

D. W. Patterson vs. William Colson, administrator of Simon Gray, free man of color

State of Tennessee
Stewart County

To the honorable judge of the 7th Judicial circuit sitting for the county of Stewart at Dover:

The petition of William K. Colson would respectfully represent that some months ago a certain Richard Cooley was appointed by the County Court of said county Administrator in the will annexed of the last will and testament of Simon Gray deceased – that said Simon Gray was a free man of color who had purchased his wife and had by her several children – but by provision of the will of said Simon Gray it was directed that his wife and children should be set free – that said Cooley as administrator of aforesaid applied to Compt. learned in the law who advised him that said negroes could not in this state be emancipated, except upon condition of their removal to Africa – that said Cooley then as he informed your Petitioner determined to carry said negroes to Kentucky (where it was understood the laws were different) and by having suit brought by them against himself procure their freedom.

Petitioner states that said Cooley made application to him to go along with him and assist in the conveyance of said negroes to Kentucky, and for a certain reward which was to be paid to your Petitioner, he agreed to go and did go. Petitioner states that when they arrived at Smithland Kentucky, it was suspected that they, your Petitioner and the said Cooley, were carrying off negroes that were stolen, and accordingly the said Cooley & himself were arrested upon a charge of stealing the said negroes.

Petitioner states that he was wholly unconsidered of having committed any offense against the criminal laws of Kentucky, this in any other state, but himself & the said Cooley were then without acquaintance or friends, and they believed from public manifestations that they, notwithstanding they were wholly innocent of stealing, would be by the examining court committed to prison.

Petitioner states that at Paducah, a few miles below, the said Cooley had a brother residing (who, together with a certain David Patton, a lawyer residing at the same place, and whom the said Cooley had employed to procure the liberation of said negroes), were to have met your Petitioner and the said Cooley at Smithland. Petitioner states that a certain David Patterson, residing at Smithland, a merchant by profession, imposed himself upon your Petitioner and the said Cooley as a lawyer, and officiously offered to them his services in their difficulty.

Petitioner states that, alarmed at their situation, the said Cooley paid to the said Patterson twenty dollars to have the examination stayed until the brother of the said Cooley and the said Patton, before mentioned, would arrive from Paducah, who being known in Smithland, it was believed would explain the matter and procure their release.

Petitioner states the officer in whose custody they were had conspired with the said Patterson to swindle your Petitioner and the said Cooley, and accordingly said officer readily agreed to delay for a time the conducting of the said Cooley and your Petitioner before a magistrate for trial. Petitioner states that said trial was delayed a few hours, and when expecting every moment the arrival of the brother of the said Cooley and the said Patton, and when in fact they had arrived very near Smithland, which was known to the said officer and the said pretended attorney, but unknown to your Petitioner and the said Cooley, they were informed that they must go immediately to trial, unless they paid to the

said officer and the said attorney a sufficient bribe, which they intimated they were willing to receive, and set your Petitioner and the said Cooley at liberty.

Petitioner states believing they would be committed, and fearing that for want of sufficient bail, they would have to go to prison until a term of the Circuit Court, the said Cooley paid to the said officer one hundred dollars in cash, and together with your Petitioner, the said Cooley as principal, and your Petitioner as security, executed this joint and several note to the said pretended attorney, D. W. Patterson, for the sum of eighty dollars, which note, together with twenty dollars, previously paid as before mentioned, made the sum of one hundred dollars paid and to be paid to the said D. W. Patterson. Petitioner states that said note was executed he believes about the 15th of Sept. last and sent immediately to this County for collection, and judgment was thereupon obtained against your Petitioner, he alone having been served in the process before John Richards Esqr., a Justice of the Peace for said County on the 24th of said month of September.

Petitioner states that he was the security to said note and the said Cooley had agreed to indemnify your Petitioner against the same, both through regarding it as unjust and determined to remit the payment.

Petitioner states that on the day or the day after said judgment was rendered, he came to town with said Cooley's son, to get legal advice as to the mode of avoiding said note, and having applied to a lawyer, they were directed to go to the magistrate and ascertain whether the note was under seal or not under seal, your Petitioner not then knowing how it was, he being an illiterate man, unable to read or write, and alarmed and in difficulty when he gave it. Petitioner states that said Cooley's son, S. Y. Cooley, went to the magistrate and instead of making the enquiry directed by his attorney, stayed as your Petitioner supposed said judgment, informing your Petitioner that it was better to do so than go to law at considerable expense, and he the said S. Y. Cooley promised your Petitioner to pay said judgment when the stay expired. Petitioner states that the stay being about expiring, and the said S. C. Cooley not being in this County or expected here for some months, he came to town to see about the matter and finds that the said S. Y. Cooley has not stayed said judgment, but intending to do so put his name by mistake to a wholly different judgment, one in favor of H. L. Atkins vs. your Petitioner. Petitioner states that he will now have said judgment to pay off, unless by interpretation of your Honor, that he would have taken an appeal from said judgment, except that he believed the said S. Y. Cooley had stayed the same, and would have been bound to pay it. Petitioner states that said note is not under seal and he is advised his remedy is at law.

Your Petitioner therefore asks writs of *certiorari* and *supersedeas*, returnable to the next Term of the Circuit Court for the County of Stewart, and that said motion may be retried.

This is the first application for writs of *certiorari* and *supersedeas*, or injunction upon the case stated in the premises, and your Petitioner as in duty bound will every pray etc.

J. C. Humphreys
Atty. for Petitioner

State of Tennessee

Stewart County Personally appeared before me, John H. Petty, Esqr., an acting Justice of the Peace for Stewart County aforesaid, William K. Colson, who made oath that the facts stated in the foregoing petition, so far as stated as of his own knowledge, are true, and so far as stated as of information of others, he believes to be true. January 21st 1837

Sworn to and subscribed before me
J. H. Petty, JP

William K. Colson
(x) his mark

State of Tennessee

Stewart County To the Clerk of the Circuit Court for the county of Stewart:

Let writs of *certiorari* and *supersedeas* issue in pursuance with the prayer of the foregoing petition, upon bond and security being given according to law. J. H. Petty, JP

Given under my hand this 21st day of January 1837. M. A. Martin, Judge

State of Tennessee

Stewart County Personally appeared before me, Philander Priestly, Clerk of the Circuit Court for the County of Stewart aforesaid, William K. Colson, who made oath that he is advised and believes and so states that Carroll Cooley is a material witness for him in the trial of the case of David Patterson against him now defending in the said Court, and that said Cooley resides in the State of Missouri, and prays therefore that a commission issue to take the deposition of the said witness, which is granted upon giving to the adverse party twenty days' notice of the time and place of taking the said deposition, and the said Colson having further made oath that said Patterson is not an inhabitant of this state, it is permitted to sd. Applicant to serve the said notice upon the said Patterson's attorney at law, or agent.

Sworn to and subscribed
Before me this 6th day of Sept. 1837
P. Priestly

William K. Colson
(x) his mark

By virtue of the enclosed commission to me, directed from the Circuit Court for the County of Stewart and State of Tennessee, I have cause to come before me Carroll Cooley, a witness in behalf of the defendant in a suit pending in said Court, wherein David Patterson is Plaintiff and William K. Colson is defendant, and the said Carroll Cooley being first by me duly sworn by me to speak the truth, the whole truth and nothing but the truth, deposeth and saith as follows, to wit:

This deposition was taken at the house of Richard Cooley in the County of Stewart on the 24th day of October 1837.

Question 1st by Plaintiff:

State if you accompanied the defendant Colson and Richard Cooley, your father, to Kentucky with certain negroes, Fanny Gray and others, and what occurred upon your arrival at Smithland, Ky.

Answer: I was in Company. They stopt us at Smithland and kept us in a room.

Question 2nd by same:

By whom were you stopped and for what reason and by what authority.

Answer: Mr. Mott, said to be a Constable, stopt us and stopt us he said for kidnapping the negroes which we had along with us.

A. J. C. Cooley

Question 3rd by same:

State when Mott took you and what he did with you and how long he had yourself, Colson and your father under arrest.

Answer: He arrested us on the steamboat and told us to go to the tavern, and there he permitted us to remain until the next morning. He took the negroes away from us and kept them all the time. He did not speak of any writ when he took us on the steamboat. The next morning we went to Mott's house and he told us to stay there until he returned, which he did in a little time, and then took us with a warrant and said he was going to send over the river to get a magistrate to try us. He kept us in a small room in his house, and kept a guard over us the whole time we were at his house.

Question 4th by same:

State what was the object of your father, Colson and yourself in going from the tavern the next morning to Mott's house

Answer: To try to get the negroes back again.

A. J. Carroll Cooley

Question 5th by same:

When was it your first saw David Patterson, the plaintiff in this case.

Answer: I saw him the first night I got there. My father and Mott went onto a boat store with the negroes from the steam boat. I went on after a while, at which time I heard Patterson say the he would keep off this trial until Jonathan Cooley, who lived at Paduky, twelve miles below, could get there.

Question 6th by same:

State who Mr. Patterson is, if you know what is his occupation, and what your father and Colson employed him to do and how they happened to employee him.

Answer: I had not much acquaintance in Smithland. From his conversation with my father, I thought that night he was a lawyer, and the next day I saw him attending in a store, which caused me to believe he was not a lawyer. From his representations to my father, he took him to be a lawyer, and employed him in their difficulty.

A. J. Carroll Cooley

Question 7th by same:

You state that on the next day, Mott arrested you there at his home. State how long he kept you confined and how you were released.

Answer: He took us in the morning with a warrant and kept us until midday or evening. He came to us and told us to walk down to Mr. Patterson's Store – it is all fixed. We went there. I saw my father, Patterson and Colson talking by themselves very low. Then Patterson went with us towards the back door and pointed which way to go, and we went out the back end of town, by which I understood it was arranged for us to make our escape as quick as possible.

Question 8th by same:

State whether or not your father and Colson walked off with Mott and Patterson several times whilst you were confined at Mott's house, and if so, for what purpose.

Answer: They did have several private walks. I understood from father and Colson that they were making some arrangements to get off. They did not take me with them.

Question 9th by same:

State whether or not it was by consent and contrivance of Mott and Patterson that you were permitted to escape.

Answer: It was.

Question 10th by same:

State whether or not your father was not willing to meet the charge of kidnapping the negroes after the arrival of Jonathan Cooley from Smithland, who was expected but that Mott, conspiring with Patterson, was for hurrying you into a trial and finally permitted you to escape.

Answer: Yes it was so.

Question 11th by the same:

Do you know of your father and Colson, or either of them, paying money to Patterson and Mott, or either of them, and executing their note to Patterson in consideration of permitting them to escape.

Answer: they were frequently away and left me behind. I saw no money paid nor note executed at the time, but from the conversations when in my presence of them, all I understood the object was to get clear in that way and finally it was so effected.

Question 12th by the same:

Do you know what amount of money was paid by your father and Colson to Mott and Patterson, and for what amount they executed their note to Patterson.

A. J. Carroll Cooley

Answer: I do not know only as my father and Colson told me directly after they got clear.

Question 13th by same:

Do you or not recollect that your father declared to you and Colson at the time it was a swindling transaction.

Answer: Father told Colson and myself over and over not to be scared; that it was a swindling business of Mott and Patterson and that this could not have hurt us if we had stood trial.

Question 14th by same:

State whether your father was not the admr. of Simon Gray dec'd. and these negroes belonged to that estate.

Answer: he was and he was the administrator and those negroes did belong to that estate.

Question 15th by same:

Did they detain the negroes and keep them from you, or let them go with you when you left?

Answer: They kept them with them.

Question 16th:

Did not your father show the papers by which it appeared he was admr., and entitled to the custody of the negroes, and exhibit them to Mott and Patterson and rely upon them in your defense of the charge.

Answer: He did.

A. J. Carroll Cooley

Question 17th:

State at what time this transaction took place at Smithland.

Answer: I believe it was in the early part of September 1836 as I now think.

Question 18th:

State if you know whether this was or was not the only transactions your father and Colson had with Patterson about that time, or any other time, and whether as you understood at the time, Patterson did not seem to be an acquaintance there made.

Answer: That was the only transaction that I know of my Father and Colson having with Patterson, and he seemed to be a new found acquaintance.

Question 19th by same:

Did or did not Patterson and Mott seem to be satisfied with what they had received from your father and Colson, to permit them and yourself to leave as you did.

Answer: They seemed very well pleased, and further this deponent sayeth not.

A. J. Carroll Cooley

I, John Lee, an acting Justice of the Peace for the County of Stewart and State of Tennessee, certify that the above deposition of Carroll Cooley was taken by me at the time and place mentioned, in the caption after the deponent had been made that said deposition was signed by him, written by myself entirely except the caption and _____, which were done under my direction and by my approbation, and except the deletions of the plaintiff, and said deposition was not out of my possession until sealed up and directed to P. Priestley, Clerk.

Given under my hand and seal this 24th October 1837.

John Lee, JP

Justice's fee this deposition: one dollar
paid by Defendant.