

**Marshall Green and Susan, Alias Marcia Davis
Philadelphia, 1826.**

**PAS Papers Box 4A Manumissions
"Actions involving illegal enslavement of blacks"**

Green obtained permission from his owner, Dr. Bouchell, to leave Maryland and go to Pennsylvania to get his children. When Green did not return to Maryland, he was pursued and arrested. Dr. Bouchell died before Green was returned. The court ruled that Green could not be arrested under the fugitive slave act since he did not escape or flee, but had the consent of his owner to go Pennsylvania.

**To the Case of Marshall Green and Susan Johnson
Before Judge Barnes, 10:Dec:-25**

Thomas Buchell Sworn Marshall Green and Susan Johnson are the property of the Estate of John Bushell. He has been dead three years next March I think. The negroes at the time he died had run away. I don't know how long I think one year. I have known Marshall and Susan all my life I lived on the adjoining farm. I will be twentyone years old next June. The Negro man is older than me considerably the woman three or four years. They have been absent four years. They have been absent ever since except Marshall was taken up last August and taken home and my father allowed him to come after his children and return home. The children were born in Cecil County in Maryland. There were three He had no other children when he came away. John Buchell had 5 or 10 slaves he liberated none. I don't know that ever my uncle used any means to recover these persons. I came after them the first time with my father -I have not seen Marshall since last August.

Jos: Joyce Sworn I have been Marshall 15 years or thereabouts. My acquaintance commenced in Cecil County. He was in the possession of John Buchell as his slave. I have no doubt he is the ↑same↑ person I have known as Marshall Green at John Bushell's I have not seen Marshall for 5 years. He was then on J. Bushell's farm. I lived within two miles of the farm. I saw Marshall frequently during the 15 years perhaps 2 or 3 times a week. I have not seen him here before I saw him in the Court I have spoken to him and know him to be the same man.

[Back of Document]

Cases of Marshall Green & Susan Johnson

The negroes were arrested by a warrant from Judge Barnes upon the application of Charles Knight by virtue of a power of attorney from Peter Buchell administrator of the Estate of John Buchell.

The witness Thos. Buchell is the son of Peter Buchell

* * *

Sleighter Bouchell's Will

In the name of God amen I Sleighter Bouchell Doctor of Medicine formerly of Cecil County in the State of Maryland but for some years part of Burke County in the state of North Carolina by the providence of God having arrived to an advanced age and considering my charge approaching and certain being of sound mind and memory do make this my last will and testimony and first I wish to call up all the power of my soul to bless and give thanks to almighty God for his goodness to me this my whole life and for the hopes of happiness in the next world I earnestly recommend my soul to God who gave it, through Christ the Redeemer and request direct that my Body shall be interred in the Vault I am about to have made near the House of Col. Waighstill Avery.

SIII. I give and devise to John Bouchell Sleighter Bouchell and Peter Bouchell my nephew and sons of my brother Thomas Bouchell their heirs and assigns forever all that my tract of about one thousand acres of land be the same more or less within the Bohemia River in Cecil County and State of Maryland and it is my will that if one or more of my said nephews shall die without fully begotten then the survivor or survivors of them shall have their share of him or them so do dying without... to him or them surviving his or their heirs and assigns forever I do hereby appoint my friend James Bayard Attorney at Law and John Cannon merchant both of the State of Delaware and my said Nephew Sleighter Bouchell my executors to execute my will and administer on my Estate except what shall here ever after be directed to the Executors by and Administration and Execution in Carolina after named S.V. all my other lands at Mills whares and warehouses in the states of Maryland Delaware and Pennsylvania, I give and devise to my said three Executors herein before named such of them as shall qualify to the office the survivor or survivors of them and his or their assigns forever. Intrust nevertheless that my said Executor before named such of them as shall qualify to the office or the survivor or survivors of them shall sell the said Lands House Mills whares and ware houses for the best price that can be obtained for the same and in order to procure a sale for the value or nearly the value, I do hereby direct and require my said Executors to advertise the said Lands and real Estate for sale describing the the same in the public papers of Philadelphia and Wilmington as often as once in two weeks for the space of six months before the day of sale, and that one years credit be given for the purchase money, the purchase giving Bond and security for the same. S.VI. I direct my said Executors to pay all my just debts and collect all sums of money that may be due to me except in the four most southern States of North & South Carolina Georgia and Kentucky. S.VII. I give and devise one ninth part of the money that shall arise from the sale of Land, herein before devised to be sold by my said Executors and one ninth part of my personal Estate that shall be in the hands of the same Executors (after Debts and other Legacies paid by them) to each of my Grand children that were of the names of Witherspoon and their Sisters, Mary and Mary, Sons and Daughters of my Daughter Susanna Witherspoon. S.VIII. and also in like manner one ninth part of the money arising from the sales of my Lands, Houses, Mills, Wharves and Ware Houses herein before devised to be sold by my Executors and one ninth part of the personal estate that shall remain in the hands of my said executors to each of the four children of my said Brother Thomas Bouchell to wit, John Bouchell, Sleighter Bouchell Peter Bouchell and Mary Bouchell. S.IX> And I do hereby direct that my said three Executors shall not intermeddle with any part of my estate that lies or may at the time of my decease lie in the States of North Carolina, South Carolina, Georgia and Kentucky. SX. I give and devise and direct my said Executors to pay or remit to my worthy friend Doctor Joshua Clayton a Legacy of One hundred pounds our of my personal estate that shall be in their hands. SXI. And at the expiration of three years after my decease I direct my said Executors or the survivor or Survivors

of them to make the said Distribution and pay out the said nine shares as before directed to my said five Grand Children, three Nephews and my said niece. S.XII. I give and devise to my nephew Doctor Thomas Bouchell son of my said Brother Thomas Bouchell deceased, all my Estate Real and personal lands houses lots and other estate that lies or at the time of my decease may lie or be in the States of North Carolina, South Carolina, Georgia, and Kentucky including my outstanding debts in those states, to the said Doctor Thomas Bouchell, his heirs and assigns forever and hereby appoint my said Nephew Doctor Thomas Bouchell Executor of my Estate as lies or may at the time of my decease lie in the said four States last mentioned or any of them and it is hereby expressly declared that nothing in this will shall be understood to give the said Thomas Bouchell any power or authority to intermeddle with any part of my Estate herein before directed to be administered upon by the said three Executors first named.

SXIII. And I do hereby order and direct that my last appointed Executor the said Thomas Bouchell out of my personal Estate that may come to my hands shall pay of a North Carolina, South Carolina, Georgia and Kentucky and my funeral charges S.XIV. And I do hereby devise order and direct that my three Negroes now in Burke County ...Ben, James, and Perry shall be free as they respectively shall arrive at the age of twenty five years, and that my said Executor Thomas Bouchell shall provide that my said Negroes shall be sent to the State of Delaware each respectively as soon as he shall attain the age of twenty five years, and each at his own expence in order and for the express purpose that they may and shall have the benefit of the Laws of the State of Delaware for the emancipation and freedom.

SXV. And whereas, my said Nephew Sleighter Bouchell by virtue of a Letter of attorney hath been impowered and authorized to collect my outstanding Debts, lease out my Lands and receive my Rents and by that means may have in his hands divers sums of money belonging my Estate at the time of my decease; and also my said friend Mr Carn.. may possibly at the time of my decease be indebted to my Estate, I do hereby declare my intention that their appointment to the office of Executors shall not extinguish those debts but on the contrary allow sums of money in their or any of their hands shall be included in the said devise of nine shares and shall be paid out at the end of three years after my decease to my said Grand Children three nephews John, Sleighter and Peter and my said Niece Mary Bouchell. And the extraordinary trouble that my said Executors may have in selling and making conveyances for my said Lands Stores Mills, Wharves and Ware Houses, I give and devise to the said James Byard & John Carn.. and Sleighter Bouchell one hundred pounds each more than the Laws of the Delaware State has provided SXVI. And lastly, I direct that my said Executor Sleighter Bouchell with my money ..in his hands to procure and send to Charleston for the purpose of compleating any said Vault two marble Slabs each five feet eight inches long two feet six inches square and eighteen inches long enough with adjustable plain base and capital of Doric order.

Signed sealed published and declared to be his last will and testament this 14th May 1791

In presence of Waighstill Avery W^m White Reuben White, Thomas Coleman

Sly^r Bouchell

[Back of Document]

Documents in Case of Marshall Green & Susan

Thomas Shipley
 Merchant Market
 Near Second Street
 Phila

Bouchell Will

Joseph Todd will please
 Deliver this immediately

I did not get it till
 this morning 9th mo
 he may send the
 money by the Bearer
 Joseph Todd
 Tho^s Garrett

* * *

State of North Carolina, Burke County, County Court of Pleas and Quarter Sessions January term anno Domini, One thousand seven hundred and ninety seven the last Will and Testament of Doctor Shryler Bouchelly deceased was brought into open Court to be admitted to probate. Whereupon came Col. Caighstill Avery William White Esquire Thomas Coleman Esquire and Reuben White Farnier and being duly on the Holy Gospel of God according to Law do say that they saw the Testator Doctor Shuyler Bouchell deceased execute and heard him publish the foregoing Instrument of writing as and for his last will and Testament. That they believe he was of sound disposing mind and memory at that time that they respectively subscribe as witnesses thereto in the presence of the Testators and in the presence of each other the interlineations that mow appear therein were made before the execution thereof. That the said will after being attested was immediately sealed up and that the seals were this day opened in our presence in open Court, and the said Col. Waighstill Avery saith that it was intrusted to his care by the Testator & remained in his possession from the time of executing the same. It is now opened; The said Will was thereupon admitted to Record and Registration agreeably to the laws wages and customs of the State a true Copy of the Record.

* * *

State of North Carolina, Burke County. I James Erwin Clerk of the said County of Burke do hereby certify that the Instrument of writing purporting to be the last Will and Testament of Doct^r Sluyter Bouchell is the true and genuine last Will and Testament of the said deceased and that the same was admitted probate was duly proved recorded and registered according to Law. In Testimony whereof I have hereunto set my hand and affixed a Seal in Morgant, on this twentieth day of march Anno Domini one thousand seven hundred and ninety seven, and in the twenty first year of our Independence.

J. Erwin

* * *

State of North Carolina Burke County J. James Erwin Clerk of said Court do hereby certify that the regular Seal of the County was burned and that I have made use of

this impression hereto affixed in the room and stead of the proper one so Witness my hand this twentieth day of March A. Dom. 1797.

J. Erwin Clk

* * *

State of North Carolina Burke County. We the undernamed two of the Justices of Peace duly commissioned in for the said County of Burke, do hereby certify that the said James Erwin Esquire whose certificate whereto affixed is the proper in and for the County of Burke and that all due faith and credit as well within as without court is and ought to be given to his testimonials as such. And we do further certify that the regular seal of the said County was burned and this impression hereto affixed is the usual one used by the said Clerks. In witness whereof we have hereto set our hands and affixed our Seals, the twentieth date of March Anno Domini 1797- W^m Erwin J.P.

W^m Davenport J. P.

* * *

State of North Carolina

By Samuel Ashe Esquire Captain General Governnor and Commander in Chief &c. to all to whom these presents shall come Greetings Best known that James Erwin Esquire who as clerk of the Court of Peas and Quarter Sessions of the County of Burke in the District of Morgan has attested under his hand and the usual Seal of the said Court the three annexed Certificates is and was at the time of his said attestations Clerk of the said court of Pleas and Sessions legally appointed and authorized & impowered to grant such certificates. And that due faith and credit is due and ought to be given as well in court as out, to his said And signatures. Be it known also that William Erwin & William Davenport Esquire who as Justice of the Peace of said County of Burke have attended under their hands and Seals their annexed Certificate are Justices of the Peace in and for the said County. In Testimony of the several above matters I have hereunto set my hand and caused the great Seal of the State to be affixed at Raleigh the 3rd day of April 1797 and XXI year of American Independence.

Saml Ashe

I do certify that the foregoing is a true copy from the Will of Sluyler Bouchell deceased and probate thereof and that letters Testaments thereon were granted unto Sluyler Bouchell and John Carnan

* * *

Slave ↑alleged↓ of Jn Bouchell's estate

Marshall had left the Service of his Bouchell his master ↑in Maryland↓ with his consent to obtain his children in Pennsylvania and then to return finding he did not return the Executor of Bouchell's estate Sent and had him arrested a warrant was granted by Judge Barnes and after a short hearing a postponement was granted after an imprisonment of several weeks Marshall was again brought before him D. P. Brown acting as counsel for the Abolition Society and James M Page for the Master.

Beforeupon the merits the Counsel for the doctor denied that the arrest was legal under the act of Congress the facts proven by one of the Claimants Witness showing that the Man had left Maryland and came into Penns^a with his Masters consent and

....the case of Simmons vs. Winthist decided before Judge Washington. It was then decided that a master bringing a Slave into Penns^a and the Slave refusing to return cannot arrest him under the Act of Congress.
The Constitution & the Fugitive Act, were read and it was contended Plainly that there must be an escape from the State where the Slave was held
The opposite counsel consented.

* * *

Testimony of Andrew Bayard

District Court C & Co. of Phila
Opinion in the case of Marshall Green a black man intended to have been delivered
July 20 1826

Andrew Bayard was the Slave of Doct Bouchell was sold to
Susan states that Judy her mother belonged to Sappy Byshell John Byshell's mother who lived on Ba.... Manor in Maryd She gave Judy to her Daughter Polly who married Isaac Canon. This Witness was told by Doctr Bouchell and Sally Bouchell that Thomas Bouchell the husband of Sally & brother of the Doctr left a will leavg Betsy to John Bouchell Margaret to Sally his widow David to hisThomas George to Peter Bouchell Judy & her mother to Dublin to Sally Bouchell his widow Sally gave Judy & her children to Polly Bouchell sister to John Bouchell

Andre Bayard

State that Doctr Bouchell the Master of this witness became possessed of Alice Marshall's mother from Price's Estate and he heard him say that he made her free before Marshall born and the witness knew him to live as free woman with her children with her husband Bill on Bahama Manor while this deponent lived with the Doctr Jack Lewis & Perry brothers of Marshall born after their Mother was let free both lived in the Doctors Service but were not considered as Slaves.

This witness knows that Marshall was in the Service of John Bouchells with his brother Jack Lewis & Perry

* * *

Opinion in the Marshall case

District Court C&Co of Philad^a.
In the Case of Marshall Green
a black man claimed as a slave
I have carefully considered the 4 art. of the second section of the Constitution of the United States and the act of congress passed 12 July 1793. Ingersolls Digest 310 "respecting fugitives & persons escaping from ~~labo~~ the service of their masters" – and am clearly and decidedly of opinion that before a judge can with propriety give to the claimant of a negro a certificate by which he is to be authorized to take him from this state into another to be there held as a Slave-, it must be proved that the negro escaped or fled from one state into another- The certificate to be given is decided by our Supreme Court in 5th Sayt & Rawle 62 to be conclusive evidence of the claimants right to carry him off-before it is given therefore the judge ought to be well satisfied that the case comes within the purview of the constitution & act of congress for it prevents an enquiry on a trial by jury into the right of the party to his freedom-I am therefore for a strict perhaps a literal &c interpretation of the words of the constitution & act I cannot agree in such case to the doctrine advanced by the

claimants counsel of a constructive Flight- In the present instance the negro came into the State of Pennsylvania from Maryland by the command or permission of his alleged master who now claims him_ he did not escape or flee from Maryland into Pennsylvania and is in my judgment not a fugitive within the provisions of the constitution or of the law. The application for certificate was in the first instance made to Judge Barnes who adjourned the consideration of it to the whole court for their advice & assistance-; my opinion is that the certificate required by the claimant ought not to be granted the effect of a refusal will not be to decide that the negro is free but only to withhold this extraordinary & summary Remedy & leave the claimant to his remedy by the ordinary and usual course of the Law.

District Court C & Co. of Phila
Opinion in the case of
Marshall Green
a black man intended to have been
delivered July 20 1826