

BENDING THE ARC OF HISTORY TOWARDS JUSTICE

THE LAST WILL OF LUCY SUTTON

TERRENCE M. FRANKLIN

1



THE LAST WILL OF LUCY SUTTON:
An antebellum interracial story of love.

By Terry Franklin

2

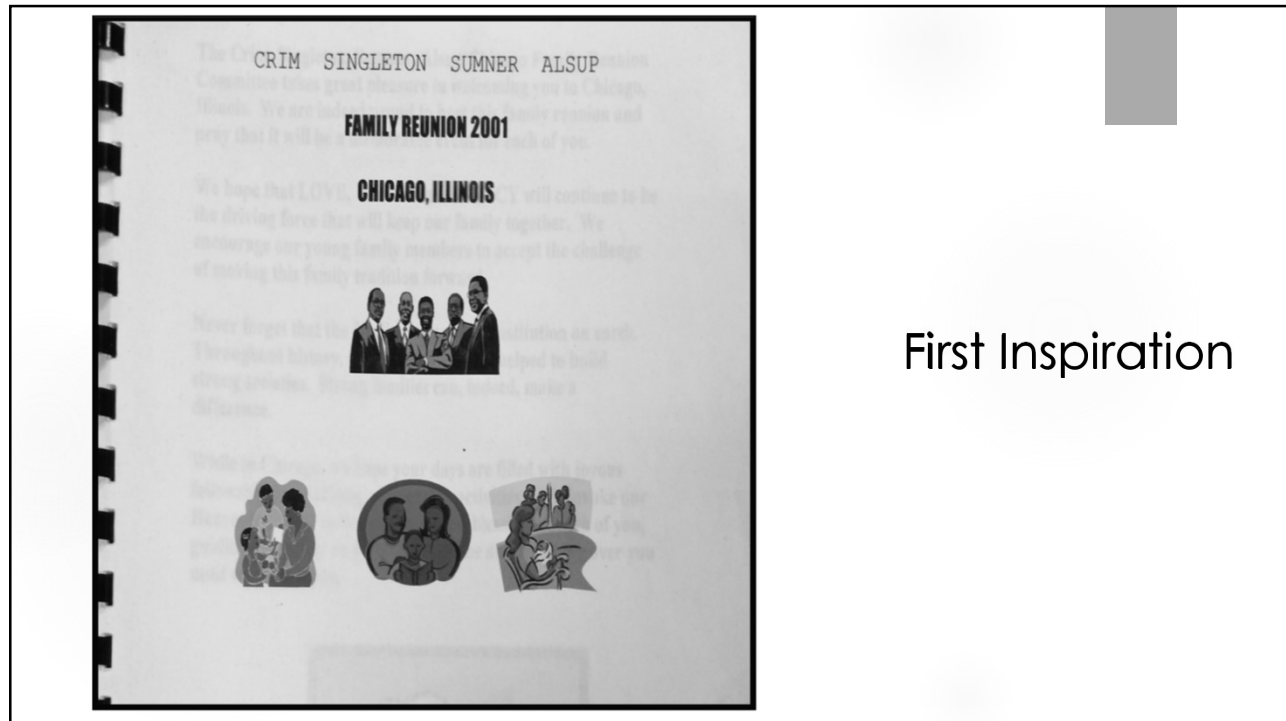


Viola Crim Walker, Born February 17, 1914

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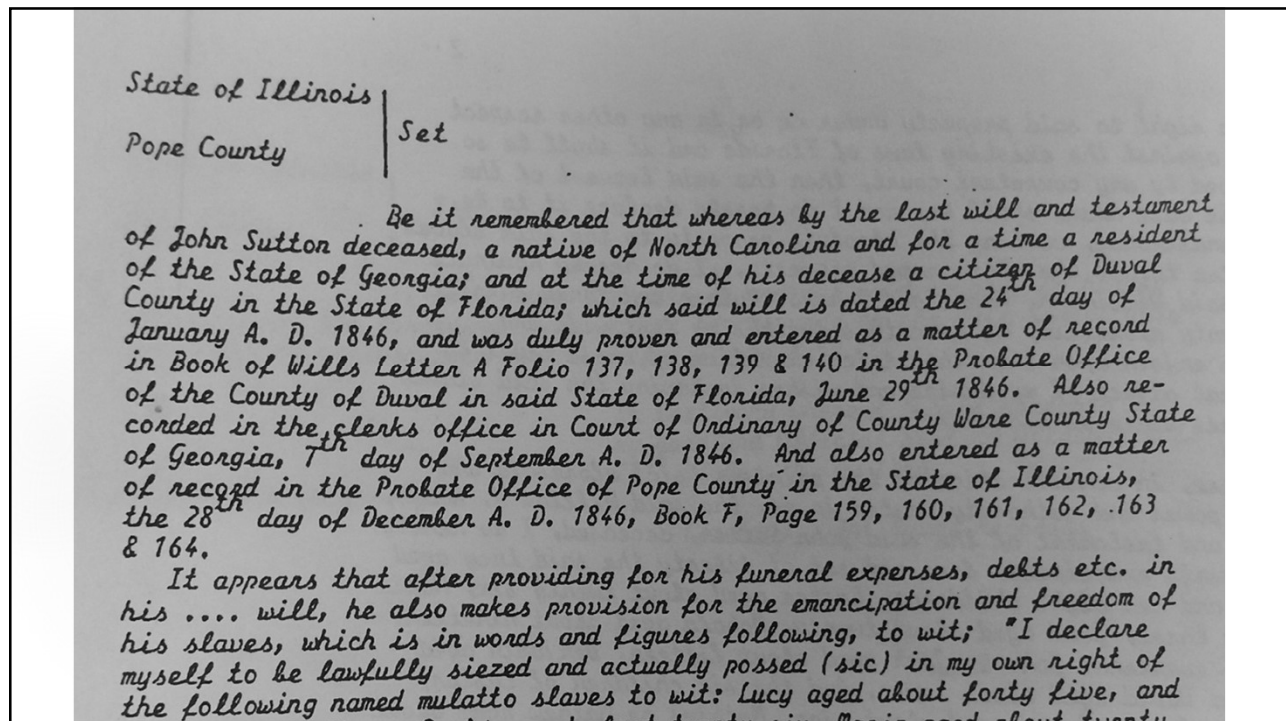


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First Inspiration

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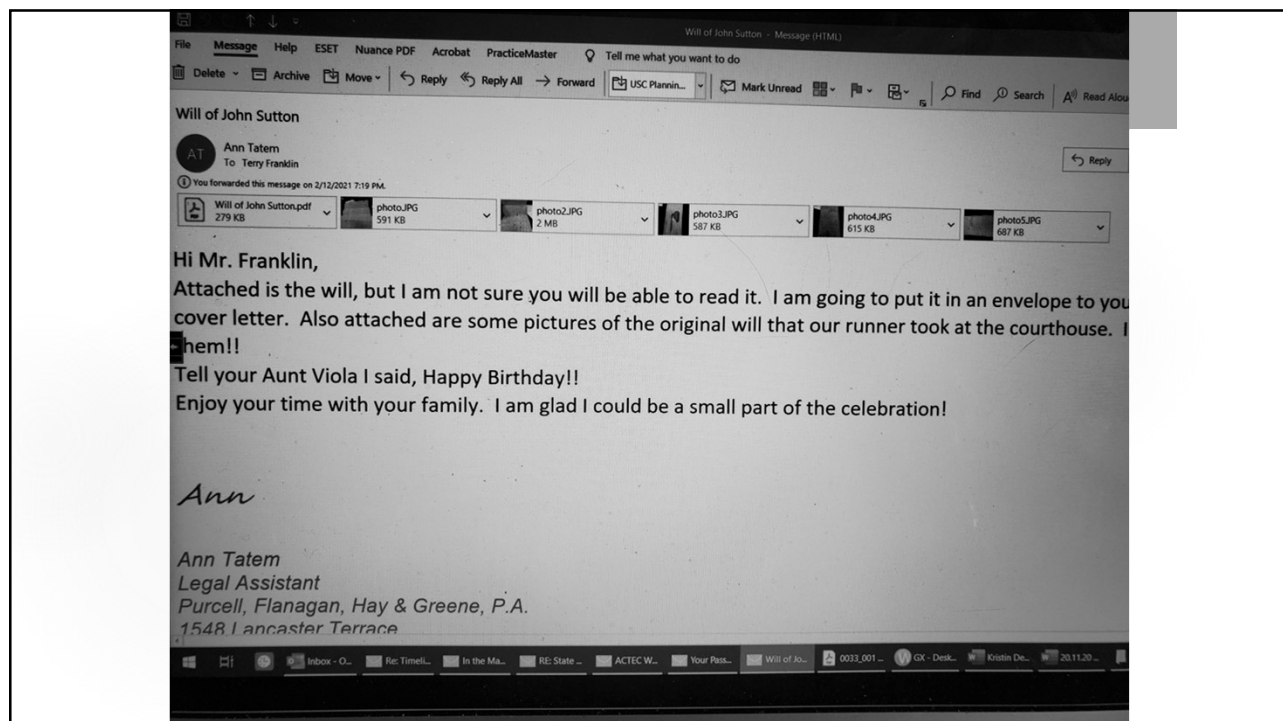


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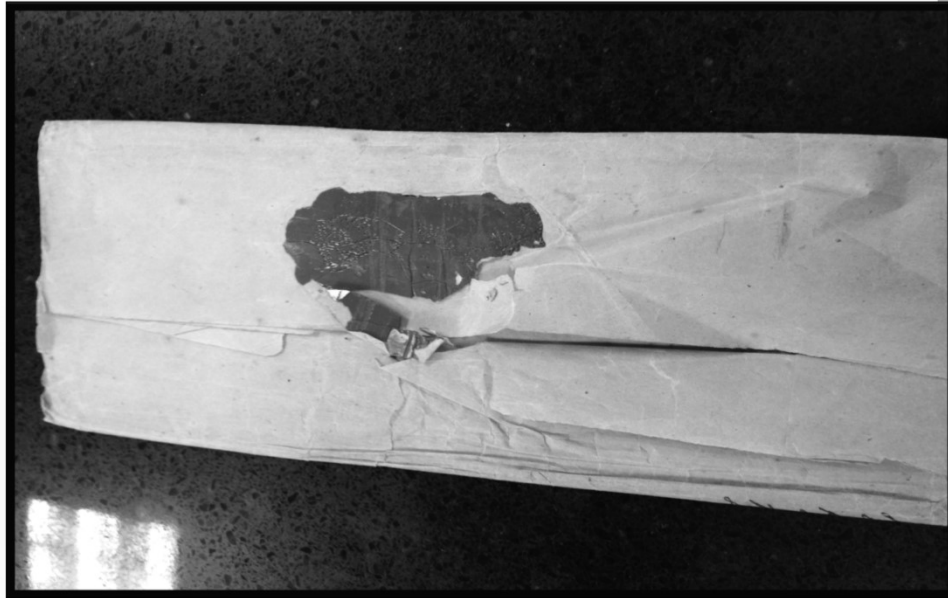


Viola Crim Walker, Born February 17, 1914

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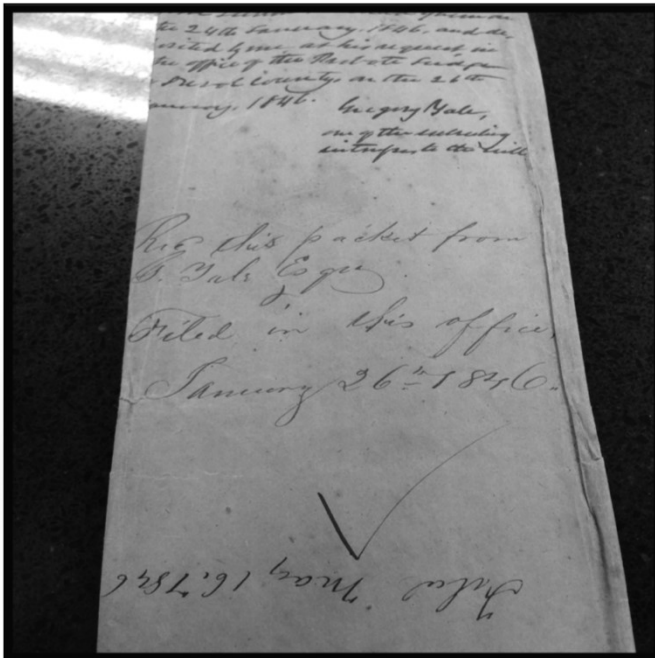


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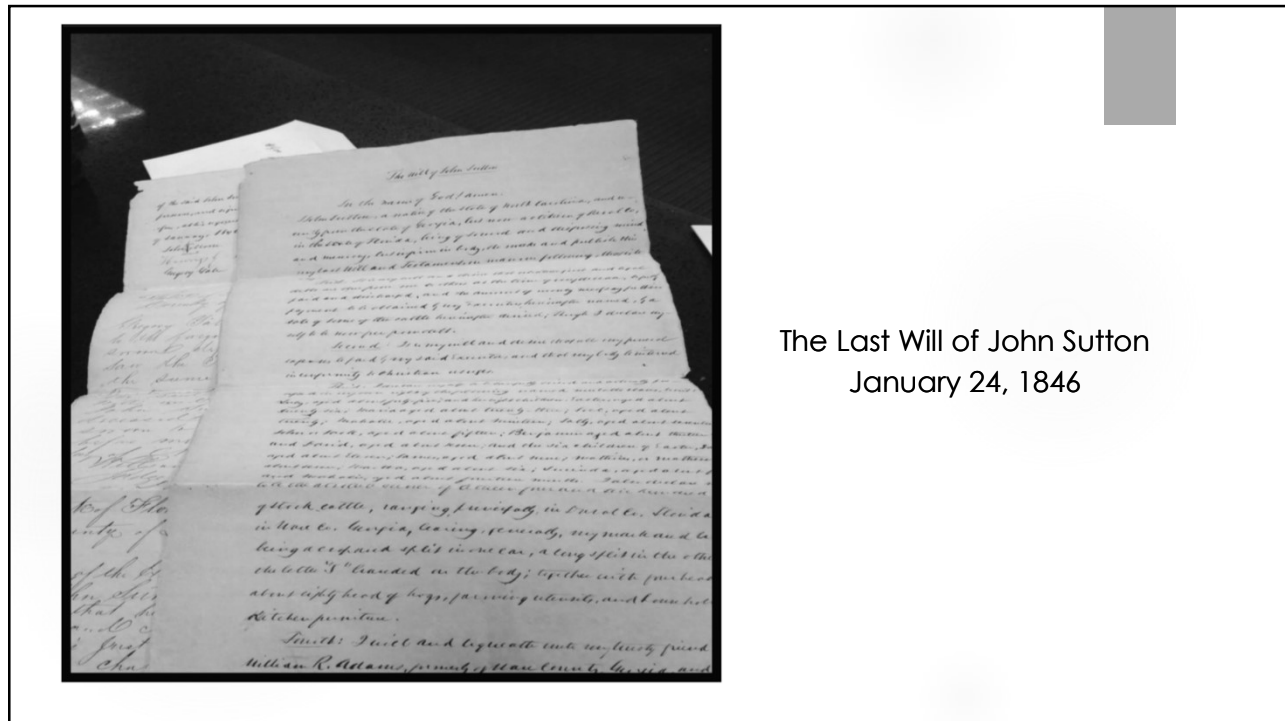
First image of envelope of John Sutton's will.

9



First image of outside of John Sutton's will.

10



11



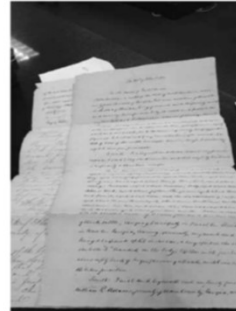
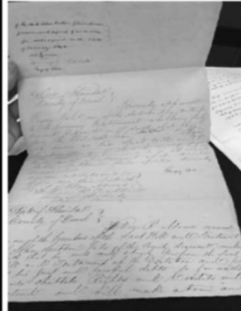
12

Tracing One Family's Path to Freedom, Through Love

By Terry Franklin

This story is about my search, as a trust and estate lawyer, to find answers to questions about my family's heritage and to try to discover evidence of the role that rape or love may have played in how my family came to be. I grew up in Chicago, where my mother's family lived after migrating from Southern Illinois. We always knew that our ancestors had settled in Southern Illinois in the mid-1840s. Family lore and research performed by a long-deceased distant cousin informed us that there was a will made by my great-, great-, great-, great-grandfather, John Simon, who died in 1846. We had an abstract of a portion of the will made by John, a white farmer in Duval County, Florida. (Jacksonville is the county seat.) Based on the abstract, we knew that the will provided first for the payment of John's debts and, then, for his "mulatto slave Lacie" and her eight children, including her daughter, Easter, and Easter's own six children to be set free on John's death. The will included a specific direction that they all be moved "to the states of Illinois, Indiana, Ohio, or a foreign country where they and their children could live free forever." We also knew that the will named a trustee to take ownership not only of John's slaves, but also of his 400-500 head of

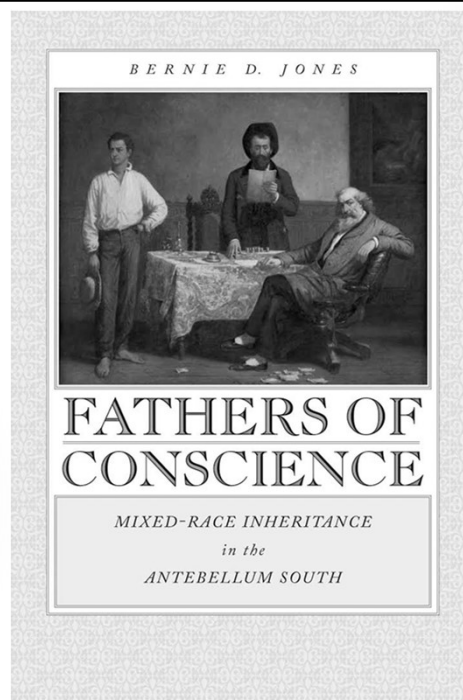
Terry Franklin is a partner in the Los Angeles, California, firm of Sacks Glaser Franklin & Lofgren LLP and a member of the Section Council.



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PRIVATE & PROPERTY • SPRING 2014 61

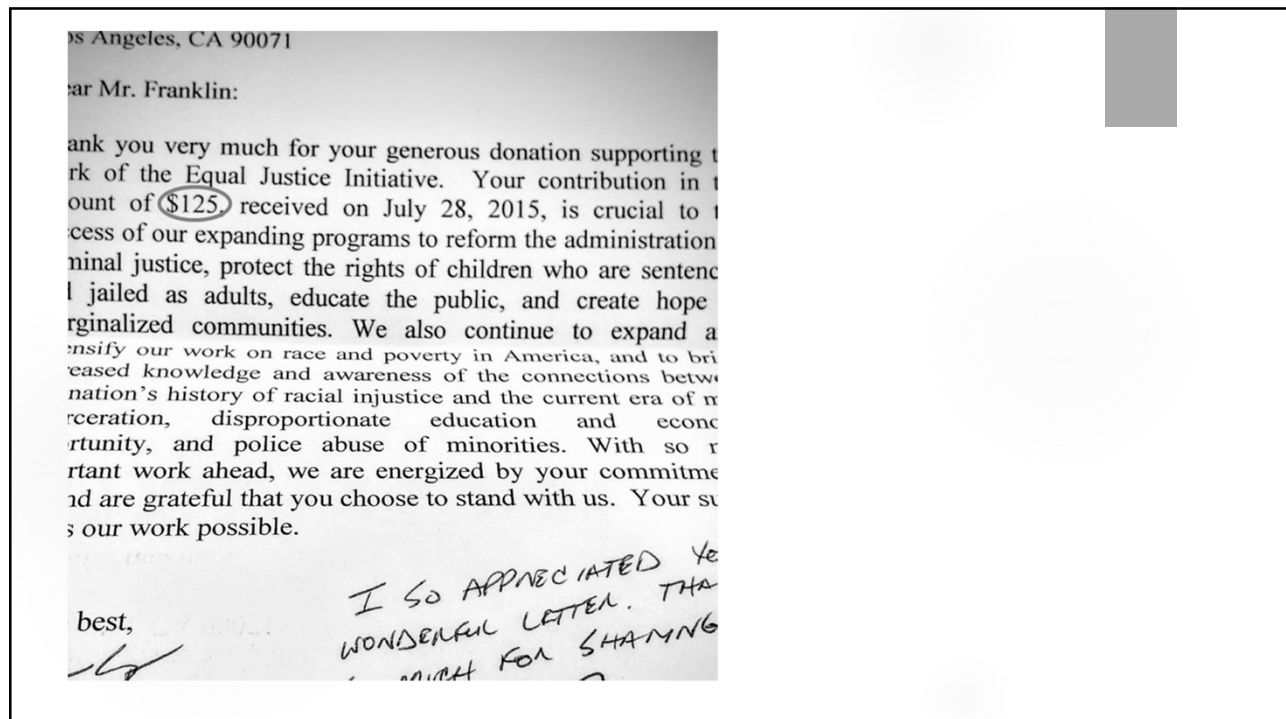
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14



15



16



Going to the Courthouse in
Jacksonville

17



At the Duval County Courthouse Opening
John Sutton's Probate File

18

Fourth: I will and bequeath unto my trusty friend and relation William R. Adams, formerly of Ware County, Georgia, and now of said Duval County, Florida, all of the above named and described property, the said slaves, and the future increase of the females thereof, the said cattle, hogs [] to have and to hold unto him and his heirs, under the following conditions, namely, that upon my death, or as soon thereafter as practicable, he the said William R. Adams, remove the said slaves and the increase as aforesaid, or permit them to be removed, beyond the jurisdiction of the state of Florida, and into the states of Ohio, Indiana, or Illinois, or any foreign country or state, where they can enjoy their freedom of being released from the condition of slavery

The Will established a trust obligation.

19

Fifth: I further will and declare that in case the above conditional bequest of the said slaves to the said William R. Adams, be in anywise impeached in a court of justice by any other persons except the said Adams, claiming a right to said property under me, or in any other respect, as invalid, or as against the existing laws of Florida, and it shall be so decreed and judged by any competent court, then the said bequest of the said slaves to the said Adams shall be, and I so declare it to be, absolute and unconditional, vesting the absolute property to the said slaves to the said Adams and his heirs, making him my universal legatee to all the above named property.

John Sutton, Lucy Sutton and their lawyer all anticipated a contest, so the will was drafted to deal with a challenge based on Florida's 1829 statute prohibiting emancipation of slaves in the state.

20



Discovering something unexpected...

21

To the Honorable William F. Roberts
of Probate for the County of Duval State of Florida
Humbly propounding Sheweth unto you
or, Com. petitioner Shadrack Sutton
Sutton County State of said State
e. Representative of John Sutton
Duval County State of said State
That the said John Sutton departed
in said County in or about the year
in the Year of our Lord One
thousand and forty eight, leaving
his and legal Representative, and
a large estate consisting of
estate & other property, a cons
of which was at the time of

John Sutton's younger brother
Shadrack challenged the
probate of John's Will, and
the emancipation of Lucy
and her children and
grandchildren.

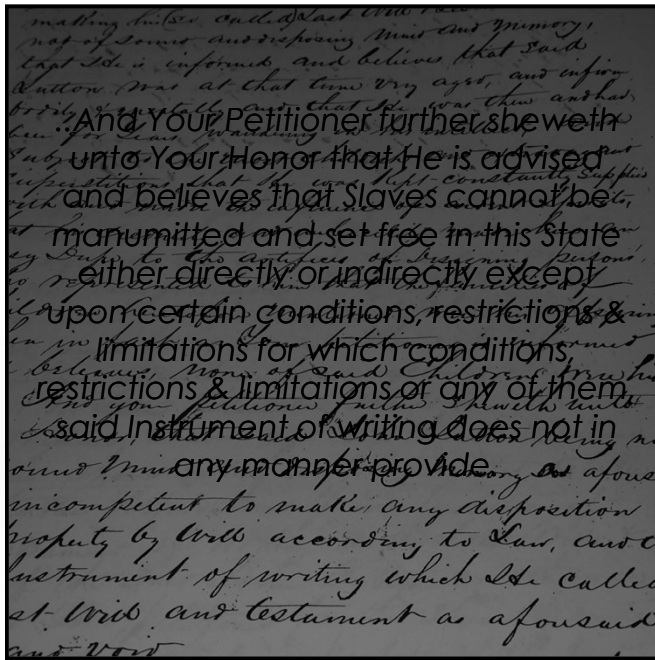
22

informed and believes that said Sutton was at that time very aged, and infirm bodily & mentally and that He was then and had been for Years wandering in his intellect, and subject to the most childish and extravagant superstitions, that he was kept constantly supplied with and under the influence of ardent spirits, that his credulity and imbecility made him an easy dupe to the artifices of designing persons who represented to him that the families of children heretofore mentioned were his offspring when in fact as Your petitioner is informed and believes, none of said children were his.

23

And your petitioner further sheweth unto your Honor, that said John Sutton being not of sound mind and disposing memory aforesaid was incompetent to make any disposition of his property by Will according to Law, and that (the Instrument of writing which he called) his Last Will and testament as aforesaid is null and void.

24

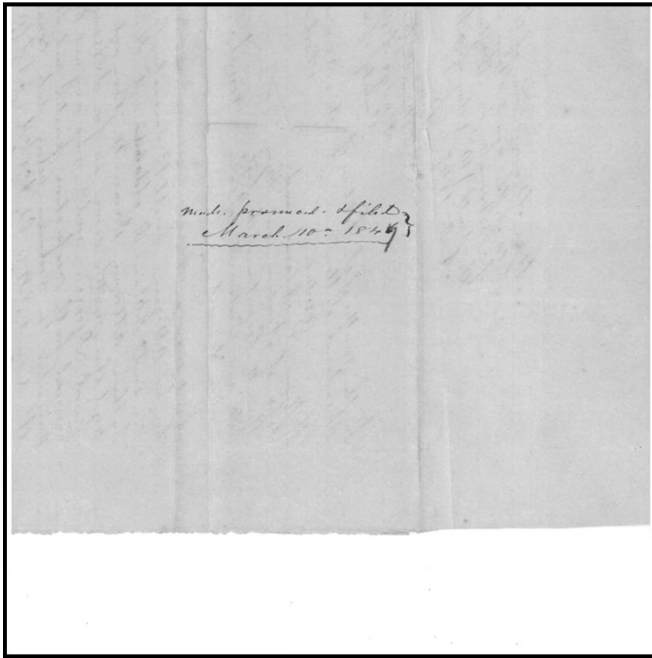


25



The family must leave Florida.

26



The Final Decree
March 10, 1847

27

by these presents Emancipate free and set at liberty the said
Lucy aged about forty five and his eight children Esther aged about
26. Maria aged about 23. Joel aged about 20. Mahala aged about
19. Sally aged about 17. John a Luke aged 15. Benjamin aged about
13. and David aged about 7. and the six children of Easter, Dora
aged about 11. James aged about 9. Mathias or Mathew aged about
7. Marthe aged about 6. Lucinda aged about 4. Mahala aged
about 14 months. and their increase according to the tenor and
meaning of said will. To Enjoy full and perfect freedom
consistent with the laws of Illinois, free from the control of all
and Every Person whomsoever.

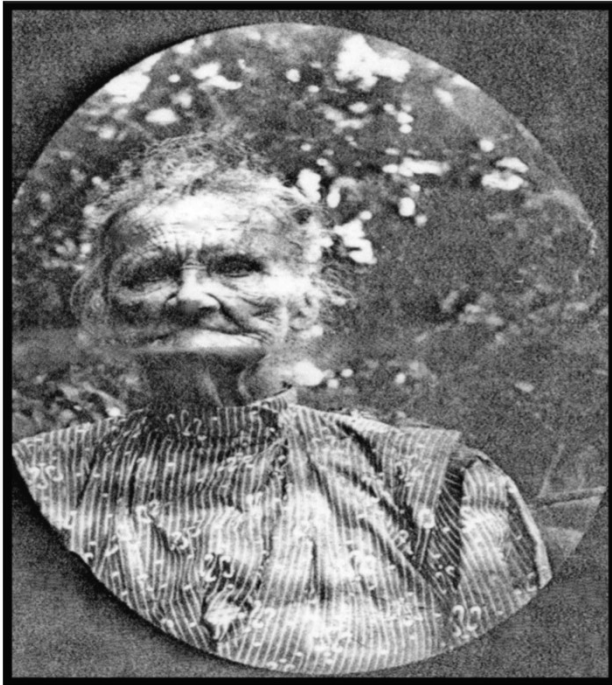
In Testimony whereof I have hereunto set my hand
and Affixed my seal at Golconda Pope County State of
Illinois December 28th A. D. 1846

State of Illinois }
Pope County }
William R. Adams, Esq.

On the date being personally Came before the undersigned
the said William R. Adams who

To Enjoy Full and Perfect Freedom...free from the control of all and Every Person ...
December 28, 1846

28



Sarah Sutton, Born 1829 in Duval County, Florida in slavery. Died after 1910 in Pope County Illinois, in Freedom

29



The legacy of John and Lucy Sutton are their descendants.

30



THE LAST WILL OF LUCY SUTTON:
An antebellum interracial story of love

By Terry Franklin

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31

WHAT'S NEW?

- Around 2015, I discovered my mission,

TO BEND THE ARC OF HISTORY TOWARDS JUSTICE

32

Three Black Women Who Could Have Known and Helped Lucy

- ▶ Celia, whom the law gave no last name;
- ▶ Anna Madgigine Jai Kingsley; and
- ▶ Eulalie de Mandeville de Marigny.

33

Celia
(1818-1848)

34

FLORIDA'S FORGOTTEN EXECUTION

The Strange Case of Celia

By: H. Franklin Robbins, Jr. and Steven G. Mason



Introduction

If Floridians were asked to name the first woman executed by the State of Florida, those who had even the vaguest idea would likely say either Judi Buenoano, executed March 30, 1996, or Aileen Wuornos, executed October 9, 2002, but they would be wrong. The first woman executed in Florida was named Celia. She had no last name. She was a mulatto slave and her crime was the murder of her white master, who was also her father. She was executed by public hanging on September 22, 1846, and then forgotten. She died defiantly and without the least remorse for her crime. This article describes the facts leading up to and surrounding her execution. It also describes to a limited extent the disgraceful ordeal endured by the eleven remaining members of her family subsequent to her death. It is a cheerless and shameful tale of slavery, patricide, public hangings and other long-forgotten sins that was discovered by accident while these writers were working on one of a series of articles concerning the Orange County, Florida Circuit Court during the nineteenth century. Specifically, the judges were being researched – more specifically, Judge Thomas Douglas. Judge Douglas was the first judge to preside over the circuit court for the Eastern Circuit of Florida, the

circuit that included Orange County. The old Orange County court records seemed to reveal him as a rather colorful character (which he was not) during his five-year term on the bench (1846-51). He was nearly always late for court, missed many terms altogether, and never sentenced anyone to jail in Orange County.¹ But in a disturbing case with all the trappings of a Greek tragedy, Judge Douglas became the first judge to sentence a woman to death in the State of Florida. Her name was Celia.

Most of the information contained in this article was obtained from the probate file of Celia's father, and victim, Jacob Bryan.² Probate File No. 99B is still a part of the court records of Duval County, Florida, and contains nearly thirty separate documents. These documents were all hand written by many different individuals, and most are barely decipherable, not only because the passage of nearly 160 years has faded the ink, but also because the penmanship of some of the writers was – for lack of a better word – terrible. These writers are indebted to Laurie Hobbs for performing without complaint the tedious task of "translating" the probate file.

Pictured above: Depiction of shorthanded like the one used by Celia to kill Jacob Bryan.

Background

The existing records allow us to begin this story in January of 1830, the month and year that Jacob Bryan and his common law wife, a forty-two-

¹ Judge Douglas frequently attended court to be placed in the courtroom during the times that his presence on the bench was required. "Such Spelling," which he always made from the St. Johns River to on his home in Jacksonville to the Orange County Circuit Court in Jacksonville (unpublished).

² In the State of Jacob Bryan, Case No. 47-99B, Probate Court of Duval County, Florida (1847) (hereinafter "Bryan Probate File").

1 Spring/Summer 2014

35

If the jury find the defendant
guilty of murder in the first
degree
W. J. Selby
foreman

36

Missouri Celia

HANGING A NEGRESS.—CELIA, a negress, who has been under sentence of death since the 14th of October, for the murder of her master, ROBT. NEWSOME, in June last, was executed near this place on the 21st ult. The evening previous to her execution, and while under the gallows, she made what she said was a full confession of the crime. She has, at various times, implicated several persons; but, by her dying confession, all of them are exonerated from any participation in the murder. She said that on the evening of the occurrence she procured a large, stout stick, (much larger and heavier than that before described by her,) and took a position behind the door, leaving it slightly ajar; that her master came to the cabin, pushed the door open and entered; as soon as he entered she struck him with the stick, felling him to the ground. She did not, at first, intend to kill him, but she said, "as soon as I struck him the Devil got into me, and I struck him with the stick until he was dead, and then rolled him in the fire and burnt him up." She denied that any one assisted her, or aided or abetted in any way. She was hung at 2½ o'clock, on Friday, 21st of December last. Thus has closed one of the most horrible tragedies ever enacted in our county. —*Fullon (Mo.) Telegraph, Jan. 4.*

The New York Times

Published: January 16, 1856

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37

The Hanging of Celia - THE JACKSONVILLE HISTORICAL SOCIETY THE JACKSONVILLE HISTORICAL SOCIETY

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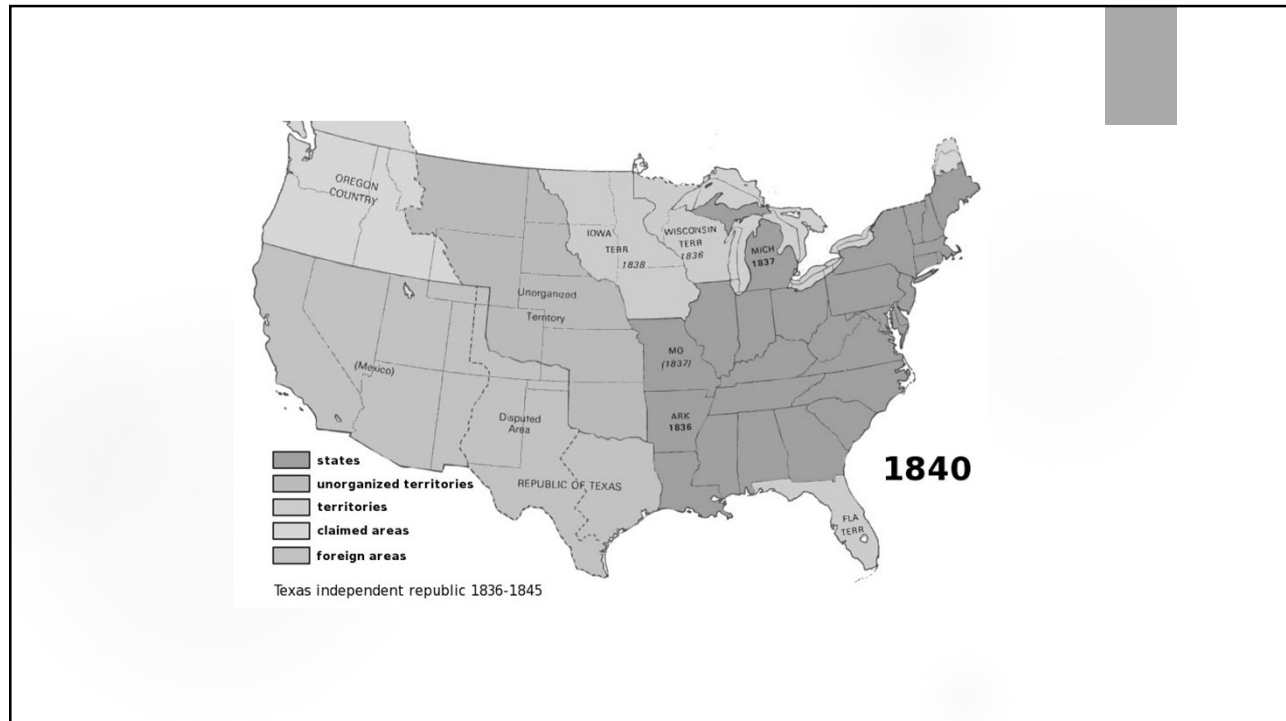
The Hanging of Celia

This photo dates from about 1875, around 10 years after America freed its slaves. The setting is Clifton Plantation near Jacksonville. Crouching on the ground is a young African American woman who had probably been born into slavery. Most likely, the woman had heard whispers about the sad Celia affair of 1848, which involved the execution of a slave in Jacksonville. The young lady in the picture is holding a toddler. He was born after the Civil War and no doubt first saw the light of day as a free person. Standing nearby may be the top-hatted owner or manager of the plantation.

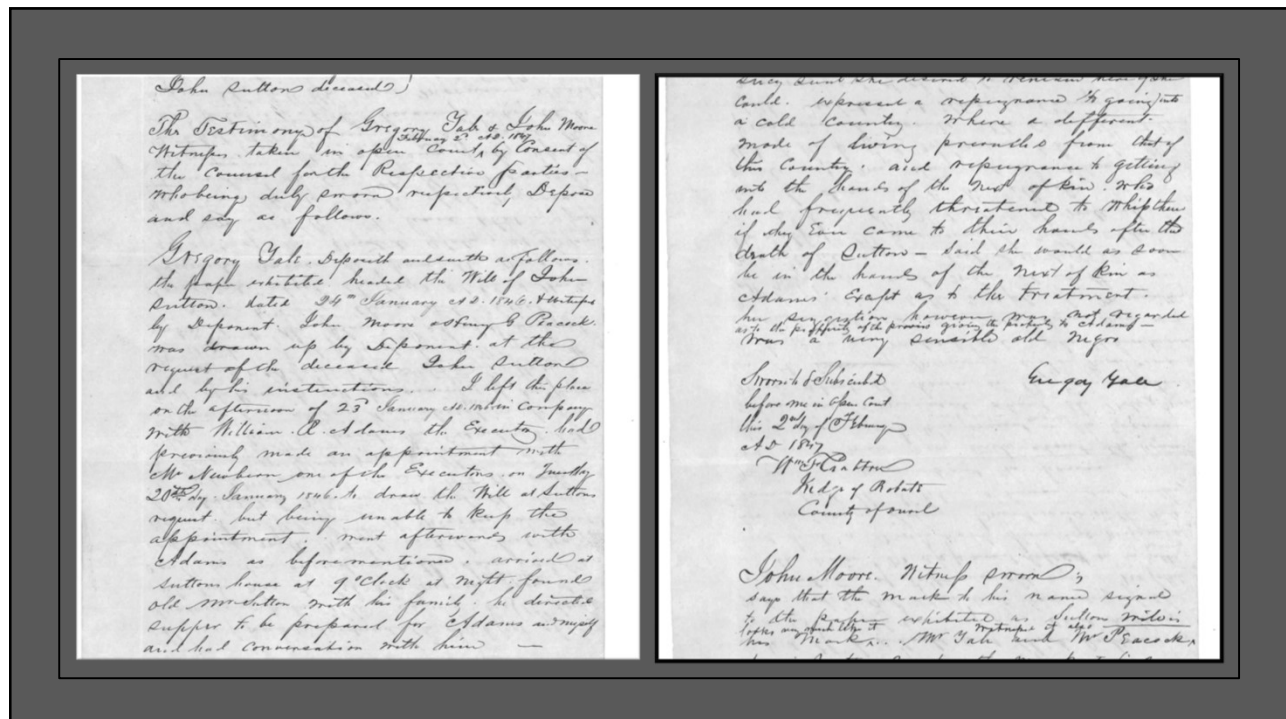
CONDEMNED — On October 9, 2002, a female serial killer named Aileen Wuornos was executed by lethal injection. The 46-year-old became only the third woman executed in Florida. The second had occurred in 1998. The "Black Widow" Judy Buenoano, age 54, died in the electric chair for the poisoning death of her husband.

<https://www.jhsthist.org/portfolio-items/the-hanging-of-celia/> 11/23/21, 4:52:26 PM

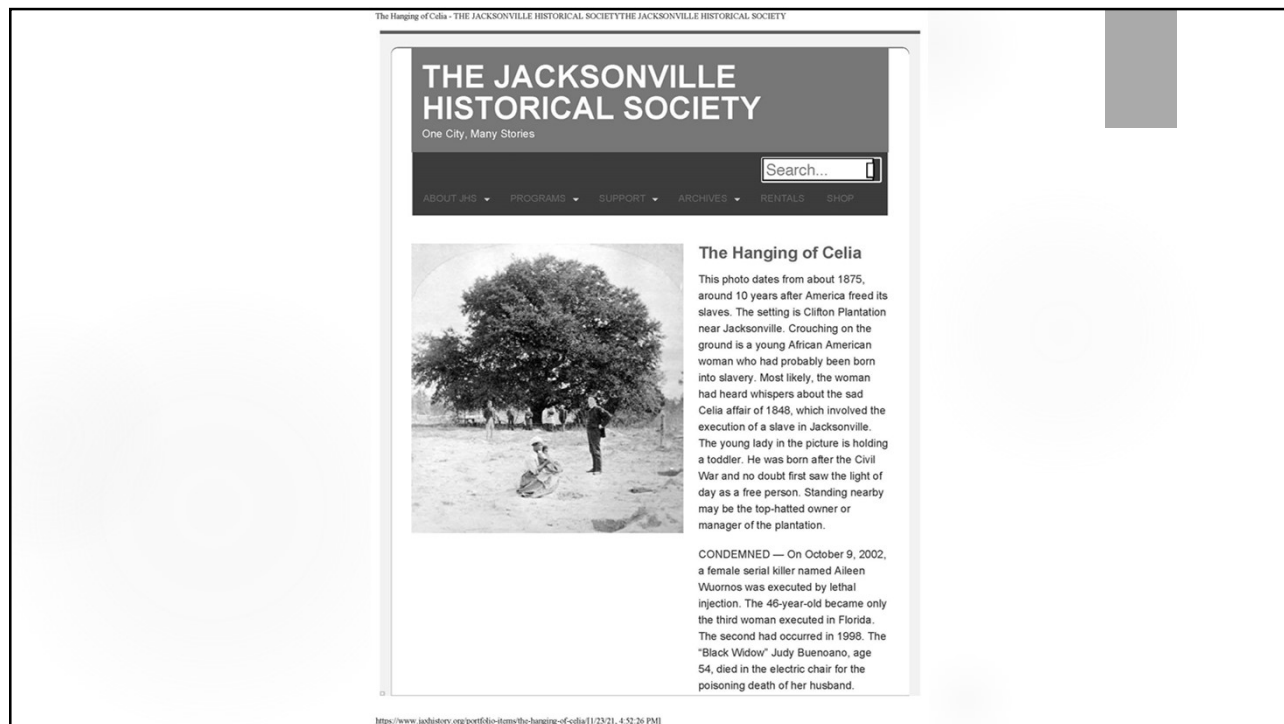
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41



42

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Reproduced above: Depiction of a hanging like the one used by Celia to kill Jacob Bryan.

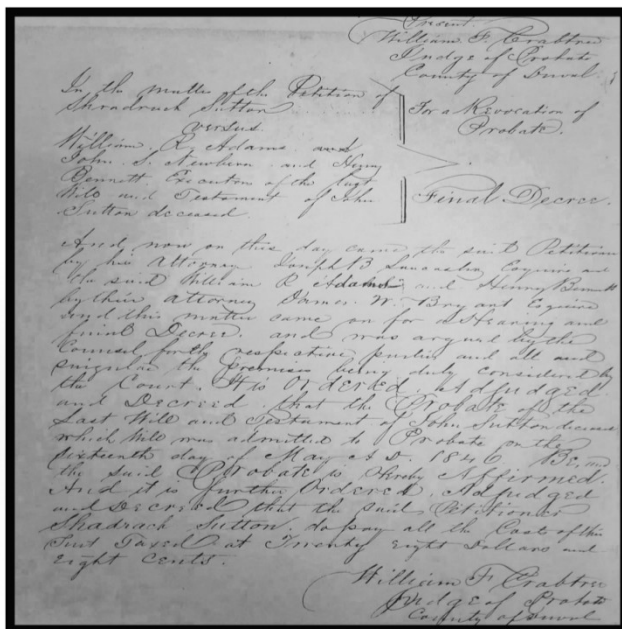
Background

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¹ Judge Douglas frequently administered justice by himself in the courtroom, leaving the clerk to take notes on the docket. “These [records],” which he subsequently donated to the State, have been found to be handwritten by the Orange County Circuit Court in Jacksonville (written by Charles G. B. for the State of Florida, Vol. 10, 40-405). See also: Circuit Court of Duval County, Florida (1847) (hereafter “Bryan Probate File”).

1 Spring/Summer 2014

43



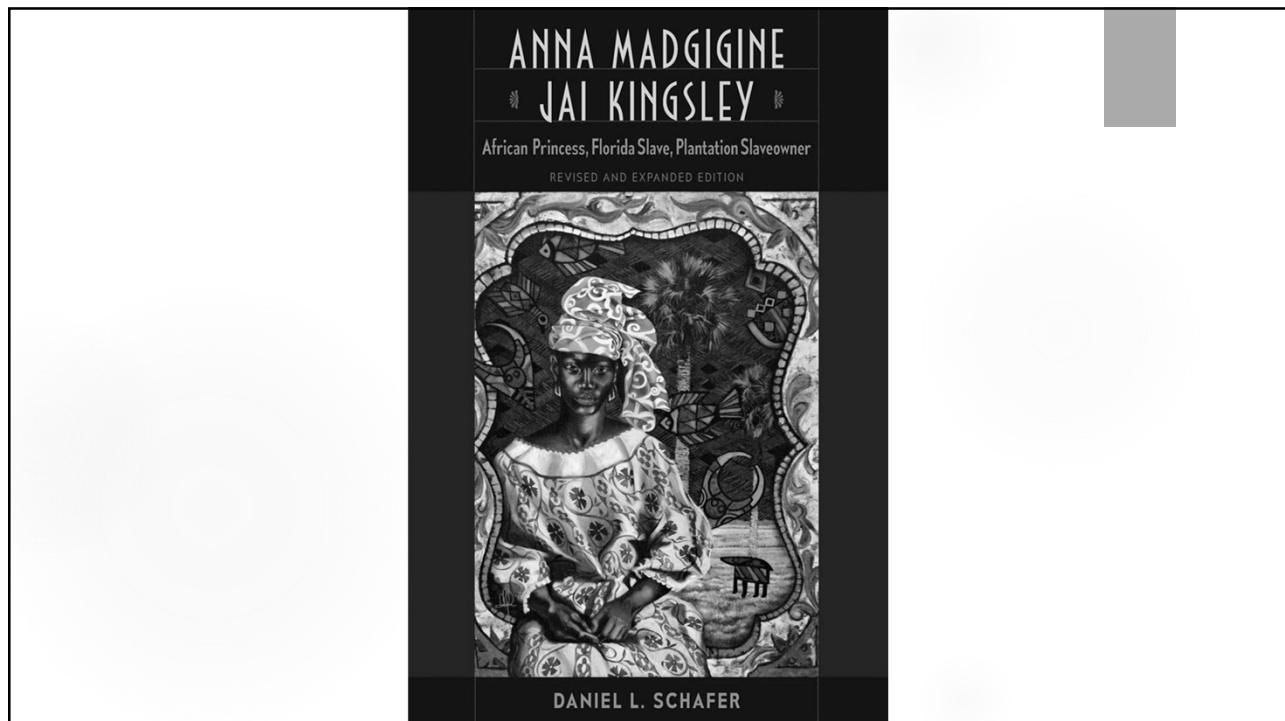
The Final Decree
Affirming that John
Sutton's Will is Valid

44

Anna Madgigine Jai Kingsley

(1793-1870)

45



46

- “Let it be known that I ... possessed as a slave a black woman called Anna, around eighteen years of age, bought as a bozal [newly imported African] in the port of Havana from a slave cargo, who with the permission of the government was introduced here; the said black woman has given birth to three mulatto children: George, about 3 years 9 months, Martha, 20 months old, and Mary, one month old. And regarding the good qualities shown by the said black woman, the nicety and fidelity which she has shown me, and for other reasons, I have resolved to set her free ... and the same to her three children.”
Zephaniah Kingsley to Spanish Colonial Government,
1811

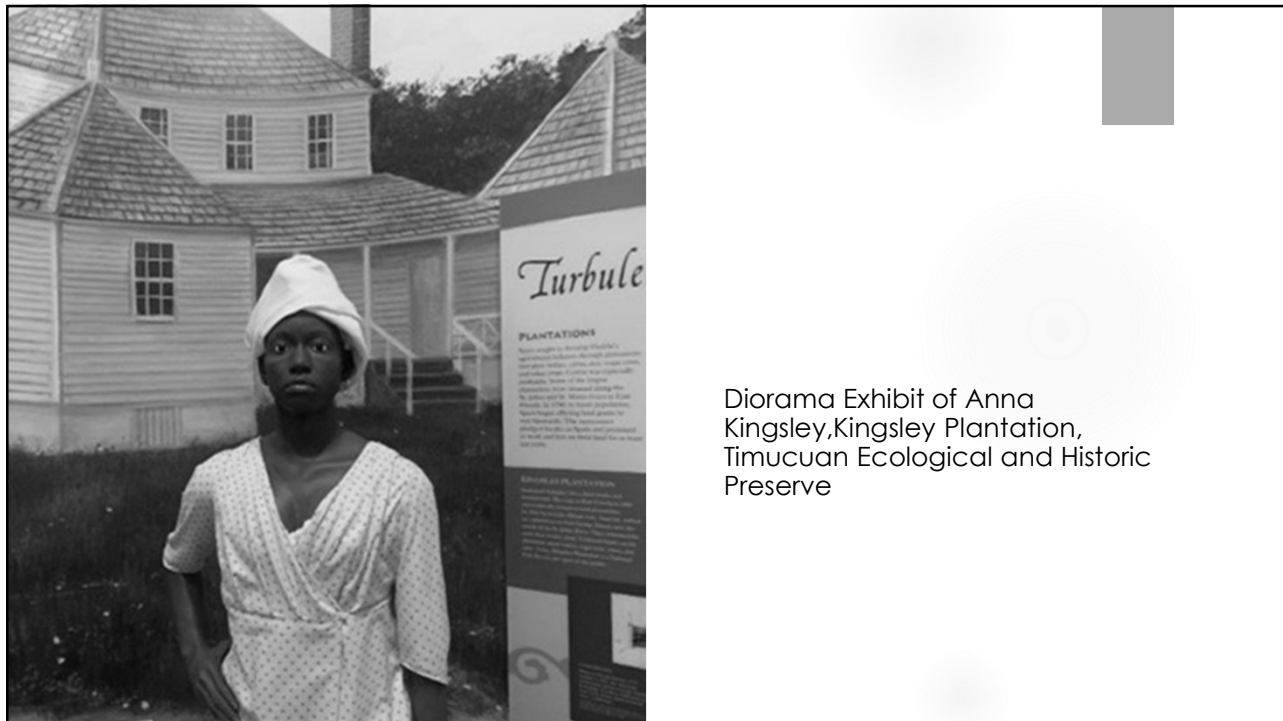
47

James McNeill
Whistler,
“Arrangement
in Grey and
Black No. 1”

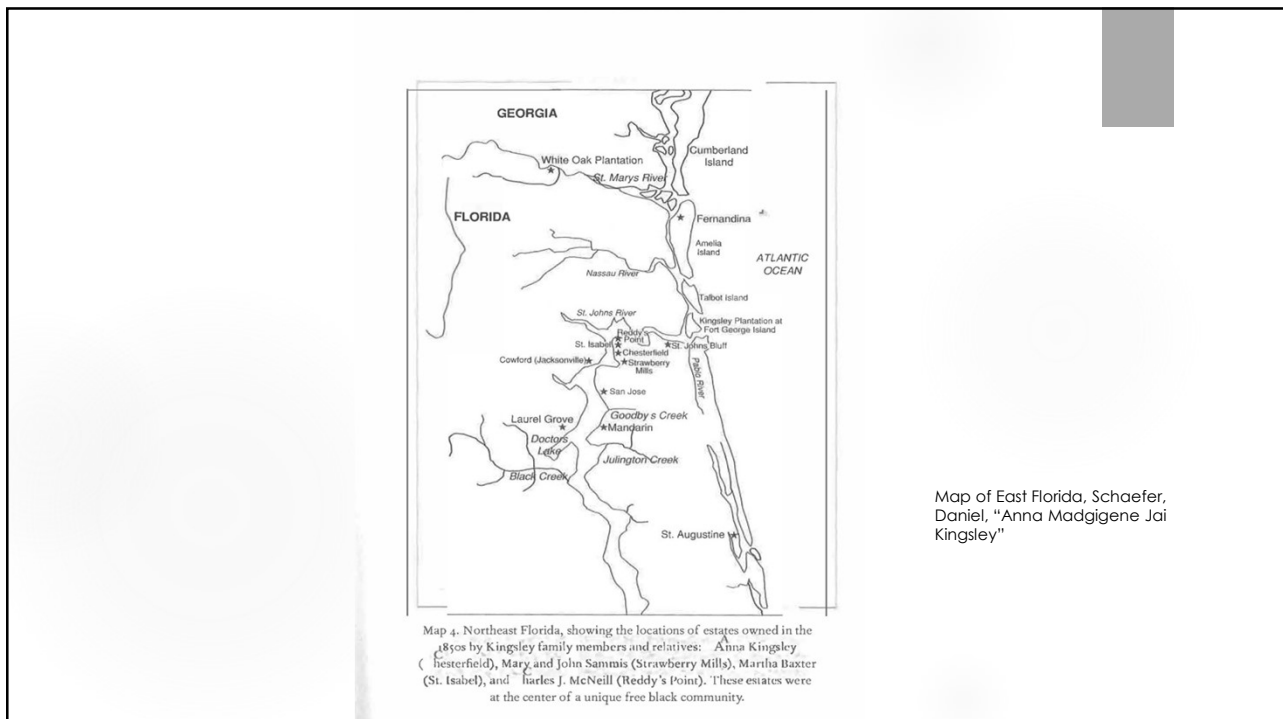


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48



49



50



Johnnetta Betsch Cole

- Anna's legacy (born 1936) is anthropologist, educator, museum director, and college president. Cole was the first female African-American president of Spelman College from 1987 to 1997. She was president of Bennett College from 2002 to 2007. During 2009–2017 she was Director of the Smithsonian Institution's National Museum of African Art.

51

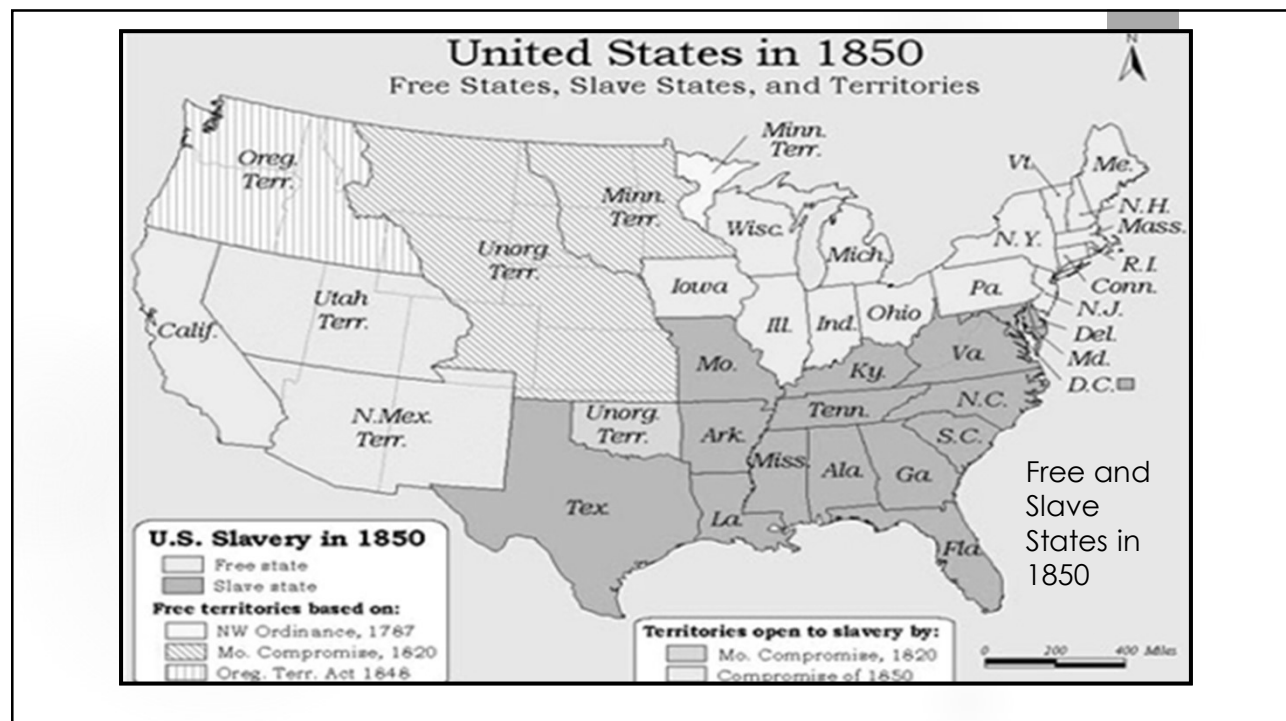


- Susan Fatio L'Engle was the great-grandmother of "Wrinkle in Time" author Madeleine L'Engle. A refugee of the Florida Patriot War (1812-1814) like Anna, Susan made weekly trips to visit and drink cold tea with "the African princess" whom Susan said was "ostracized by whites and blacks" and "nearly died of homesickness."

52

Eulalie de Mandeville de Marigny (1774-1848)

53



54

Marie Laveau



- Voodoo Queen of New Orleans, herbalist, healer, midwife, spiritualist, hair stylist, mystic, civil rights leader, advocate for the oppressed. Often caricatured in popular culture.

55

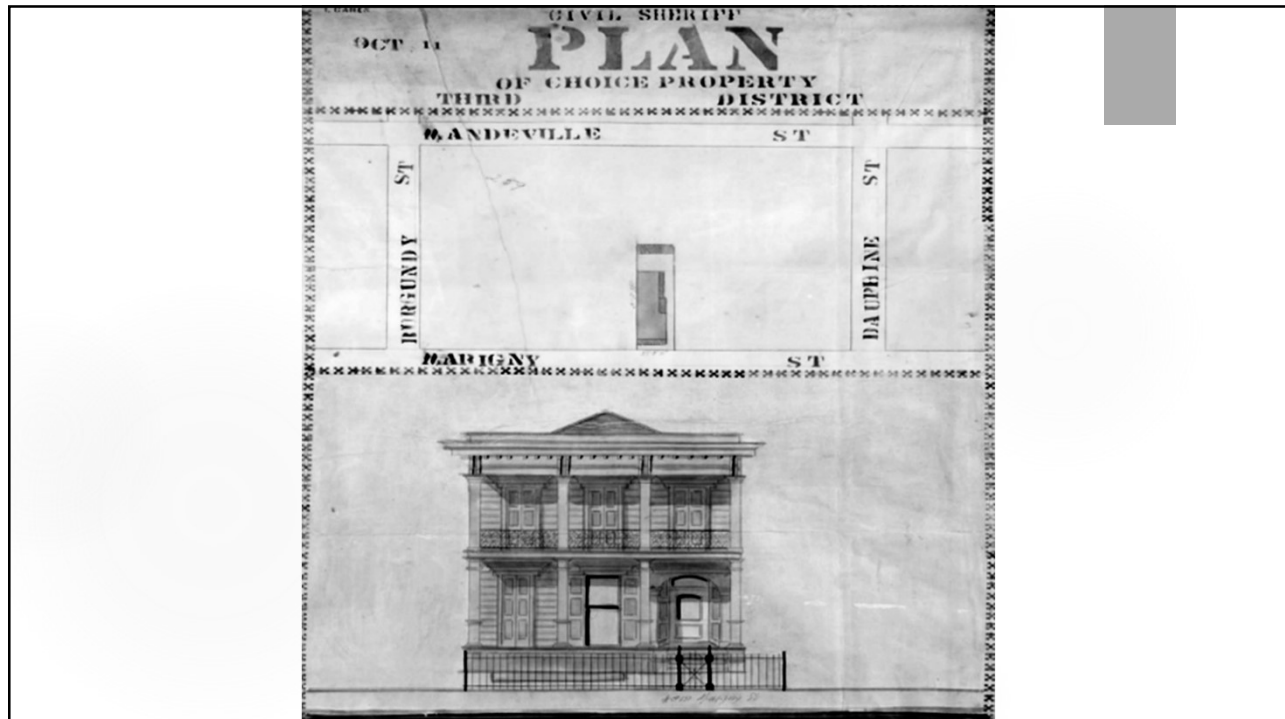
Eulalie de Mandeville de Marigny (1774-1848)

56



Count Pierre Philippe
Mandeville de Marigny

57



58

Certificate Of Marriage

Archdiocese of New Orleans
Department of Archives
7887 Wainwright Ave.
New Orleans, LA 70125

This Is To Certify

That Eugene Macarty

Son of Barthelemy de Macarty and Marie Belisle Pellerin

and Eulalie Mandeville

Daughter of Phillippe Pierre Marigny de Mandeville, mother not given

Were lawfully married

On the 22nd Day of October, 1845

According to the Rite of the Roman Catholic Church

Rev. C. Moulard officiating

In the presence of Charles Emmanuel, Lamine Michel Valcourt Durel

And Drausin Barthelemy Macarty, Marie Jeanne Duteuil Witnesses.

A true and exact extract from the Marriage Register of

St. Augustine Church, New Orleans, Louisiana

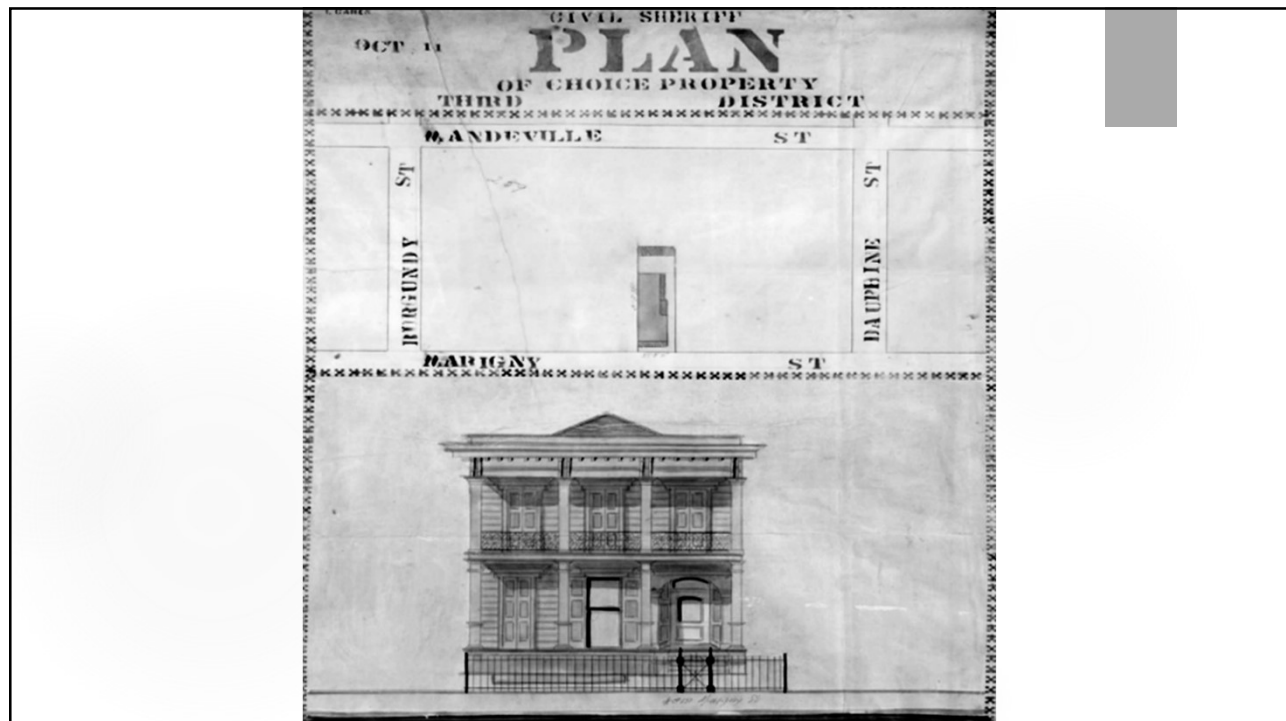
This certificate is issued by the Archives of the Archdiocese of New Orleans.

Date 17 September 2018 Vol. 1 Page 79 No. Not Given

Certified by: Lauren Elmes

Legitimizes their children: Esmerle Arthemise McCarty, Barthelemy McCarty, Thaiside, Pierre Villacous McCarty, and Elzette Eugene McCarty.

59

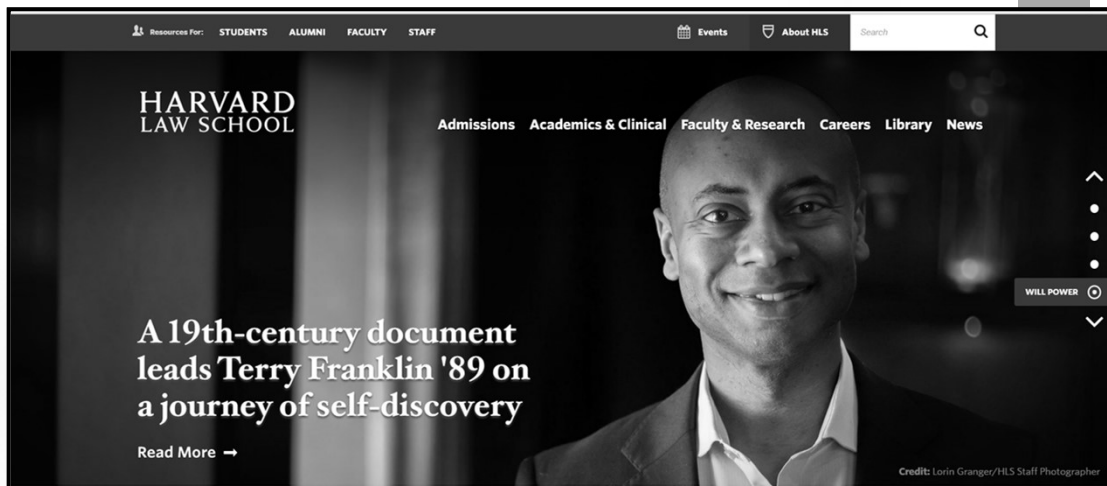


60



Creole Woman With "Maid", by Edouard Marquis

61



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62

► What will you do...

► **To Bend The Arc of History Towards Justice?**

63

► What will you do...

► **To Bend The Arc of History Towards Justice?**

► **Support**

► **The Equal Justice Initiative**

► **eji.org**

► **Association for the Study of African American Life and History (ASALH)**

► **asalh.org**

► **The HistoryMakers**

► **TheHistoryMakers.org**

64

▶ What will you do...

▶ **To Bend The Arc of History Towards Justice?**

▶ **Terrence Franklin**

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▶ **Lawfirm, Sacks, Glazier, Franklin & Lodise, LLP:**
www.TrustLitigation.LA

