District Court 1st Judicial District

Habeas Corpus

In the matter of

Hannah, Biddy and others

Order

Certified Copy

State of California,
County of Los Angeles. } ss.

Before the Hon Benjamin Hayes, Judge of the District Court of the 1st Judicial District, State of California, County of Los Angeles.

In the Matter of Hannah and her Children, Ann (and Mary child of Ann), Lawrence, Nathaniel, Jane, Charles, Marion, Martha and an infant boy two weeks old, — and of Biddy and her children Ellen, Ann and Harriet, on petition for Habeas Corpus.

Now on this nineteenth day of January in the year of our Lord, one thousand eight hundred and fifty six, the said persons above named are brought before me, in custody of the Sheriff of said County, all except the said Hannah and infant boy two weeks old, (who are satisfactorily shewn to be too infirm to be brought before me,) and except Lawrence who is necessarily occupied in waiting on his said Mother Hannah) and Charles (who is absent in San Bernardino County, but within the said Judicial District;) and said Robert Smith, Claimant also appears with his Attorney Mongo Thomas Esq. And after hearing and duly considering the said petition for Habeas Corpus and the return of said Claimant thereto and all the proofs and allegations of the said parties and all the proceedings previously had herein, it appearing satisfactorily to the Judge here, that all the said persons so coming in this case, to wit; Hannah and

her said Children and Biddy and her said Children, are persons of color, and that Charles aged now six years, was born in the Territory of Utah of the United States, and Marion (aged four years,) Martha (aged two years) Mary daughter of the said Ann and aged two years and the said infant boy aged two weeks, were born in the state of California, and that the said Hannah, Ann, Laurence, Nathaniel, Jane, and Charles as well as the said Biddy, Ellen, Ann and Harriet, have resided with the said Robert Smith for more than four years and since some time in the year of our Lord one thousand eight hundred and fifty one, in the state of California: and it further appearing that the said Robert Smith left and removed from the state of Mississippi more than eight years ago with the intention of not returning thereto, but of establishing himself as a resident of Utah Territory, and more than four years ago left and removed from said Utah Territory, with the intention of residing and establishing himself in the State of California and has so resided in said last mentioned State since some time in the year of our Lord one thousand eight hundred and fifty one. And it further appearing by satisfactory proof to the Judge here, that all the said persons of color are entitled to their freedom and are free and cannot be held in slavery or involuntary servitude, it is therefore adjudged that they are entitled to their freedom, and are free forever. And it further appearing to the satisfaction of the Judge here that the said Robert Smith intends and is about to remove from the State of California, where Slavery does not exist, to the State of Texas, where Slavery of Negroes and persons of Color does exist and is established by the municipal

laws, and intends to remove said beforementioned persons of color with him, with the intent to employ said persons of color to his own use, without the free will and consent of all or any of the said persons of color, whereby their liberty will be greatly jeopardized, and there is good reason to apprehend and believe that they may be sold into slavery or involuntary servitude, and the said Robert Smith is persuading and enticing and seducing said persons of color so to go out of the State of California and to be taken and removed therefrom, with the false promise held out to them that they will be as free in the State of Texas as in the State of California. And it further appearing that none of said persons of color can read and write, and are almost entirely ignorant of the laws of the State of California, as well as those of the State of Texas, and of their rights, and that the said Robert Smith from his past relations to them as members of his family, possesses and exercises over them an undue influence in respect to the matter of their said removal insomuch that they have been in duress and not in possession and exercise of their free will so as to give a binding consent to any engagement or arrangement with him, And it further appearing that the said Hannah is aged thirty four years, and her daughter Ann, seventeen years, have all her other children to wit, Lawrence (aged from twelve to thirteen years) Nathaniel (aged from ten to eleven years) Jane (aged eight years) Charles (aged six years) Marion (aged four years) Martha (aged two years) and said infant boy of Hannah aged two weeks as well as Mary (aged two years) daughter of said Ann, are under the age of fourteen years and so under the laws of the State of California are not competent to choose a Guardian for themselves; and it

further appearing that the said Biddy is aged
thirty eight years, and the said Ellen is aged seven teen
years, and the other children of said Biddy to wit
Ann (aged from twelve to thirteen years) and Daniel
(aged eight years) are under the age of fourteen
years, and so by the laws of the State of California
are not competent to choose a Guardian for
themselves, It further appearing that the said
infant boy two weeks of age of Hannah is of
tender age and must be kept with his said mother
Hannah the same is accordingly ordered, and
said Infant boy is entrusted to his said Mother
hereby, and she is ordered to appear with him
before the Judge here at the Court house in the City
of Los Angeles on next monday January 1st. 1856
at 10 o'clock a. m of said day if her health shall so
permit, and if not as soon thereafter as may be practi
cable of which the Sheriff of Los Angeles is hereby
notified to notify her the said Hannah and
wife of the said Robert Smith being now in Court
has notice, it appearing that she resides in his house
and is under his control. And the said Mary Child
of Ann appearing to be of tender years, is entrusted to
the said Ann ~~to be~~ brought before the Judge here
at the time and place aforesaid to be dealt with
according to law of which the said Ann and the
said Robert Smith have notice here, and the said
Martha being of tender years is entrusted to the said
Ann her sister to be brought before the Judge here
at the time and place aforesaid to be dealt with
according to law of which the said Ann and the
said Robert Smith here have notice, and the
said Hannah and Ann are appointed
Special Guardians respectively of the Children
so hereby entrusted to them, and notified that it
is their duty to obey all lawful orders of the

Judge here or of the competent Court touching
the premises. And the further hearing of this
case as to the said Hannah and infant boy
and her child Lawrence and her children Charles
and Mary and Martha is adjourned until said
last mentioned time at the Court House in the
City of Los Angeles, and it is further ordered that
the said Nathaniel (aged from ten to twelve years)
Sam (aged eight years) Maria aged four years
all children of said Hannah - and said child
Ann (aged from twelve to thirteen years) and Harriet
(aged eight years are committed to the custody of the
Sheriff of Los Angeles County, David W Alexander Esq
as Special Guardian, until the further order of this
Judge here or of other Judge or Court of competent
Jurisdiction to appoint General Guardians for said
Children last mentioned, and the said Sheriff will
leave in full liberty and discharge the said Biddy
and her Child Ellen (aged Seventeen years) and
the said Ann daughter of Hannah, the said
Ann only being required to obey the said order
hereinbefore made, to appear before the Judge here
in manner and form as aforesaid. And it further
appearing that the said Charles is absent in San
Bernadino County, within said Judicial District
It is Ordered that Robert Cleft Esq Sheriff of
said County be and he is hereby appointed Special
Guardian of said Charles and as such duly au
thorized and required to take said Charles into
his custody and him safely keep in such
manner that said Charles shall not be
removed out of the State of California, but shall
abide the further order of this Judge here or of other
Judge or Court of Competent Jurisdiction
touching his Guardianship. And it is further ordered
and adjudged that all the costs accrued in this case
up to the present date and including the present

order of the Judge herein as to the production of the said Hannah and her said Infant two weeks old and said Lawrence Martha and Mary before the Judge herein aforesaid shall be filed by the said Robert Smith

Given under my hand as Judge of the 1st Judicial District of the State of California on this 19th day of January AD 1856. at the City of Los Angeles

Benj Hayes
District Judge

On this 19th day of January appears this day Robert Smith by his Atty Alonzo Thomas Esq and moves the Judge herein to retax the costs in this case which is taken under advisement until Monday next at 10 O Clock A.M.

Benj Hayes
District Judge

On this Monday January 21st 1856 the said Smith and the said Parties ordered to appear as aforesaid do not appear and this cause is continued until to morrow at 10 O Clock A.M

Benj Hayes
District Judge

State of California
County of Los Angeles } ss

I John W Shore Clerk of the District Court of the 1st Judicial District hereby Certify the foregoing to be a full true and correct Copy of the Original order entered by the Hon Judge of said Court in the Matter of the Habeas Corpus for Biddy Hannah and others as the same appears on file in my office

Witness my hand and the seal of the said Court affixed this 9th day of January A.D. 1860

John W Shore Dist Clk

By Wm H Shore Deft