberts was produced in Court and

[78] Ibid., 4: 575 (21 July 1854).

[79] Hudson, "African-American Religion," 45; H.C. Wickendon, "History of the Churches of Louisville with Special Reference to Slavery" (MA thesis, University of Louisville, 1921), 16-17.

[80] WB, 5: 35 (11 July 1855).

[81] Ibid., 5: 296 (22 December 1858).

> proved by Charles M. Thruston one of the subscribing witnesses thereto and ordered to be filed.[82]
>
> A deed of emancipation from Dublin Harrison a free Man of Colour to Nancy his Wife a woman of Colour was acknowledged by the said Dublin to be his act and desire and ordered to be recorded.[83]
>
> A deed of emancipation from Andrew Cousins to Andrew Cousins jr was produced in Court and acknowledged and delivered by said Andrew Cousins to be his act and ordered to be recorded.[84]
>
> A deed of emancipation from Basil Jackson to his child Basil Jackson was this day produced in Court and proved to be the act and deed of said Basil Jackson by the oaths of James Speed and Alpheus Allison the subscribing witnesses.[85]

The same process used to free family members could also be employed to assist other African-Americans in their pursuit of freedom. Purchasing enslaved African-Americans in order to free them was an important but little-known strategy of the antislavery movement. However, while this approach minimized risk, it often maximized cost—and the cost involved, given the meager resources of African-Americans and sympathetic whites, limited its use. Moreover, that this strategy sought to circumvent rather than challenge slavery raised other doubts as to its efficacy and its ethics.[86] Nevertheless,

[82] COM, 15: 120 (8 April 1828).

[83] Ibid., 16: 301 (5 November 1833).

[84] Ibid., 19: 73 (10 June 1845).

[85] Ibid., 19: 474 (1 October 1849).

[86] Stanley Harold, "Freeing the Weems Family: A New Look at the Underground Railroad," *Civil War History* 52 (1996): 289-306.

court records attest to the existence of this practice in Louisville and Jefferson County—and to the active involvement of some of Louisville's most important free people of color in its operations—at least before the adoption of the Kentucky constitution of 1850.

In theory this strategy was simple. Upon reaching an agreement, an enslaved African-American would give money to or borrow money from a free person of color which would then be applied by the free person of color to the purchase of that slave. The new "owner" would later emancipate the slave with the understanding that the loan would be repaid, usually in installments over time. Of course, this process also created another apparent example, for however brief a time, of African-American slave ownership—which, in reality, existed in a technical sense only.

A number of emancipation actions document the existence of this loophole in slave law that allowed for the construction of a legal spur-line of the Underground Railroad. To illustrate:

> A deed of emancipation from Shelton Morris to Savira was produced in Court and acknowledged and delivered by the said Shelton to be his act and deed and ordered to be recorded.[87]
>
> A deed of emancipation from Washington Spradling to Maud was produced in Court and acknowledged and delivered by said Spradling to be his act and deed and ordered to be recorded.[88]
>
> A deed of emancipation from David Straws to Claiborne and John was produced in Court and acknowledged and delivered by said David Straws to be

[87] COM, 17: 129 (5 November 1835).
[88] Ibid., 19: 275 (8 November 1847).

> his act and deed and ordered to be recorded.[89]
>
> A deed of emancipation from Washington Spradling to Elizabeth Davis and her child Julia was produced in Court and acknowledged and delivered by said Washington Spradling to be his act and deed and ordered to be recorded.[90]

It should be noted that such actions occurred with much greater frequency in the months before the implementation of the Kentucky constitution of 1850 with its more stringent provisions regarding both emancipation and the removal of emancipated African-Americans from Kentucky.

Conclusion

While many emancipated African-Americans and their descendants became fixtures in the local African-American community, tracing the paths of others after their emancipation is problematic for two fundamental reasons.

First, free people of color often migrated from the city or state. Some moved no farther than New Albany or another free-black community along the northern bank of the Ohio River, but others left the region altogether.

Second, free people of color are mentioned in public records—identified by a first name and surname, often with a middle name as well. However, most, but not all, enslaved African-Americans had only a first name; they were typically described and denoted in the manner common to livestock or pets. Upon emancipation, freed persons might retain their first names, or choose others, perhaps one given by their parents. The former slaves might also adopt

[89] Ibid., 19: 532 (11 March 1850).
[90] Ibid., 19: 551 (13 May 1850).

their former owners' surnames or choose others more to their liking, such as a "family" name. Thus, the emancipation record might provide only clues, not certain knowledge, as to how the newly freed African-American might be identified and traced. In other words, the freedom to "name oneself," while seldom expressed by this time through the adoption of an African name, was often used to choose an Americanized name with personal significance to the newly freed person. In fact, local court records and fugitive-slave advertisements in local newspapers are filled with references to slaves calling themselves something different from the names used by their owners.

Nevertheless, perhaps more in this domain than in most others, the fundamental paradoxes of slavery were revealed. The steady stream of emancipation actions indicates that, despite public approbation, some individual slaveholders—because of biological relationships to slaves, personal gratitude, qualms of conscience, or other reasons—were willing to act against what were usually perceived as the interests of slaveholders as a class. Since few wills or deeds of emancipation make freedom conditional on the willingness of the freed person to emigrate to Liberia or another part of the world, these acts also reflect the implicit belief, albeit seldom fully formulated, that there was or should be a "place" in American society for free people of color. However equal or unequal that "place" relative to the status of whites, these actions reflect the belief in the possibility of creating a multiracial society in the United States.