

Owen T. Sharp &c.,

Pendleton County Circuit Court Pkg. 126

v.

Jennetta Sharp

**AFFIDAVIT OF SAMUEL T. HAUSER**

This affiant Samuel T. Hauser upon oath states – that being the claimant and owner, of sundry interests, in and of the slaves – Tom, Essex, Stephen, and Kitty and her child Emily, in the pleasing mentioned, by purchase from the intestate John Sharp dec'd in his life time, and his heirs since his death, amounting in the whole to about 19/27 of the entire five slaves, excepting the dower interest; and having under the restraining order of the Court, forbidding their removal out of the jurisdiction of the Court (which this affiant conceives to be, the County of Pendleton) the care and superintendence of them, for the purpose of selecting, (in the language of part thereof) homes for them and hire them, he did, in the County of Pendleton hire out until the 25<sup>th</sup> of Dec. last the slaves Stephen, Kitty and her child Emily to Reuben McCarty and kept under hire himself, for the same period the slave Essex. The slave Tom was at the making of the restraining order in this suit, in the County of Henry and never has been in the jurisdiction of this Court, having, at the time of the said restraining order was made herein been hire out, by your affiant in the County of Henry Ky to the Elijah Nuttall Esq of said County. After the 25th Dec. up to the time hereinafter named, said slaves remained with this persons above named under hire, excepting the boy Stephen, whom your affiant afterwards, also took, as their homes not so much selected by your affiant, as by themselves – and – so continued, as before stated, until the periods hereinafter named.

This affiant, further states, from the best information within his reach, that the slave Essex on Saturday night, the 24<sup>th</sup> of August last, without his knowledge or the least previous suspicion, and some short time before the day fixed upon by advertisement, by the Master Comr. to carry into effect, that part of the decree herein directing said slaves all to be sold, at the Court house, suddenly and unexpectedly made his escape, into the State of Ohio. Ad that he did so, under the same watchfulness, care and diligence of this affiant, which he this affiant, in common, with other slaves holders in the County exercise over their slaves, and which this affiant exercised over his own other slaves – and in violation of a full confidence and trust, not only of this affiant, but of all, as far as known to this affiant to whom said slaves was known; and in violation of a confidence and assurance, which a cheerful and ready obedience, appearant and content, good conduct and good character as a slave, had inspired on his part appearantly inhanced, by the assurance given at the solicitation of said slave, by this affiant, that he this affiant would purchase him, and thereby procure for him the home of his choice and which he wished and desired.

This affiant further states, that immediately upon the escape of said slave Essex to the State of Ohio, as is confidently believed, with the object and view of recapturing him, and bringing him back to this County; this affiant, employed and sent, at his own costs and charges Reuben McCarty, Esq. And Wm. Wallace Wilson, the former a regularly constituted agent and Atty in fact, and the latter as aid, in pursuit and search of said slave, - while at the same time, he employed in like manner and sent four other individuals, to scour and range the intermediate country and roads between Falmouth and the Ohio River in search of said slave. The latter returned in a few days without success, and the former two proceeded in their search and pursuit, into the State of Ohio, as far as the city of Sandusky, upon lake Erie, but returned, without being able to find or capture said fugitive – owing as is believed to the adverse and hostile sentiments and feelings, which abolitionist and others of that State, entertain towards slavery; and the said comfort, protective and secretings, afforded to fugitives, and the refusal of justices of the peace and officers of the state to administer the Constitution and laws (Acts of '93) of the United States, in aid of the recaption of fugitive slaves. This affiant is informed, that his aforesaid agent while in search of said fugitive, under circumstances deemed necessary by him applied to a number of justices of the peace of the State, at different times and places, during his said trip, for a warrant to apprehend said fugitive, but was positively refused such warrant, and one of them was informed, that he

would give no warrant for the apprehension of a fugitive slave, unless there was produced to him, a Bill of Sale for the fugitive, bearing the signature of All Mighty God Himself – entitling the claimant and Master to him.

This affiant further, states, that owing to the fact, that the County of Pendleton is a bordering County upon the State of Ohio, with River Ohio intervening distant only about 12 or 13 miles from the town of Falmouth, with various public roads, leading from almost every point towards and to that River, with numerous skiffs and other water craft on this side, and abolitionists in abundance upon the other and adjacent bank, and the County itself this side not (as is believed) without them – and fearing the influence of the successful example of one of them, upon the remainder he was induced from an abiding apprehension of their insecurity, notwithstanding the injunction order of the Court forbidding the removal of said slaves out of its jurisdiction, the more certainly, to effect the supposed object of that order, to remove, the slaves Kitty and her child Emily, and the boy Stephen further into the interior of the State of Kentucky, and to a locality, not affording as many facilities of escape, as the County of Pendleton and permit the boy Tom, to remain for the like reasons, in the County of Henry, least they might also follow the example of the one who had successfully runaway, and also escape. This affiant therefore, removed the boy Stephen, Kitty and child Emily, before the day appointed by the Master Comr for their sales, least they might also escape, into Fayette County near Lexington Ky and consigned them to the care and keeping of Elijah O'Bannon, Deputy Shereff of that County, and a highly trust worthy and respectable citizen thereof and left the slave Tom, in like manner, in Henry with Elijah Nuttall of said County (whose known character and public offices in the services of his State, abundantly bespeak the man) and to whom said boy has as foresaid been hired, as localities and places where, in greater safety and security than in the County of Pendleton, they can abide the order or decree of the Court and be advertise and sold under, as is hoped and asked, a modification of the interlocutory decree, herein made.

This affiant further states, that he verily believes said slaves owing to the causes above stated, and the many examples recently occurred, in the County of Pendleton of the successful excape of slaves from the same, into the State of Ohio, without recapture notwithstanding the efforts made, on the part of Masters, would not have been secure or safe, to have remained therein, to await, the sale &c by public advertisement &c of a Master Comr in Chancery, under the terms, conditions &c, usual in decrees of the kind, and this affiant, verily believes that under the circumstances, of delay publicity &c attending a usual decree in Chancery directing a sale, that said slaves, in the County of Pendleton owing to the facts above detailed, said slaves under restraint or confinement, violative of the dictates of humanity, distructive to the interests of the owners and the profits of their labour. – Wherefore this affiant, as one mostly and principally interested in said slaves, and as party to the suit, that the interlocutory decree herein, so far as it regards the sale of said slaves, be so modified as to direct the sale of the, at the Court houses, in the aforesaid Counties of Fayette and Henry, by said Elijah O'Bannon and Elijah Nuttal respectively as Comrs – or at private sale by them respectively, at the minimum price of their respective appraised value – that is the boy Stephen at private Sale not less than \$600 – and Kitty and child Emily together at not less than \$650 – provided a home for them, in Kentucky at such private sale as can be secured – or that the decree may be so modified, that they be sold at public auction for the best price at the respective Court houses upon a Court day where, for greater safety, they now are instead at the Court house in Pendleton County – And that this affiant be exempted from reprehtion or liability for having removed them and not having them forthcoming – and that the residue of sd decree, except as to the sale of sd slaves be directed to be carried into effect as therein directed by the Master Comr of this Court –

S. Tho. Hauser

Sworn and subscribed to, before me, this 23 day of Sept 1850 by Saml T. Hauser

W.G. Woodson JPPC

Comlth of Ky Pendleton County. Set

These affiants, Reuben McCarty, Wm Wallace Wilson upon oath state – That on Monday the 26<sup>th</sup> August last, immediately upon fact being certainly ascertained that the slave Essex, in the possession of Samuel T Hauser had made his escape and run away – they at the procurement and under the employ of said Hauser, started in search of him into the State of Ohio, (the said McCarty having by authenticated power of Attorney been constituted and appointed the Agent and Attorney in fact for the purpose recapturing and brining back to Kentucky and to said Hauser said fugitive – These affiants further state, that from facts and circumstances learned on their way, they state, that from facts and circumstances learned on their way, they suppose said boy escaped Saturday night the 24<sup>th</sup> of August, and made for Fosters Landing, and during that night crossed the River Ohio, into the State of Ohio, in a few hours after he left, at Fosters Landing – That from thence they made diligent search for said Lake Erie – That owing to the sentiments and feelings adverse to slavery existing among and with a great portion of the citizens of that State they found great difficulties to obtain reliable or satisfactory information relative to said fugitive or any other slave, who had escaped from Kentucky, and they believe in many instances, (some of which were openly avowed) a greater disposition exists to aid a slave along, and secrete information to a pursuer of a fugitive. That the affiant, Reuben McCarty states that he took with him the Act of Congress of '93 relative to fugitives, and applied to several of said State justices of the peace, for a warrant under the same, to apprehend said fugitive, but in every instance was refused, notwithstanding he proffered by proof to comply with its requiesites, and in one application to a justice of the peace was informed that upon the condition, that this affiant, would show him a Bill of Sale, for said fugitive, signed by the All Mighty God himself he would issue the warrant, and not otherwise. Moreover they were informed, that if they did find and capture said fugitive, he would be rescued from them by force, and they themselves arrested by the process of their Courts, for kidnapping and kept there for trial until the term of the Court – These affiants further state, that owing to the state of violent feelings existing with abolitionists and others of that State against slavery – the aid comfort and protection extended to fugitives by them, and the want of efficient laws protective of the rights of the master, it is not only difficult, but almost impossible, for a fugitive slaves to be arrested in that State and brought back to Kentucky, without, at last, great and eminent danger of rescue by violence of the fugitive and to the safety if not life of the capturers. They further state, that owing to the causes above refered to, or some of them, they were in the effort and pursuit after said slaves and fugitive, unsuccessful, either in hearing certainly of him or recapturing him, and forced to return without him. They further state, they well knew said fugative before he left, and from his deportment, conduct and character as a slave together with the well known good treatment which he received they would have as soon suspected any other slaves now remaining in the County, of a design or effort to escape as said fugitive – and that of their knowledge, afforded by their visinage, a residence within the same viliage with said Hauser and said slave – that the watchfulness care and diligence common to other masters in said County was exercised by said Hauser in reference to said slave with the dictates of humanity, and consistent with the interest of the master in the labour and profits of his slave – and the practice of other slave holders in the County.

W.W. Wilson

F. McCarty

Sworn to and subscribed by the affiants this 23<sup>rd</sup> day of Sept. 1850 before me.

W.G. Woods

Owen T. Sharp & Wm Cummins

vs}

Jennetta Sharp &

In Chancery

The Master Comr would respectfully report that he has not carried into Effect the decree, herein owing to the following reason circumstances and facts, occurring after the Slaves were advertised for the purpose of selling them according to the decree.

1<sup>st</sup> That by advertisement bearing date August 1<sup>st</sup>, 1850, Your Comr advertised the Sale to be made on the first Monday in Sept Inst County Court day at the Court house. But some eight or ten days before the day fixed upon the for sale, it became necessary, as your Comr believed from facts and circumstances known to him, that the slaves for the safety and security of them, should be removed to parts of the State of Kentucky, not affording so many facilities of easy and quick escape to the State of Ohio, as the bordering County of Pendleton. And this necessatay was urgently made apparent and inforced itself. About that time by the fact, that one of them made his escape into the State of Ohio, as is supposed from the possession Samuel T Hauser in whose care he was at the time, under hire as is supposed, and that said slave did so, as your Comr believes in violation of that confidence, which remarkable good conduct, cheerful and ready obedience apparent content, and good deportment, would induced a prudent and cautious master to have place in him.

2<sup>nd</sup> Because your Comr was informed after the escape of the slave Essex, and immediately before the day of sale, by said Hauser the owner in part of said slaves under said decree and into whose care and keeping said slaves under the Order of the Court were placed, for the purpose of selecting homes for them and hire them out, that he was compelled in order to secure their safety, and to prevent them from availing themselves of the facilities, a location in the County of Pendleton, under the present existing circumstances in it, as well as in the State of Ohio, afforded them for escape, to remove them further into the interior of this State (and that he would do so) to places further removed from the State borders of the State of Ohio, and that he had accordingly removed three of them, Kitty and child Emily, and boy Stephen to Fayette County Kentucky near Lexington and the other Tom was in Henry County Kentucky, the former three under the care and keeping of Elijah O'Bannon Sheriff of Fayette, and the latter in the care and keeping of the Honorable Elijah Nuttell of Henry, who was the owner of the wife of said Tom

your Comr further reports, that immediately upon the escape of the boy, Essex into the State of Ohio, the said Hauser dispached two competant messengers and agents in pursuit of him for the purpose of arresting and bringing him back. And he is informed they made search in the State of Ohio for said fugitive as far as the City of Sandusky, upon Lake Erie, but owing to the adverse sentiments, and feelings of a great part of the population and citizens of that State and the aid and comfort afforded said fugative by them they had been unsuccessful in their search and persuit.

That so far as the Justices of the peace and officers of the State were concerned they had wholly refused to issue process or render them under the Constitution and present laws (Acts of '93) of the United States any aid whatever or information and some of them demanded the exhibition to them of a Bill of Sale for said fugitive signed by All Mighty God Himself, before they would consent to issue process for the apprehention of said fugative or his restoration or arrest.

3<sup>rd</sup> Your Comr not effecting the sale of the slaves owing to the causes above named, he supposed the case itself, would have to be reported back to the Court, for a modification of the decree, directing the sale, or further proceedings therein to be held he therefore deemed it unnecessary at this time, to proceed to the division of the real Estate as directed, especially since the widow is in the possession, having the improved or tilable part standing in a growing crop, and supposing she having sown in peace, she was entitled to reap in like manner, and as a division during the Winter vacation of the Court, could be made without delay or hinderence as to the growing crop and if made during the winter the several parts in the spring would be prepared by the division itself, for cultivation by the owners in the severalty according to their rights.

Your Comr further at the request of said Hauser reports the affidavits marked A & B relative to the escape and search made for aforesaid fugative &c as a part hereof.

Sept. 12, 1850 Wm C Naylor Comr