

SAMUEL V. CHILDS ET AL.

[4 Cranch, C. C. 189.]¹

Circuit Court, District of Columbia. Dec. Term, 1831.

SLAVERY—MANUMISSION—WITNESSES TO
DEED—STATUS OF CHILDREN BORN.

1. Two witnesses are necessary to a deed of manumission under the Maryland act of 1796, c. 67, § 29.
2. If a female slave, manumitted by last will of the owner, to be free at the age of twenty-five years, has a child born after the death of the testator and before she arrives at the age of twenty-five, such child is a slave.

The petitioner [Negro Sam] was included in a deed of manumission made in Maryland, February 17, 1797, which was witnessed by only one witness. The Maryland act of December 31, 1796, c. 67, § 29, required two witnesses. The master afterwards carried them to Virginia, where he died, having by his will left them free at the age of twenty-five. The petitioner's mother, one of those slaves, was living in Virginia at the death of the testator; after whose death, and before the petitioner's mother had attained the age of twenty-five, that is, before she was actually free, the petitioner was born, in Virginia.

Mr. Key, for defendant, contended that the petitioner, under those circumstances, was born a slave, and cited the case of *Maria v. Surbaugh*, 2 Rand. (Va.) 228: in which the court of appeals of Virginia unanimously decided, that where a testator bequeathes a female slave on condition that she shall be free at a certain age, and before that period arrives she has issue, such issue are slaves; and

This COURT (THRUSTON, Circuit Judge, contra), decided accordingly. Judgment for the defendants.

¹ [Reported by Hon. William Cranch, Chief Judge.]

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