

The Dark Days of the Black Codes; Court records detail perils even free blacks faced in Washington, D.C. in 1835

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Fourteen-year-old Nancy Jones was scared. She had been stopped by a policeman while walking down a Washington, D.C. street, and he had asked to see her papers. Nancy had good cause to be afraid. She was an African American, and it was 1835. And she did not have the papers. The policeman immediately arrested her as a runaway slave. Yet, Nancy was not a slave and never had been one.

Most of us know that there were slave and nonslave African Americans in the District of Columbia before the Civil War. In fact, slavery was not abolished in the District of Columbia until April 1862, a year after the Civil War began. In 1835, the year Nancy was arrested, the population of Washington was only about 21,000 (not including Georgetown, then a separate city, and the parts of Virginia then in the District). A little more than a quarter of those were African American, roughly one-third slaves and two-thirds free.

But even nonslaves, like Nancy, were not entirely free -- if they were black. Washington and the southern states had special laws governing African Americans, both slave and free, known as black codes. Under Washington's code in effect in 1835, a free black person had to be home by 10 p.m. and had to post a bond of \$500 guaranteeing his or her good behavior. By laws inherited from Maryland and Virginia, a black person could not testify against a white person, hold office, or vote.

Probably the most severe provision of the code was the one that affected Nancy. Under the law, that she was in fact free made no difference. A black person without papers proving she (or he) was free was legally a runaway slave and could be jailed. If no white person got her out, she was sold as a slave and the money received went to pay her jail fees. According to some, any excess amount then went, not to the city, but into the pockets of the jailer and the district marshal.

It may be difficult for us today to comprehend how limited freedom was for a "free" black person then, but an examination of Nancy's case in the old files of the U.S. Circuit Court for the D.C. Circuit and other documents of the time can help bring that period to life. Such an examination also demonstrates that, although we may not realize it, what we do in court today may be an element of history tomorrow.

In Nancy's case, the first item is her commitment order. It indicates that on May 4, 1835, she was brought before a magistrate by Constable John Stevenson. From other records in the file we know that when she stood before the magistrate she was only 4 feet 10 inches tall and wore a light calico dress. She told the authorities that her father was George Jones, a free black man living in Baltimore. She said he lived in one of Mr. Mullinix's houses there and that Mullinix, a white man, knew she was not a slave.

The magistrate ignored her and sent her to jail.

The jail was an old, two-story building on what is now Washington, D.C.'s Judiciary Square. As it was described in grand jury investigations and on the floor of the House of Representatives, a passageway ran down the center of each floor from end to end. Small cells, 8 feet square, lined the sides of the passageways. Crowded inside were too many men, women, and small children, black and white -- debtors, minor criminals, people waiting for trial, and accused runaway slaves.

Nancy was led to a cell on the lower floor. It had no bed, chair, or stool. She and the others slept on the damp brick floor on dirty blankets. In a corner was a hole through the floor leading to a large, open sewer underneath. Another hole in the cell above drained down through Nancy's wall to the sewer below. The stench was sickening, even when the holes weren't clogged up.

At that time, Nancy had no way to let anyone know where she was. As May became June and June became steamy July, no one came for Nancy.

In July, the jailer ran an ad in a local paper, a copy of which is in the court files: "NOTICE. Will be sold at the Prison of Washington, 24th August, 1835, a Negro Girl, who calls herself NANCY JONES."

Still no one came.

While Nancy was in jail, an event took place in Washington that illustrates another precarious aspect of the "free" African American's existence then. On a mid-August night, a white man was brought to the jail for handing out pamphlets urging slaves to rebel. People all over the city were reminded of the slave revolt in Virginia four years earlier led by a slave named Nat Turner. During the revolt, slaves killed white men, women, and children, and whites killed more than 100 African Americans.

A night later, a crowd gathered near the jail, demanding the man. But armed citizens surrounded the jail to protect it, and the crowd soon left.

The following day, however, local newspapers reported that four or five hundred men had wrecked two African American school houses and ransacked a restaurant on 6th Street owned by a free black man named Beverly Snow and reported to be "much frequented by the good society of Washington." Yet the rioters said Snow had insulted some white women. Snow denied this (it was unlikely to be true), but he wisely fled town for his safety.

Time drew nearer for Nancy's sale, but fortunately the jailer's ad was noticed. The day of the sale, a lawyer filed a petition for Nancy's release. Three days later, Mullinix and a friend testified in court before Chief Judge William Cranch. Nancy was released and returned to Baltimore.

The court files show that only a few days after Nancy was arrested, Mullinix and Nancy's father signed an agreement that made Nancy Mullinix's apprentice for four years. She was to learn "the trade and mystery of a House servant and cook," and during this time, she was obligated "his

lawful commands everywhere readily to obey" and not to "haunt ale houses, taverns, or playhouses." These were standard terms in apprentice agreements then, and many free African Americans became apprentices in similar fashion.

This apprenticeship undoubtedly made Mullinix more interested in coming to Washington for Nancy. Also, possibly Nancy originally came to Washington because she knew she was to become Mullinix's apprentice, didn't like it, and ran away. After her release, perhaps she found that being someone's apprentice was better than being someone's slave. On the other hand, perhaps she found it was much the same.

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