

Using Court Records to Study Slavery: An Introduction to the Legal Records in the North Carolina and Georgia State Archives

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(From Page 8)

Selected from the North Carolina State Archives and Georgia Archives, the vast majority of the documents made available here come from court cases that made it to the highest levels of each state's judicial system. Brought forward on appeal, a few of them, such as the 1858 North Carolina case, *State v Hannibal & Ned, Slaves of John T. Council*, originated before a justice of the peace before proceeding through a county inferior or district superior court before coming to rest at a state supreme court¹. [Please see [NC Manuscript Case File No. 7369](#)]. Most of the cases entered the civil or criminal system through a county court or grand jury, but where they stopped depended on where and when they were heard. In Georgia, where the Supreme Court was not authorized by amendment until 1835 and then not fully organized until the mid-1840s, appeals of cases first heard before an inferior court often terminated at the superior court level². It is a phenomenon that helps explain why so much of the Georgia part of the collection presented here dates back no further than the early 1840s: the records most likely to survive the ravages of time were those that came to rest in Milledgeville, and later Atlanta, which city became the state capital shortly after the Civil War. A different situation unfolded in North Carolina. There authorities moved much more quickly than their Georgia counterparts, and in 1808 reconstituted the state's older Court of Conference as a Supreme Court. Further modifications gave rise by 1818 to an increasingly powerful court made up of a panel of judges who exercised appellate authority over cases that had originated the state's county-level superior courts. Thus while North Carolinians would continue to debate for some time the propriety of concentrating so much power in a single judicial body, the relatively early date at which the state's Supreme Court began to play a role in the state's legal life is reflected in the large volume of North Carolina documents presented here, some of which date back to the first years of the nineteenth century³.

Regardless of the judicial route by which they traveled, few of the cases arrived at the North Carolina and Georgia state archives with every scrap of paper intact. Often appealed on esoteric points of law, testimony taken during the first trial or hearing may or may not have accompanied the case forward, if, in fact, a written record had been produced and preserved by the lower court at all. As a consequence, the manuscript case files that reached and remain at the state level are often incomplete, containing only the materials that survived, and of them, usually only those thought by jurists and lawyers to have been necessary for the appeals process. But appeal in both states usually resulted in a published decision. Offering the briefest synopsis of the original crime or dispute and made available here alongside the associated manuscript file, these reports were meant to publicize the highest court's final decision. When read together, the extant manuscript case files and published reports offer unparalleled access and insight into slavery, and into slaves' lives.

The present collection is larger, however, than the appellate case load. Also available here in digital form are a wide range of cases that were heard and resolved at the inferior or superior court levels, as well as a tantalizing rich set of other records, documents, and in a few cases, personal journals, that by one means or another came to reside in the North Carolina and Georgia state archives. These additional materials include gems such as thirteen volumes of the *New Hanover County* (North Carolina), *Superior Court Minutes* [see [C.R. 070.311.1-13](#) and for three particular cases please see: *State v Billy* (a slave) et al, November 1831: Volume 4: Manuscript Minutes; *State v Edmund* (a slave), April 1833, Volume 4: Manuscript Minutes, and for the Supreme Court hearing of this case, *State v Edmund*, December 1833, [NC Manuscript Case File No. 2141](#) and [NC Manuscript Case File No. 5465](#); *Hansley v Hansley*, December 1849: Volume 7: Manuscript Minutes, and for the Supreme Court hearing of this case [NC Manuscript Case File No. 2491](#)]

several county-level registers of slaves and free people of color; and the journal kept by a Georgia custom's official [**Journal of Archibald Clark**] who was charged with putting slaves to work in positions reserved for white men. Documents such as these, as well as Catherine M. Huey's detailed account of "the high, the low, the rich and the poor, the free and the bond" who witnessed the public execution of a slave named Henry in 1858 [**Catherine M Huey Narrative**], and a register kept by federal port authorities of slaves who traveled by water with their owners, complement, contextualize, and frequently confirm the information that comes to scholars through close readings of antebellum legal proceedings⁴.

Representing nearly every corner and community of North Carolina and Georgia, the documents in the present collection run the gamut of civil and criminal issues. Accusations of murders, burglary, rape, and arson abound. So too, do property disputes, some of which grew out of efforts by executors to divvy up and distributed a deceased slaveholders' estate [for example see **GA Manuscript Case File, No. A-01251**: Robert and Robert v West and Reid, February 1854, and **NC Manuscript Case File, No. 7933**: Worth v Atkins and Wife et al, December 1858] while others were sparked when slaveholders lost slaves to industrial or workplace accidents [for example see **NC Manuscript Case File, No. 3165**: Dailey v Dismal Swamp Canal Company, June 1842; **GA Manuscript Case File, No. A-00049**: Scudder v Woodbridge, June 1846; **GA Manuscript Case File, No. A-00437**: Mayor and Council of Columbus v Howard, January 1849; **NC Manuscript Case File, No. 4871**: Herring v Wilmington and Raleigh Railroad Company, December 1849, and **GA Manuscript Case File, No. A-01175**: Gorman v Campbell, August 1853].

As to be expected in an era notorious for a booming inter and intra-state commerce in slaves, numerous cases revolve around disputed sales, the majority of which were brought by purchasers who, contending that they had been victims of fraud or false representation, draw attention not only to slaves' role in shaping their own sales but to contemporary standards and understandings about health and health care. Theft is another especially prominent theme: both theft by slaves and theft of slaves, activities that blurred any practical distinction between people and property. Runaways also proliferate, and one of the remarkable stories that unfold in this collection pivots around the introduction of railroads and the ways in which they opened up to many slaves a new and frequently effectively mode of escape. In North Carolina, where slavery had never been as deeply rooted as it was in neighboring states and evolving political and economic conditions had been eroding the institution's hold since the late-eighteenth century, freedom suits proliferated to a degree not seen in Georgia. Whether better versed in the laws of manumission than those who labored on cotton's frontier, or simply better positioned to use them, black North Carolinians brought numerous suits for wrongful enslavement. Not only do they base their claims on direct descent from a free woman of color, but their actions raise questions about regionalism that historians are still working to answer.

Slaves are ubiquitous in North Carolina and Georgia's legal records. They appear as subject and object, actors and the acted upon. They ran away, broke into buildings, beat overseers to death, feigned illness or infirmity, gambled and drank, and one more than a few occasions, talked and fought back. Teenage Alfred, for example, provoked his master to murder when he boldly invited the white man's son to "kiss his backside."⁵ [See **GA Manuscript Case File, No. A-02450**: Martin v State, June 1868]. In keeping with the central role slaves played in regional and national economies, as well as their dual characterization as people and property, they are also exceedingly easy to find. By far the most visible were those who appeared before one court or another as defendants. Charged respectively with counterfeiting, burglary, murder, and insolence compounded by assault, the names of "Tom (a slave),"⁶ "Sam, a slave,"⁷ "Moses (a slave),"⁸ and "Marley (a slave),"⁹ fairly leap off the page, included as they are in case titles.

[See **NC Manuscript Case File No. 6292**: State v Tom (a slave), June 1853;

NC Manuscript Case File No. 2354: State v Samuel (a slave), December 1836;

NC Manuscript Case File No. 1893: State v Moses (a slave), June 1830 and

NC Manuscript Case File No. 4252: State v Marley (a slave), December 1847].

Those slaves who had been charged with a capital crime are often the easiest to see, but visibility is not wholly contingent on felonious acts. The hard-working and obedient are also often easy to spot in archived legal accounts. Take for instance the hundreds of enslaved men whose names and physical descriptions were entered into public record when their owners agreed to hire them out to work in North Carolina's Dismal Swamp, or those who traveled aboard ships with their owners to visit Northern cities and resorts¹⁰. **[NC Reference CR 041.9281 Title Proceedings of Commissioners of Gatesville, 1833 and Register of Slaves to Work in the Great Dismal Swamp, 1847-1861; GA Vertical History File, folder 15: Georgia Slave Manifests]** Like so many others, Aberdeen violated no laws, nor did he even annoy his owner. He came into view because his owner, Henry Waters, sought – and got – permission from the officials of New Hanover County, North Carolina, to let the slave go about with a gun¹¹.

[NC Reference CR 070.928.3: New Hanover, Records of Slaves and Free Persons of Color, 1786-1888, images 378-416 for records of special licenses granted to owners for certain slaves to carry guns; see image 378 for record relating to the slave called Alexander or Aberdeen (his name is inserted almost as an afterthought). Similar documents can be found in the file for the following slaves: Tom (image 380), Marcus (image 382), Elias (image 386), Old Ben (image 388), Jack (image 396), Robert (images 399-400), George (image 401), Caesar (image 405), Joe (image 408) and Peter (image 413).

Still, locating slaves in the judicial and civil records can and often does require a little digging. More often than not objects of a dispute, the overwhelming majority lurk half-hidden behind page after page of affidavits, testimony, estate inventories, and debates between litigants and lawyers about the finer points of contract, inheritance, and commercial law. Indeed, it has only been in recent years that historians have come to realize that enslaved people such as the unnamed teamster who sank along with his wagon and a team of five horses when a ferry went down near Rome, Georgia, can be seen accessed and assessed through the lawyers and litigants' records¹². **[GA Manuscript Case File, No. A-01017: Rogers vs. Robert Atkinson et al., State of Georgia, October 1852].**

The more historians explore these sources, the more it becomes clear too, that individuals like that unnamed and unfortunate teamster are not at all unusual. Enslaved women and men can be found by the thousands in the reams of paper that document debates over credit, debt, bequest, crime, and obligation. Through these accounts, we routinely encounter slaves who lived, loved, wept, worked, and sometimes died and who, above all, figured one way or another into the nation's civil and criminal – and by extension – social and political life. [For instance **GA Manuscript Case File, No. A-04076: Odom v Odom, June 1867, petition for divorce including accusation of adultery with a slave called Hester; Stanly v Stanly, April 1853, another petition for divorce where the defendant had committed adultery with a female slave called Minah, see Volume 7: Manuscript Minutes, Jpeg 0329]; **NC Manuscript Case File, No. 7284: Osborne and Graham v High Shoals Mining and Manufacturing Company, December 1857, relating to the hire of fifteen slaves, and NC Manuscript Case File, No. 8430: Newby v Jackson, June 1860, a case concerning an overseer who shot the wrong slave, not the runaway Tony].****

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Endnotes:

¹ NC Manuscript Case File No. 7369.

² On developments in Georgia, see Edwin C. Surrency, *The Creation of a Judicial System: A History of Georgia Courts, 1733 to Present* (Holmes Beach, Fla.: Gaunt, 2001).

³ Edwards, *The People and Their Peace*, 51-53.

⁴ See the *Catherine M Huey Narrative* and *Journal of Archibald Clark: Vertical History File II, DOC-1996, Folder 15*, both in the Georgia collection.

⁵ GA Manuscript Case File No. A-02450.

⁶ NC Manuscript Case File No. 6292.

⁷ NC Manuscript Case File No. 2354.

⁸ NC Manuscript Case File No.1893.

⁹ NC Manuscript Case File No.4252.

¹⁰ (NC Reference CR 041.9281: Proceedings of Commissioners of Gatesville, 1833 and Register of Slaves to Work in the Great Dismal Swamp, 1847-1861; GA Vertical History File, folder 15: Georgia Slave Manifests.

¹¹ NC Reference CR 070.928.3: New Hanover, Records of Slaves and Free Persons of Color, 1786-1888.

¹² GA Manuscript Case File, No. A-01017: Rogers vs. Robert Atkinson et al., State of Georgia, October 1852.