“THEY ACTED PRETTY MUCH AS MAN AND WIFE”:
RACE, SLAVERY, AND THE BORDERS OF MARRIAGE AND FAMILY
IN THE ANTEBELLUM SOUTH

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ABSTRACT

DAPHNE A. FRUCHTMAN: “They acted pretty much as man and wife”: Race, Slavery, and the Borders of Marriage and Family in the Antebellum South
(Under the direction of Heather Williams)

During the first decades of the nineteenth century, a small number of wealthy, unmarried planters did something unexpected: they entered into publicly recognized, quasi-marital relationships with enslaved women. In doing so, they not only pushed social boundaries, but specifically sought legal protection and legitimization of their interracial families through a particular legal device: their wills. The pointedly public aspect of these relationships and the varying levels of communal toleration for such openness, however, depart from the conventional scholarly framing of sexual relationships between masters and slaves. Historians have largely—and rightly—conceived of the antebellum South as a place where racial hierarchy was fiercely enforced and where interracial sex between masters and slaves was defined by coercion and rape and acceptable only when shrouded in a culture of secrecy. Indeed, many historians argue that such interracial connections were culturally acceptable in southern communities precisely because they existed outside the realms of both legal and social recognition and thus did not challenge the existing racial hierarchy or the sanctity of the white family. In this thesis, in contrast, I argue that a small but socially significant group of white southern planters complicated this view by living publicly as husband and wife with enslaved black women. Local communities often struggled with how best to
reconcile these public acknowledgements of interracial families, but the often successful efforts of those few white men who entered into quasi-marital interracial relationships to secure social and legal recognition for their enslaved families signaled a surprising level of communal toleration for the public airing of interracial intimacy.
Table of Contents

Chapter

I. INTRODUCTION ................................................................. 1

II. TESTAMENTARY MANUMISSION AND
    SOUTHERN LEGAL CULTURE ........................................... 7

III. THOMAS AND CAROLINE CRAMPHIN ............................... 13

IV. DAVIS V. CALVERT ............................................................... 22

V. AMY AND ELIJAH WILLIS .................................................... 28

VI. WILLIS V. JOLLIFFE ........................................................... 34

VII. CONCLUSION ................................................................. 44

REFERENCES ........................................................................... 46
Introduction

In 1967, the United States Supreme Court had good news for the interracial couple Richard and Mildred Loving: their marriage was legal. The justices’ unanimous ruling in the landmark case of Loving v. Virginia finally struck down the remaining anti-miscegenation laws that had existed in various iterations throughout the United States since the eighteenth century and that, in the 1960s, were still a significant force in the South.¹ While the Civil Rights Movement thrust this contention over acceptable definitions of family and marriage into the limelight during the mid-twentieth century, interracial partners and interracial families were by no means a twentieth-century development. Like the anti-miscegenation laws against which they struggled, men and women had dared to cross the color line in America since the first ships landed at Jamestown. In fact, a few of the earliest and most significant challenges to white society’s dominant definition of marriage and family as racially homogenous arose out of the unlikeliest of dissenters: a small number of powerful antebellum southern planters and their enslaved African-American partners and children.

During the first decades of the nineteenth century, a small number of wealthy, unmarried planters did something unexpected: they entered into publicly recognized, quasi-marital relationships with enslaved women. In doing so, they not only pushed social boundaries, but specifically sought legal protection and legitimization of their

inter racial families through a particular legal device: their wills. The pointedly public aspect of these relationships and the varying levels of communal toleration for such openness, however, depart from the conventional scholarly framing of sexual relationships between masters and slaves. Historians have largely—and rightly—conceived of the antebellum South as a place where racial hierarchy was fiercely enforced and where interracial sex between masters and slaves was defined by coercion and rape and acceptable only when shrouded in a culture of secrecy. Indeed, historians have traditionally divided discussions of master-slave sexual relationships into two categories: coercive and abusive relationships on the part of masters or calculating and manipulative relationships on the part of slaves. Furthermore, both types of relationships were similarly defined as open secrets; many historians argue that such interracial connections were culturally acceptable in southern communities precisely because they existed outside the realms of both legal and social recognition and thus did not challenge the existing racial hierarchy or the sanctity of the white family. In this thesis, in contrast,

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2 Bernie Jones identifies many of the probate cases that revolved around these wills in Fathers of Conscience: Mixed-Race Inheritance in the Antebellum South (Athens: University of Georgia Press, 2009).


4 Charles Frank Robinson II is one of the few who goes against this grain. He acknowledges that southern society allowed some instances of interracial relationships to go unchecked because the institution of slavery mitigated antebellum fears that these couples could pose a real threat to the social order. This view, however, does not consider that the instances of publicly recognized interracial relationships in which white men also attempted to secure legal legitimation of their partnerships through their wills appeared with greater, rather than less, frequency as the United States moved towards Civil War. Robinson’s argument implies, however, that public legitimation of such relationships would decrease in response to the heavy assault slavery was enduring from the North and the corresponding increase in southern fear that the permanence of its
I argue that a small but socially significant group of white southern planters complicated this view by living publicly as husband and wife with enslaved black women. Local communities often struggled with how best to reconcile these public acknowledgements of interracial families, but the often successful efforts of those few white men who entered into quasi-marital interracial relationships to secure social and legal recognition for their enslaved families signaled a surprising level of communal toleration for the public airing of interracial intimacy.

The stories of these couples, and especially of the men who pushed their communities and the courts to view their enslaved partners and children within the contexts of marriage and family, are largely preserved in state appeals court cases that arose from county probate and chancery courts in a number of slave states. Recently, some legal historians have paid particular attention to this unique body of cases. In *Fathers of Conscience: Mixed-Race Inheritance in the Antebellum South*, Bernie Jones institutionalized racial hierarchy was in jeopardy. Robinson, *Dangerous Liaisons: Sex and Love in the Segregated South* (Fayetteville: The University of Arkansas Press, 2003).

5 A search of state appellate court records suggests that testamentary cases addressing publicly recognized interracial families of elite white men and enslaved black women were uniquely nineteenth-century phenomena. The largest concentration of cases fell between the 1830s and 1850s, though records from the 1800s through the 1820s can be found with greatly diminished frequency. Fourteen of the 16 appellate cases I have identified, as referenced in note 13, represent this 1830-1860 timeframe, with the two outliers dating to 1809 and 1823. The only scholar to specifically survey appellate cases that detail instances of interracial liaisons between white men and enslaved women is legal historian Bernie Jones, who notes that *Bates v. Holman* (1809) represented an “early case.” The corpus of appellate inheritance cases Jones identifies fall heavily between the decades of the 1830s and 1850s, further supporting this nineteenth-century timeframe. Bernie D. Jones, *Fathers of Conscience: Mixed-Race Inheritance in the Antebellum South* (Athens: The University of Georgia Press, 2009), 24, 157.

identifies 24 such appellate cases across eight slave states that revolved around the attempted legitimization of quasi-marital partnerships and enslaved families of white male testators. Jones and others are especially interested in what these cases can reveal about legal tensions between protecting the institution of slavery and protecting the rights of men to dispose of property however they saw fit. Their interest is largely focused on retracing the logic with which judges arrived at their decisions to uphold or overturn these men’s wills. These cases and their frequently rich testimony from white locals, however, have not been deeply mined for their social implications outside of the courtroom. This paper seeks to address this deficit by exploring the ways in which these relationships mimicked the social aspects of marriage and to address how communities interacted with these interracial couples and sought to place them within existing social structures.

Scholars largely agree on what constituted traditional responsibilities of husbands and wives and the roles they were expected to undertake to fulfill the requirements of institutionalized marriage in the nineteenth century. According to Steven Mintz and Susan Kellogg, the “model husband and father” was responsible for the family’s livelihood and for providing for them after his death, while the “ideal wife and mother” was concerned with the home—specifically, the rearing of the children and maintenance of a smoothly operating household. These obligations of married life existed primarily

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within the household, but the fulfillment of marital roles necessarily involved an element of public performance. Indeed, for a marriage to be meaningful within a social context, it required communal acknowledgment in addition to each partner’s fulfillment of prescribed spousal roles. A combing of these public marriage-like relationships between enslaved women and elite men through court testimony, church documents, census records, and newspaper accounts indicates that such couples were largely imagined by their communities as fulfilling the public and private conditions of marriage.

By shifting this particular category of master-slave relationships from a traditionally conceived framework of abuse and secrecy to an adaptation of marriage, I do not propose to erase the significant power imbalance between free men and enslaved women, or to imply that the women in these relationships were madly in love with their partners. Some scholars challenge the notion that consent was even possible between black women and white men in the antebellum South—especially when the sexual relations were between masters and their slaves.\(^9\) This is an important issue that merits exploration with respect to the women involved in these cases, but these questions fall beyond the scope of this paper. Rather, I contend that many enslaved women in publicly acknowledged relationships with powerful white men possessed a level of social freedom and power in their roles as wives and mothers that was suggestive of the structural dynamics of nineteenth-century marriage. The nature of the testamentary evidence that illuminates these quasi-marital relationships unavoidably reveals much more about the

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\(^9\) Angela Davis argues that abuse and coercion are inseparable elements of any sexual relations between masters and slaves and suggestions that “slave women welcomed and encouraged the sexual attentions of white men” are not tenable in a racially stratified power system where “white men, by virtue of their economic position, had unlimited access to Black women’s bodies.” *Women, Race, and Class* (New York: First Vintage Book, 1983), 25-6. See also, Adrienne Davis, “Slavery and the Roots of Sexual Harassment,” in Catherine A. MacKinnon and Reva Siegel, eds., *Directions in Sexual Harassment Law* (New Haven: Yale University Press, 2004).
men and the society in which they lived than it does about the thoughts of the enslaved women. This paper is designed to capitalize upon the strengths of these records by exploring how local white communities and the men who entered these relationships interrogated and conceived of the bounds of marriage and family.

The attempts of some southern men to lend legal legitimacy to their unorthodox master-slave relationships through public acknowledgement of enslaved families suggests that space could be created for interracial renderings of marriage and family in antebellum southern society. Furthermore, the frequent return of judgments favoring the African-American women and children over more distant white relations exposes cracks in the racial segregation of American social and private life over 150 years before the Supreme Court ruled in the landmark interracial marriage case of *Loving v. Virginia*. Two representative case studies—one of the Maryland couple Thomas and Caroline Cramphin and the other of the South Carolina couple Elijah and Amy Willis—provide a wealth of evidence from which to explore the similar ways that these relationships developed privately, publicly, and legally in their respective communities. But before turning to the stories of the Cramphins and the Willises, it is necessary to explore the legal culture in which these antebellum manumission and inheritance court cases arose.
Testamentary Manumission and Southern Legal Culture

Manumissions were a part of American slavery since its inception, but their history was neither steadily progressive nor cohesive among the states. Nonetheless, a long tradition of owners using legal tools such as deeds, wills, and legislative decrees to free certain slaves—perhaps a trusted domestic servant or an enslaved child—endured periods of both popularity and illegality throughout the eighteenth and nineteenth centuries. While some states outlawed manumissions or created stringent regulations to decrease their frequency, other states moved to make manumission more accessible to slave owners. A number also moved sporadically along this spectrum, shifting multiple times between periods of allowing and banning slave manumissions. Even within the diverse and often conflicting legal contexts of individual state manumission laws, however, discernable trends concerning the ways that elite men attempted to employ testamentary manumission cut across the antebellum South.

Beginning sporadically in the more northern slave states at the turn of the nineteenth century and growing in frequency until the Civil War, a peculiar group of

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11 Virginia was one such region that vacillated back and forth. In 1691 the General Assembly added the caveat to their manumission regulations that manumitted persons be required to leave the state. Legislators then made manumissions illegal between 1723 and 1782, but then reopened the doors to manumission in the wake of the Revolutionary War until 1806, when the law once again required manumitted slaves to leave the state within 12 months. Genovese, Roll, Jordan, Roll, 51; Jordan, White Over Black, 347.
hybrid wills that combined manumission and significant inheritance appeared in state appellate courts throughout the South. In these wills, plantation masters sought to free their enslaved partners and children for the express purpose of publicly recognizing them as legitimate heirs—as their family.\(^\text{12}\) Ten of the slave states contained at least one such inheritance case that reached the state appellate level between the American Revolution and the Civil War.\(^\text{13}\) Though small in number, it is important to recognize that only a minute fraction of cases heard by county courts reached the state appellate level. Most trials began and ended in local courts. Furthermore, records of local trial cases are spread throughout hundreds of county court archives across the South, and unlike state appellate court cases, the subjects of these trials are not often indexed. This reality ensures the impossibility of pinpointing how prevalent such quasi-marital relationships were in the legal record.\(^\text{14}\) However, the fact that a majority of southern state appellate courts heard strikingly similar versions of these peculiar interracial testamentary cases during the

\(^\text{12}\) Contestations over such wills reached the appellate courts of the border states Virginia and Maryland between the 1800s and 1820s, while the Carolinas and states further South did not see similar appellate cases until the 1830s and 40s. See note 13 for an overview of these cases and their dates.


\(^\text{14}\) Martha Hodes presents a similar view, noting that “for every liaison that unfolded in a county courtroom, there must have been others . . . in the antebellum South that never entered the record.” Hodes, *White Women, Black Men: Illicit Sex in the Nineteenth-Century South* (New Haven: Yale University Press, 1997), 3.
antebellum period raises the possibility that publicly recognized interracial families may not have been as anomalous as the low appellate numbers imply.

Three significant patterns exist among these cases. First is the issue of gender. All of the appellate testamentary cases that addressed hybrid wills attempting to free and legitimatize a white partner’s enslaved family consisted of a white male owner and black female slave. No records of white female owners seeking to manumit enslaved male partners appear to exist at the state appellate level. Public, quasi-marital relationships between white female slave owners and enslaved men may have occurred, but the dearth of state appellate cases detailing such relationships implies that white women did not employ the technique of testamentary manumission to publicly affirm and legitimatize interracial families. White women may have used wills to manumit enslaved partners, but the silence found at the state appellate court level throughout the South suggests that they did not do so to disinherit white relations and legitimate their relationships, but rather to primarily confer freedom upon their partners. The nineteenth century saw, instead, the emergence of white men seeking both freedom and legitimacy for their enslaved families through combining manumission with significant inheritance.\textsuperscript{15}

The two remaining threads connecting these particular cases pertain to wealth and marital status. Most of the male testators seeking to free their enslaved families belonged to the planter class. According to probate court records, they held substantial land and slave property and were prominent members of their respective communities.\textsuperscript{16} Significantly, they shared another, less common trait: they were all legally unmarried.

\textsuperscript{15} For a detailed discussion of the legal context behind nineteenth-century slave manumission and inheritance cases, see Jones, \textit{Fathers of Conscience}.

\textsuperscript{16} Bernie Jones’s numerous case studies of similar inheritance cases reveal the testators to be men of notable wealth. Jones, \textit{Fathers of Conscience}.
Some were widowers, but many appeared to have never married. Thus, the relationships these men entered into with enslaved women were often not adulterous and, perhaps partly because of this fact, were not concealed from their respective communities. Furthermore, the prominent status of these men within local communities offered some degree of protection when they chose to publicly display their interracial families.

Though the slave status of the female partner prevented these couples from entering into legal marriage, such relationships nonetheless transcended this narrow legal vision of family as a condition only available to free persons when the couples publicly enacted and fulfilled the traditional marital roles of husband and wife. The social recognition achieved through such public performance, coupled with the final efforts of these men to manumit and bequeath property to their partners and children through their wills, often achieved in death what was not possible in life: legal recognition and legitimization of their families through rights of inheritance.

The southern planters who attempted this feat did so in the context of a legal culture attuned to the policing of the boundaries surrounding legitimate sexual relations. Fornication and adultery prosecutions were a standard preoccupation of nineteenth-century county courts, though the levels and types of prosecutions varied by state. Some states, such as Thomas and Caroline Cramphin’s Maryland, focused heavily on bastardy cases.\(^{17}\) Other states, such as North Carolina and Virginia, honed in on a combination of cases involving men and women cohabiting together as husband and wife, either without being legally married or in spite of one or both party’s legal marriage to other people; the

\(^{17}\) Of nine state appellate cases before 1860 that revolved around fornication and adultery charges, eight concerned the issue of bastardy. Westlaw database.
more salacious cases involved covert affairs and hidden romances. The number of cases reaching each state’s respective supreme courts varied similarly. North Carolina had the greatest number of state cases concerning offenses related to fornication and adultery, while Louisiana had just one. In every slave state, however, the majority of fornication and adultery cases did share a critical common trait: a primary preoccupation with white couples. Interracial couples did not appear to be singled out by the courts just because of the taboo of racial mixture, but rather as part of a larger war against immoral sexual activity. The Albemarle County, Virginia case of David Isaacs and Nancy West is demonstrative of this point. Isaacs was a white merchant and West a free mulatto baker. This interracial couple was tried for illegally “cohabiting in a state of illicit commerce as man and wife,” but the criminal court docket also shows that two other couples were indicted with Isaacs and West on October 11, 1822. Notably, census records indicate that one of the three couples charged was white. This indictment of both white and interracial couples for cohabitation violations suggests that the legal policing of the color line was but one piece of a larger goal: eradicating sexual immorality writ large, regardless of racial identity.

18 North Carolina and Virginia saw the largest number of appellate fornication and adultery cases before 1860 with 21 and 18, respectively. Of North Carolina’s 21 cases, seven dealt with cases concerning cohabitation as “man and wife.” Three of those seven involved interracial couples. Of Virginia’s 18 appellate fornication and adultery cases, only one involved an interracial couple. Westlaw database.

19 Alabama, North Carolina, and Virginia are the only southern states with state appellate cases concerning interracial fornication. Westlaw database.

20 Rothman, Notorious in the Neighborhood, 57.


22 According to the Albemarle County Law Order Books, Andrew McKee and Martha Cannon were illegally cohabiting as man and wife. 1820 census records show that McKee’s household consisted of six free white persons—one female and two males aged 26-44, one male aged 16-25, and two boys under 10—and two male slaves. 1820 Federal Census, Albemarle County, Virginia. Roll 197, p. 274.
State Courts are products of state laws. They grow out of social climates unique to their respective states, and the variations in fornication and adultery prosecutions that reached these state courts attest to this fact. But state courts, too, are partial products of their relationships to other states. They do not exist in vacuums or boast impermeable borders. Residents travel; ideas, too. This dynamic motion of people and the ideologies they carry across borders is capable of creating larger regional cultures and views that transcend state lines. The highly polarizing beliefs and legislation surrounding the efficacy of slavery are but one example. The elite men who used their wills to push against the boundaries of what constituted legally legitimate family suggest another.

For these few elite southern men, legitimate family was not confined by color line, and these men’s public social interaction and recognition of enslaved women as wives forced local community members to decide whether such a view could be accepted—or even tolerated—within their racially stratified slave societies. The ways in which communities struggled to reconcile these competing conceptions of family are often illuminated through the appellate records, themselves. Thus, the case study provides an ideal tool for exploring the ways in which the interracial relationships revealed in this group of probate cases inform our understanding of the shifting tensions over family, race, and marriage in southern communities. The cases of *Davis v. Calvert* (1833 Maryland) and *Willis v. Jolliffe* (1860 South Carolina), which exemplify the significant commonalities surrounding the appearance and contestation of these interracial relationships, highlight the ways in which these men’s reimagining of family could be similarly adapted in the divergent regions of Maryland and South Carolina.23

Thomas and Caroline Cramphin

Judge Thomas Cramphin epitomized Maryland’s elite society. An exceptionally successful planter, he owned half a dozen plantations (totaling over 6,000 acres,) and nearly 250 slaves, and he was reportedly worth 68,000 dollars at his death in 1830.24 His significant wealth also brought political and social power, and Cramphin enjoyed both the appointments and well-connected friendships that so often accompanied high social rank. Throughout his life, he served in offices as prestigious as the Maryland House of Representatives and spent a great deal of his public career as a judge for the Montgomery County Orphan’s Court.25 Importantly, a majority of cases he heard on that court dealt with the complicated messiness of families attempting to probate, often contest, and ultimately settle wills and estates. Powerful relationships defined his private life no less than his public affairs, and he rubbed elbows with men such as George Calvert, the namesake descendent of Maryland’s founding father, Lord Baltimore George Calvert. In fact, Calvert numbered among Cramphin’s closest friends—as well as his neighbor.26 Indeed, it was on one of Calvert’s abutting plantations that the lifelong bachelor finally met the woman with whom he would settle down and build a family: Caroline Calvert.


Caroline, like her mother and siblings, were slaves of George Calvert. Unlike the rest of Calvert’s large slave community, however, Caroline and her family were also Calvert’s kin. Similar to the history of so many slaves throughout the South, Caroline’s owner was also her father. Her mother, Eleanor Beckett, was Calvert’s mistress before he married a well-connected white woman. Calvert and Beckett’s relationship was representative of the long tradition of sexual relationships between masters and slaves in two significant ways: it was widely known in the community, but not publicly acknowledged; it was an extra-marital affair in which the enslaved family members were not primary beneficiaries of the owner’s estate. Nevertheless, Beckett and her children still experienced privileged positions among their enslaved community. They received deferential treatment from Calvert, including comfortable housing outside of the slave quarters, exemption from slave field labor, and eventually, deeded freedom. From this position, Caroline gained introduction to Cramphin on the ambiguous, but nonetheless more powerful ground (relative to most slaves), of a mulatto woman with the elite blood of the Baltimore line running through her veins.

Unlike the relationship between Beckett and George Calvert, the master-slave partnership that developed between Caroline Calvert and Cramphin was not commonplace within the slave South. The two became sexually involved in 1812, whereupon Caroline Calvert moved from her family household on George Calvert’s

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28 George Calvert did not make provisions for his slave mistress and their children in his will. Will and Last Testament of George Calvert, 1835, Maryland State Archives; Callcott, *Mistresses of Riversdale*, 384.


plantation to cohabit with Cramphin. They stayed together until Cramphin’s death 18 years later. While it was not an uncommon occurrence for slave mistresses and white wives to endure the tensions of living under the same roof, Cramphin’s bachelor status was a prerequisite for the couple to transform their cohabitation into a public performance of marital roles.

Legally, however, Calvert remained a slave. Though her father did not appear to enforce her slave status or his ownership rights, his failure to officially manumit her until Cramphin voiced his wish to bequeath his estate to her (twelve years into their relationship) meant that the couple could not even consider legitimizing their relationship through the traditional legal means of marriage. Calvert’s racial classification as mulatto was also problematic. In 1664, Maryland became the first colony to outlaw interracial marriage—a position that the state maintained until the Supreme Court’s 1967 decision in *Loving v. Virginia* voided such anti-miscegenation laws. Even if Calvert had been free, then, her mixed heritage would have prevented marriage to Cramphin. Maryland’s legal terrain was anything but hospitable to interracial couples.

The social culture of Cramphin and Calvert’s local community, however, belies this legal reality. Cramphin and Calvert did not live reclusive lives, but rather integrated into Montgomery County society. Cramphin belonged to the Anglican Church and was a trustee and vestryman of his local parish. Four of Cramphin and Calvert’s children were

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31 Maryland repealed its laws against interracial marriage, Md.Laws 1967, c. 6.

baptized at Prince George parish. Records do not definitively reveal the attendance
patterns of Cramphin and his family, but Cramphin’s high level of involvement in church
governance coupled with his children’s history of baptisms in the Parish makes it easy to
imagine that the entire family were active and acknowledged members of the church
community. The church served as an important space in which Cramphin and Calvert
could publicly perform their marital roles specifically as parents of their baptized
children. Furthermore, beginning with the birth of Cramphin and Calvert’s fifth child,
Richard, in 1824, parish birth and baptism records dropped the use of Calvert’s maiden
name when recording her as the mother. It is likely not coincidental that this shift
occurred in tandem with George Calvert’s decision to formally manumit Caroline
Calvert. This legal act allowed Calvert’s identity to be more fully connected to Cramphin.
The dropping of Calvert’s maiden name from baptism records, then, suggests that the
Prince George’s Parish lent institutional acceptance to Cramphin and Calvert’s
relationship as meeting the requirements of common law marriage.33

The legal record reveals further evidence about the values of Montgomery County
citizens. After dealing with the prolific number of common assault charges, the Circuit
Court spent the majority of its time policing moral infractions such as gambling and
prostitution. Notably absent from the docket books are couples answering to fornication
and adultery (F&A) charges—a crime of which Cramphin and Calvert would have been
guilty.34 Cramphin’s powerful social position as a retired judge and elite planter surely
provided him and Calvert some protection from legal censure. The fact that no other


34 Circuit Court Dockets, Montgomery County, 1820-1832, Maryland State Archives.
unmarried couples were charged during the early nineteenth century, however, suggests more at play than power and politics. Rather, this disjuncture between written and practiced laws regarding marriage and fornication reveals a rift between legal and communal understandings of what constituted acceptable familial relationships.

Cramphin, himself, embodied the tensions between these legal and social definitions. After spending his career creating laws in the legislature and navigating their application in the courts, he entered into and attempted to legitimate a relationship with Calvert that challenged legal demarcations of family. Such a marriage-like relationship with an enslaved woman similarly pushed against elite society’s world of strategic, advantageous marriages. Paradoxically, economically unencumbered men like Cramphin, who did not need to rely on the monetary advantages of marrying wealthy, propertied women, were ideally positioned among their peers to test the limits of what constituted legitimate partners and families in the antebellum South.

Public performance and acceptance of quasi-marital relationships like Cramphin and Calvert’s did not automatically translate to legal acceptance. Instead, male partners employed their wills as devises to provide financial security and lasting legal legitimization for the women and children in these interracial, enslaved families. These wills challenged judges and juries to expand the legal definition of family across racial lines. Cramphin’s intimate knowledge of legal inheritance disputes from his time presiding over the Orphan’s Court made him particularly well suited to devise a will that would serve the dual purpose of legitimizing his conception of family while deemphasizing his white heirs at law.
Cramphin had enjoyed an extraordinarily long life, but as he reached his late 80s his health rapidly declined. Recognizing that his time was running out, he devised a detailed and systematic will in 1824. After leaving specific slaves and small bequests of money to select friends, he turned his full attention to “the woman now living with me, and by whom I have children . . . Caroline Calvert.” Over the next several pages, Cramphin painstakingly outlined how the great extent of his real and personal property, from “household and kitchen furniture, all my [silver] plate . . . and carriages and harness” to “all crops of every kind . . . together with all the wagons, carts, and ploughs,” was to pass to Calvert. In short, Cramphin’s dwelling plantation, the Hermitage, and everything there within was to be Calvert’s. Slaves, too, were a part of Calvert’s bequest from Cramphin. Significantly, Cramphin did not seem troubled or even aware of the irony of his decision to “give and bequeath [the] choice of ten of my negroes” to the formerly enslaved Calvert. Commitments to institutionalized slavery and to an enslaved family were not incompatible for Cramphin. Indeed, in his world, most slaves existed as property while the technically enslaved Calvert simultaneously occupied the elevated and blatantly human status of his socially acknowledged wifely partner.

At the time he wrote his will, Cramphin and Calvert had lived together for twelve years and had a large family. Their seven surviving children, whom Cramphin listed by

35 Last Will and Testament of Thomas Cramphin, 1824, Montgomery County, Maryland State Archives, 2.

36 Last Will and Testament of Thomas Cramphin, 2-3.

37 Last Will and Testament of Thomas Cramphin, 2.
name, were a large consideration in his estate planning.\textsuperscript{38} Here he called upon his close friend and his children’s grandfather, George Calvert, to act as executor of his will and manage substantial trust funds for the “support, education, and benefit” of the children until they reached their majority.\textsuperscript{39}

The only white relative Cramphin explicitly identified in his will was a nephew, D. John Bowie, who lived adjacent to the Hermitage. The bequest Cramphin left to Bowie—250 acres from the Garden Lost and Hermitage estates—and the specific and pointed conditions attached to this inheritance, suggest that tensions existed between him and at least one segment of his white extended family.\textsuperscript{40} The fallout between him and Bowie, however, appears to be primarily linked to Cramphin’s father, rather than his relationship decisions. The roots of this feud trace back to the death of Cramphin’s father, Thomas Cramphin, Sr., and the execution of his will in 1783—nearly thirty years before Cramphin and Caroline Calvert became involved.\textsuperscript{41} Bowie evidently believed that Cramphin did not fairly execute the estate, for in Cramphin’s 1824 will, he made clear that Bowie would inherit only if he “discharge of all claim and demand against me and my estate either in my own right or as executor of my late father.”\textsuperscript{42}

The amount of property that Cramphin left directly to Caroline Calvert, rather than in trusts to be administered for her by other white men, was unusual, even for these

\textsuperscript{38} Cramphin and Calvert’s seven living children as of 1824 were George, Caroline Elizabeth, John Henry, Henrietta Maria, Thomas Adolphus, Marietta, and Richard. Last Will and Testament of Thomas Cramphin, 2. Calvert and Cramphin had two more children between 1824 and Cramphin’s death in 1830.

\textsuperscript{39} Last Will and Testament of Thomas Cramphin, 2.

\textsuperscript{40} Last Will and Testament of Thomas Cramphin, 1.

\textsuperscript{41} Last Will and Testament of Thomas Cramphin, 1.

\textsuperscript{42} Last Will and Testament of Thomas Cramphin, 2.
particular types of wills. More common was a testator leaving his estate to his enslaved family in a trust to be administered by to a reliable friend who would also serve as executor. This was a necessary tactic since most of the women and children in these relationships were still legally enslaved at the time of the testator’s death, thus ineligible to directly receive any bequests. Thus, the testator would use the will to instruct his executor to circumvent legislative restrictions on manumission by taking their families to free states, liquidating their real property, and transferring the assets to the women and children when they were safely north.\textsuperscript{43} Cramphin, however, did not think it necessary to instruct George Calvert to remove Caroline and the children from Maryland to a free state to ensure their rights of inheritance, since Calvert had already legally manumitted them when Cramphin drafted his will. Nonetheless, Cramphin did have second thoughts about attempting to leave so much directly to Caroline in fee simple. Two months after drafting his will, he submitted a codicil in which he “revoke[d] . . . the bequests and devise to Caroline Calvert.” His new plan conformed to the alternative formula that other men in similar positions were beginning to employ. “I do instead,” he stated, “direct that my trustee and executor [George Calvert] allow to the said Caroline Calvert the use of my carriages, harnesses, and a pair of my horses . . . the dwelling house . . . and such use of the servants and stock that he may think necessary for the comfortable support of herself and the children.”\textsuperscript{44} By technically transferring his estate to a white man, rather than a black woman, Cramphin hoped to leave fewer openings for any white relations to


\textsuperscript{44} Codicil to the Last Will and Testament of Thomas Cramphin, Montgomery County Orphan’s Court, Case 7627, Maryland State Archives, 1.
successfully challenge the validity and legality of his will and thus strip his family of their inheritance. But even with these efforts, Cramphin’s white heirs at law challenged his conception of family and the legitimacy of his relationship with Calvert after his death on December 2, 1830.\footnote{Jane Donovan and Carlton Fletcher, \textit{William King’s Mortality Books, Vol. 1, 1795-1832} (Bowie, MD: Heritage Books, Inc., 2001).}
Davis v. Calvert

Cramphin’s niece, Elizabeth Bowie Davis, took issue with her uncle’s unorthodox will. She and her husband, Thomas Davis, wasted little time in submitting a formal objection to Cramphin’s will and codicils that George Calvert had presented to the court for execution in late December.46 Less than a month after Cramphin’s death, the legal stage was set for a series of trial court battles whose outcomes revealed an elasticity in antebellum southerners’ definitions of family. Like those parties to suites over similar wills that appeared with increasing frequency in the following decades, the white relatives and mulatto partners and children who fought for rights of inheritance in Davis v. Calvert employed specific, formulaic strategies centered around one crucial issue: did these interracial women and children constitute the legitimate family of a white man in the eyes of the law?

The Davis’s approach was common in these interracial inheritance cases. They sought to severely discredit and thus call into question the entire relationship between Cramphin and Calvert through a combination of character attacks and insanity charges. They even raised the question of Calvert’s status of free or slave—the very issue that Cramphin anticipated when he drafted the codicil leaving his estate to George Calvert,

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46 Calvert submitted Cramphin’s will and testament on December 7, 1830. Montgomery County Orphan’s Court Proceedings, C1135, 1822-1831, p. 187. Davis objected and submitted a caveat “against admission to probate” of Cramphin’s will on January 25, 1831; Davis v. Calvert 5 G. and J. 269, 1833 WL 2201 (Md.), 6.
rather than Caroline. The Davis’s strategy, if successful, would serve the dual purpose of protecting the institutions of marriage and family from definitions that crossed the color line, while simultaneously invalidating the will. The Davises sought to portray Calvert as a woman who “led a lewd and dissolute life.” In their portrait, she did not remotely fulfill the marital role of wife and mother, but instead “was a common prostitute” and “indulged herself in secret intrigues and lewd intercourse, unknown to the said Cramphin.” In this way, they raised the southern stereotype of the black “jezebel,” whose unrestrained, potent sexuality and extreme immorality could ensnare the most upstanding white men.

Such a characterization played perfectly into the crux of Davis’ argument: Cramphin’s will was not of his own devising, but represented “fraud, misrepresentation, imposition, and deceit in the procurement of said will.” In case Calvert’s evil nature was not enough to convince a jury of the impossibility of Calvert and Cramphin forming a legitimate, affectionate relationship, they sought to erase any doubt by painting Cramphin as insane. The Davis’s attorney, A.C. Magruder, argued that Cramphin was “aged, infirm, and credulous,” and that “the mind of the deceased was so far enfeebled, as to hinder him from making a valid will in any circumstances.”

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48 Davis v. Calvert, 5 G. and J. 269, 1833 WL 2201 (Md.), 5.
49 Davis v. Calvert, 5 G. and J. 269, 1833 WL 2201 (Md.), 5.
50 For more on this traditional Jezebel role, see Deborah Gray White, Ar’n’t I a Woman?: Female Slaves in the Plantation South (New York: W. W. Norton and Company, 1999), 27-46.
51 Davis v. Calvert, 5 G. and J. 269, 1833 WL 2201 (Md.), 5.
52 Davis v. Calvert, 5 G. and J. 269, 1833 WL 2201 (Md.), 12.
Yet, against these damning assertions, the judges of the Orphan’s Court ruled that such character attacks were irrelevant and a jury of Cramphin’s peers from Montgomery County returned a verdict in favor of Caroline Calvert and the children. The jurors from the community in which Calvert and Cramphin quietly lived together for nearly two decades accepted instead the vision presented by Calvert’s defense team that conformed to nineteenth-century marriage: a woman of “good conduct and character, faithful to him as a mistress, and a tender nurse of his old age, and a useful superintendent of his household.”\textsuperscript{53} Such an endorsement of their relationship through the upholding of Cramphin’s will after his death lends greater weight to the notion that this publicly acknowledged interracial relationship was accepted in the white community of Montgomery County. With Cramphin dead and his influence and power thus evaporated, a jury of peers would have been free to use this opportunity to discredit the relationship of an elite man whom they may have otherwise feared to cross in life. Their favorable verdict without the interference of Cramphin’s social and political influence, however, suggests that the local community was largely not adverse to Cramphin’s elevation of Calvert and the children to familial status.

Like Calvert, Cramphin, too, was rehabilitated by the defense team as a man whose “children were acknowledged by him, and treated by him with all the care and affection of a father.”\textsuperscript{54} It looked as though Cramphin’s efforts to protect his family and confer upon them a legal status to match the social privileges they enjoyed during his life

\textsuperscript{53} Davis v. Calvert, 5 G. and J. 269, 1833 WL 2201 (Md.), 6.

\textsuperscript{54} Davis v. Calvert, 5 G. and J. 269, 1833 WL 2201 (Md.), 6.
would be successful. Problems arose, however, when the Davises appealed and the case moved from the local Montgomery County Court to the State Court of Appeals.

In 1833, three years after Cramphin’s death, the State Court of Appeals heard the case of *Davis v. Calvert*. Unlike the local Montgomery County Court, which was familiar with Cramphin and Calvert and their unorthodox relationship, the State Court of Appeals was out of its depth and unwilling to come down decisively on one side or the other. Instead, the judges, who were skeptical of Cramphin and Calvert’s relationship, took a middle ground; they remanded the original case back to the local Montgomery County Court where a jury would hear the case again—this time, however, with the character evidence against Calvert and Cramphin that the Orphan’s Court judges had dismissed in 1831.⁵⁵

Whether or not the inclusion of this character testimony would have turned the tide against Caroline Calvert’s right to inherit will never be known, for in 1835 Elizabeth Davis and George Calvert settled outside of court. Some scholars have recently pointed to this decision as an example of the unwillingness of southern society to view mixed race families as legitimate beneficiaries of white men’s estates.⁵⁶ A closer reading of the Davises’ actions during the trial phases of this case and of Elizabeth Davis’s conditions of settlement in 1835, however, reveal sentiments that directly counter such a claim.

During the five years between Cramphin’s death and the settlement agreement, Caroline Calvert and her children lived in economic limbo. Calvert did not have rights to the quarterly payments from her annuity, nor did her children have access to their trusts,

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since the distribution of Cramphin’s assets was frozen and execution halted. Even as the Davises challenged Calvert’s inheritance rights, however, they nonetheless allowed Cramphin’s estate to be used for her family’s support while the two sides fought. As early as August of 1831, Thomas Davis gave “his consent to the support of Caroline Calvert and her children out of the estate of Thomas Cramphin, deceased.” Furthermore, he endorsed the particular uses of such support to include “as much money as may be necessary for . . . the educating of her children.” This consent was renewed at least twice between 1831 and 1835.

Davis’s settlement letter reveals that she was not interested in completely disinheriting Caroline Calvert and the children, but rather in receiving a portion of Cramphin’s estate. In exchange for $30,000—roughly half of Cramphin’s net worth—Davis would let George Calvert maintain control of Cramphin’s real and personal property. Significantly, she explicitly stated that Calvert was to execute the remainder of Cramphin’s estate “as . . . expressed and declared in the said instruments of writing, purporting to be the last will and testament, and codicils thereto, of said Thomas Cramphin.” In other words, after Davis successfully secured a portion of her uncle’s large state, she used her settlement letter to deliberately validate the remainder of the very will she had previously sought to overturn. Caroline Calvert and her children would

57 Tuesday, August 23, 1831, Orphan’s Court Proceedings, Montgomery County, C1135, 1822-1831, 236-37.

58 January 10, 1832, Orphan’s Court Proceedings, Montgomery County, C1135-2, 1831-1840, 2-3; Tuesday, January 22, 1833, Orphan’s Court Proceedings, Montgomery County, C1135-2, 1831-1840, 53.

59 Elizabeth Davis to George Calvert, 1835, Montgomery County Orphan’s Court, case 7627, Maryland State Archives.

60 Elizabeth Davis to George Calvert, 1835, Montgomery County Orphan’s Court, case 7627.
inherit, after all, and with the willing support of Cramphin’s closest white relative. Thus, for these white relations, local jurors, and Montgomery County judges, Cramphin’s interracial partner and children appeared to embody a legally and socially acceptable adaptation of legitimate family in antebellum Maryland.
Amy and Elijah Willis

Thirty years after Cramphin entered into his partnership with Calvert, and over five hundred miles deep south of Maryland, a wealthy South Carolina planter named Elijah Willis contemplated a similar relationship. Born into Williston, South Carolina’s founding family in 1797, Willis inherited much wealth from his father, which he swiftly moved to capitalize upon through substantial investments in lumber and a large enslaved workforce to operate his mill. Elijah Willis was the epitome of the eligible bachelor, yet he was among the minority of wealthy men, like Cramphin, who remained unwed.61 Under circumstances reminiscent of Cramphin and Calvert’s beginnings, the woman Willis would spend the rest of his life with was a slave on the neighboring plantation of Willis’s friend, William Kirkland.

Amy was her name. Like Caroline Calvert, she was not allowed the luxury of legal marriage; her status as a slave excluded her from the legal personhood required for such contracts. Consequently, any relationships Amy entered were not protected under the law. Little is known of her past before Willis purchased her around 1842.62 During her years in Kirkland’s slave community, however, it is clear that Amy and another of

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61 The unusualness of Elijah’s failure to wed is suggested by his siblings’ marital status. He had ten siblings; all ten wed. See Will of Elijah Willis of Barnwell District, 1846, SCDAH, microcopy No. 9, Will Book D, pp. 258-69. For more on typical plantation household structures, see Cashin, “The Structure of Antebellum Planter Families,” 57.

Kirkland’s slaves had three children together.\(^{63}\) Willis did not separate Amy from her three young boys at the time of purchase; in 1842 Elder, Ellick, and Phillip all moved into the slave quarters on Willis’s plantation with their mother. Amy’s own mother also moved from Kirkland’s ownership to Willis’s. The fate of the enslaved man with whom Amy at one time lived, however, remains unknown.

Shortly after purchasing Amy in 1842, Willis began an intimate relationship with her.\(^{64}\) Unlike the majority of master-slave liaisons, which were generally hidden and often coerced sexual encounters, Amy and Willis’s relationship appeared to be a long-term, affectionate, and public undertaking. By the early 1850s, when Willis and Amy had been partners for nearly a decade and raised five children together, Elijah began devising a way to both free his family from slavery and make them the legal heirs of his estate. In fact, the legal obstacle Amy and Willis faced was linked specifically to Amy’s slave status, rather than laws governing interracial marriage. As property, slaves were not allowed the legal right to marry. Yet for free African Americans, no restrictions, whatsoever, existed on marriage.\(^{65}\) Unlike Maryland, which had outlawed interracial marriage since the seventeenth century, South Carolina did not have such statutes in place before the Civil War. Thus, had Amy been free in antebellum South Carolina, she and


\(^{64}\text{Willis v. Jolliffe, 11 Rich.Eq. 447, 32 S.C. Eq. 447 (S.C.) 1860 WL 3897 (S.C.), at 24; “Selected Matter.” Frederick Douglas Paper, Rochester, NY. June 8, 1855. The exact starting date for this relationship is murky. Given that Elijah and Amy’s first child, Elizabeth, was born in 1847 according to the 1860 Ohio census, their relationship would have begun by 1846, at the latest. Newspaper reports claim that the relationship started thirteen years before Elijah’s death, which would be around 1842. The fact that two of the five children died—quite possibly before Elizabeth’s birth—further supports the 1842 timeframe.}\)

\(^{65}\text{O’Neall, Negro Law of South Carolina, 13.}\)
Willis would not have faced any legal obstacles to marriage.\textsuperscript{66} The paths to freedom, however, grew increasingly restricted as the nineteenth century wore on. By 1820, the only route a slave owner had left if he desired to emancipate a slave within the borders of South Carolina was to petition the state legislature—an often unsuccessful undertaking.\textsuperscript{67} In light of these legal realities, the only way Willis could gain legal legitimacy and protection for Amy and the children was to first secure their freedom—an act that required looking outside of South Carolina. In 1852 he settled Amy and the children in the more progressive Maryland as he tried to legally emancipate them there. However, this first attempt failed for unknown reasons and Willis returned to Maryland to bring Amy and the children back home.

Willis’s second attempt to secure Amy and the children’s freedom, this time in Ohio, was meticulously planned and ultimately successful. In 1854—a full year before their move north—Willis made the long journey to Cincinnati to craft a will specifically designed to ensure freedom and inheritance for Amy and the children. Unlike Cramphin, who possessed the legal expertise to construct his own will, Willis secured the aid of prominent abolitionist attorney John Jolliffe in drafting his will. Yet an abolitionist Willis most certainly was not. While Willis went to great lengths to rid Amy and the children of their legal status as slaves, he, like Cramphin, made no provisions to emancipate the dozens of other slaves under his ownership.\textsuperscript{68} In fact, he intended to sell off these slaves,


\textsuperscript{67} \textit{An Act to Restrain the Emancipation of Slaves, and to Prevent Free Persons of Color from Entering into this State; and for Other Purposes}, No. 2236 (1820) in McCord, \textit{Statutes at Large of South Carolina}, 4:459; O’Neall, \textit{Negro Law of South Carolina}, 11.

\textsuperscript{68} \textit{1850 Federal Census, Slave, South Carolina}. Roll 861, p. 439-40; \textit{1850 Federal Census, Barnwell County, South Carolina}. Roll 849, p. 380. According to the 1850 Census, Elijah’s real estate, alone, was worth $10,000.
along with his other real property in South Carolina, to finance the new life he planned for himself and his family in Ohio.\(^{69}\) While the family made it successfully to Ohio, Willis did not have the chance to enact this last part of his plan.

On May 21, 1855, the Willises arrived in Cincinnati. Their two youngest daughters clung to Willis’s hands as the family made their way to an awaiting carriage. According to the press, “just as he went to reach one of the small children into [the carriage]” he stopped and “breathed heavily.”\(^{70}\) Amy worriedly asked him if he was experiencing another “attack of palpitation of the heart.”\(^{71}\) He nodded, but before a doctor could be called, Willis fell to the ground and died mere minutes after safely delivering his family to the free North. Amy, the children, and her mother went, with Willis’s body, to the Dumas House, a hotel four blocks off the wharf “for colored people, kept by a colored man.”\(^{72}\) Willis was interred on June 7, 1855, in one of Cincinnati’s African American cemeteries.\(^{73}\)

\(^{69}\) Barnwell resident William Knotts testified that “Mr. Willis did send for him . . . to come and buy his land and negroes,” *Willis v. Jolliffe*, 11 Rich.Eq. 447, 32 S.C. Eq. 447 (S.C.) 1860 WL 3897 (S.C.), at 25. Furthermore, local merchant Willison Beazley, an acquaintance of Elijah, told the court that Elijah asked him to “find him a purchaser; offered to sell . . . his lands, other negro slaves, stock, growing crop and produce on hand, for thirty-five thousand dollars,” ibid.

\(^{70}\) “Sudden Death—An Interesting Case,” *Wisconsin Patriot* [Madison], June 9, 1855, 2 quoting the *Cincinnati Columbian*; “Manumission of Slaves-Sudden Death of Their Master,” *Daily Ohio Statesman* [Columbus], May 23, 1855.

\(^{71}\) “Selected Matter,” *Frederick Douglass’ Paper* [Rochester], June 8, 1855.

\(^{72}\) Coffin, *Reminiscences of Levi Coffin*, 287, 339; *William’s Cincinnati Directory, 1853*, University of Cincinnati Archives and Rare Books Library.

\(^{73}\) “Selected Matter,” *Frederick Douglass’ Paper* [Rochester], June 8, 1855.
Willis’s death thrust Amy and her children into a set of court battles that would determine her inheritance rights and the legitimacy of her family. The first hurdle that Willis’s executor and abolitionist attorney John Jolliffe faced was getting the will entered into probate in Barnwell, South Carolina. Willis had two wills in existence. He wrote the first in 1846, before he and Amy had any children, that was rather unremarkable. In it, he did what was normative for unwed men without children: he left his estate to his brothers and sisters. The 1854 will that he drafted with Jolliffe, however, disinherited these white heirs at law in favor of his enslaved family. When Jolliffe arrived in Barnwell with the 1854 will in hand, the white relatives who would inherit according to the 1846 will immediately contested the more recent will on the grounds that Willis was insane and that Amy and the children were still considered slaves in South Carolina, regardless of their free status in Ohio, and thus ineligible to inherit property. The jury sided with the white relatives, and Jolliffe’s next step was to appeal to the South Carolina Law Court of Appeals.

As in Maryland, the state appellate justices did not find for either the interracial family or the white relatives, but rather remanded the case back to Barnwell County for a new trial. Unlike the Maryland case, however, in which the justices voiced skepticism

74 John Jolliffe v. Fanning & Phillips & Others. 10 Rich. 44 S.C.L. 186 (1856). This probate case was between the executor of Elijah’s 1854 will, John Jolliffe, and the executors of Elijah’s earlier 1846 will. Jolliffe won this case in favor of Amy and the children, thus allowing the 1854 will to be probated. At this point Elijah’s siblings challenged the validity of a will which bequeathed Elijah’s estate to people who, they argued, were slaves in the eyes of South Carolina law. The ruling fell against Amy and her children, but John Jolliffe appealed and ultimately won a favorable verdict for Elijah’s formerly enslaved family in Willis v. Jolliffe, 11 Rich.Eq. 447, 32 S.C. Eq. 447 (S.C.) 1860 WL 3897 (S.C.).

75 Will of Elijah Willis of Barnwell District, 1846, SCDAH, microcopy No. 9, Will Book D, p. 268, Barnwell County, 1846; An electronic copy of the will can be found at: http://www.archivesindex.sc.gov/onlinearchives/Thumbnails.aspx?recordId=296782.

about Cramphin and Calvert’s relationship, the South Carolina justices believed Willis to clearly be in his right mind, and thus could “discover no legal basis upon which the verdict [against admitting the 1854 will to probate] can stand.”\textsuperscript{77} These assurances of the legality of Willis’s second will by the South Carolina justices appear to have been persuasive to Barnwell residents, for the jury ruled in favor of Jolliffe and the 1854 will during the retrial.\textsuperscript{78} Over a year after Willis’s death, his second will was finally recorded in Barnwell County, but his white relatives remained undeterred. They halted the will’s execution with challenges that mirrored those employed by Cramphin’s white relatives over twenty years earlier: insanity of the testator, undue influence of the African American woman, and questionable legal status of the woman and children as slave or free.\textsuperscript{79}

The culmination of this final inheritance court battle over Elijah Willis’s estate was the South Carolina appellate court case of\textit{Willis v. Jolliffe}, which was heard on the eve of the Civil War in 1860. Perhaps surprisingly, Amy won. The significance of this case, however, lies not only in the verdict, but also in the rich testimony enshrined in its pages. The detailed witness descriptions provide a window into the ways in which members of the Barnwell Community viewed and understood Amy and Willis’s relationship, while simultaneously suggesting ways in which Amy and Willis’s actions in the household and in public related to the social functions of marriage.


**Willis v. Jolliffe**

In the case of *Willis v. Jolliffe*, over a dozen acquaintances, neighbors, and friends testified in the South Carolina court as to the nature of Amy and Elijah’s relationship and the overall character of both. Notably, Amy did not testify. In fact, she did not return to South Carolina for any of the court battles. Slaves did not have the legal right to testify in the courts, but according Ohio’s ban on slavery, coupled with Willis’s intent to free her, meant that Amy attained the legal status of a free person when her feet touched Ohio soil. Thus, she would have been eligible to testify on her own behalf. Her legal status in relation to South Carolina law, however, was more ambiguous. Willis’s 1854 will contained a clause directing Jolliffe to “bring . . . the said Amy and her children . . . to Ohio,” where they would be free.\(^80\) South Carolina’s Act of 1841, however, outlawed testamentary manumissions, and in so doing called Amy’s free status into question if she returned to the state.\(^81\) The possibility of re-enslavement likely deterred her from returning to the South. Amy’s previous Barnwell neighbors, therefore, were left to characterize Willis’s life with her and the children. While varying tones of disapproval wafted from a number of the depositions, the records show a virtual consensus among all of the witnesses regarding Willis and Amy’s relations both in the home and in public. As


\(^{81}\) This South Carolina statute declared void “any bequest, deed of trust, or conveyance” which provided for the removal of slaves from the state for the purpose of emancipating them. This measure also rendered void any testamentary provisions that bequeathed property to enslaved persons. “Act to Prevent the Emancipation of Slaves, and for Other Purposes,” No. 2836 (1841), in *Statutes at Large of South Carolina*, 11:168-69.
Jonathan Pender, one of Willis’ acquaintances, attested, Willis and Amy’s relationship was “generally reported and believed in the neighborhood.” While those closer to the couple, such as their neighbor Ary Woolley, testified that Amy and Willis “acted pretty much as man and wife.”

While Willis, Amy, and the children were distinguished as master and slaves under the law, they lived domestic life with the social status of a family. A longtime friend of Willis and Amy, Reason Woolley, who often visited the Willis home, noted that, “Willis and Amy lived in the same house [and] slept in the same house.” Another friend of Willis was particularly struck that, while dining, Willis sat “with one of the children in his lap…giving them the best victuals from the table, and…treated them as his own children.” Not only did Willis acknowledge that the children were his, but he “acted as a father towards them…nurse[d] them, etc.” One of the most telling signs of Willis’s emotional attachment is found in Reason Woolley’s statement that Willis was “distressed when one of the children died.”

Willis did not confine his enactment of the roles of husband and father within the walls of his plantation home, however; he presented Amy and the children publicly as his family, and thus in a manner far above the status of slaves, or even free blacks. As one witness who saw the Willises during their journey to Ohio remarked, the family “had, as baggage, several new trunks, and no such luggage as negroes usually carry…[and] were

all dressed in much better style than is usual with negroes.” In fact, Willis did not hesitate to identify Amy and the children as his family to people he encountered during their travels. In response to train conductor James Meredith’s question about whether he was selling the “family of negroes,” Elijah unambiguously answered that “he was not taking them to Hamburg for sale, but was on his way to Cincinnati, Ohio, with them, and . . . he spoke of them as his family.”

Willis’s unfailing efforts over a period of years to secure freedom and legal status as his heirs for Amy and the children is an equally compelling example of the quasi-marital relationship between Amy and Willis. As Willis told one friend, “I have travelled a great deal and spent a heap of money to fix my business,” making sure that his family would be protected from slavery and provided for after his death. It also indicated that, regardless of the social acceptance Willis had won in Barnwell, his relationship with Amy nonetheless stood outside of the narrower legal definition of family. At least as early as 1850, Willis was actively seeking advice and pursuing various plans to legally protect his family that, regardless of communal recognition, was not legally recognized. Not only were his efforts common knowledge, but community members also noticed his “great anxiety about…what he had best do about them to get them free.”

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unceasing efforts to fulfill his husbandly role of protecting and providing for his family highly align with the ideals and actions of institutional marriage.

Accounts of Amy’s behavior at home and in town and descriptions of her reception by community members are similarly indicative of a wife’s role and treatment in domestic and public spaces. Besides running the household and tending to the children, “Amy traded considerably at Williston…riding in Willis’ carriage” to run her errands.\(^92\) Tellingly, a neighbor noted that “the merchants generally let her have what she wanted…on credit” and Willis “would pay all such bills without objection or inquiry” on his subsequent visits to town.\(^93\) One witness perhaps summed it up best when he claimed that Amy “trade[d] largely,” and “as freely as a white woman.”\(^94\) Even members of Willis’s white family recognized the couple’s relationship and Amy’s social identification as married and free. James Willis, Elijah’s nephew, welcomed their business at his Williston shop and publicly addressed his uncle’s partner as “Aunt Amy.”\(^95\)

The extraordinary lengths Willis went through to protect Amy and the children leaves little doubt that his actions were rooted in love and familial duty. Yet for Amy, evidence of her affection and motivations is far less obvious. Did she act out of love or opportunity, affection or manipulation? Most likely it was some combination of the above. Amy certainly had much more to gain materially, economically, and socially from the relationship than did Willis, but two particular events suggest that her involvement

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with Willis was at least partially built out of affection. During the family’s first attempt at relocating to the North, Amy and the children remained where Willis had left them unattended for an extended period of time, and willingly returned with Willis to South Carolina when this first attempt at manumission apparently failed.\footnote{Willis v. Jolliffe, 11 Rich.Eq. 447, 32 S.C. Eq. 447 (S.C.) 1860 WL 3897 (S.C.), 23.} In a situation where she had plenty of time to flee with her children after Willis left her unattended, she instead patiently waited for him to return.

Amy’s emotional attachment to Willis was also visible during the family’s next attempt at freedom—this time, in Ohio. As Willis and his friend, Reason Woolley, discussed his plan to secure Amy and the children’s freedom in Ohio while Willis would return to South Carolina and prepare to permanently move to Cincinnati, Woolley noted that “[Amy] wanted to come back with him,” but Willis replied “that when he got her out of South Carolina she should never come back again.”\footnote{Willis v. Jolliffe, 11 Rich.Eq. 447, 32 S.C. Eq. 447 (S.C.) 1860 WL 3897 (S.C.), 23.} In both situations, the distress Amy showed at the prospect of being separated from Willis and her failure to abandon Willis when left alone for months in Maryland are not the actions of a slave simply using her master’s affections to escape from slavery.

That so many witnesses in this small town could provide so detailed a rendering of this couple’s life together is telling. Willis and Amy functioned as social members of the community and adapted the language of marriage to suit their otherwise precariously-footed relationship. Of course, the unorthodox couple still attracted varying degrees of disapproval within the community—indeed, testimony from the case alludes to this reality. According to one witness, Willis himself stated that it was “distressing to him” that “the connection he had formed was evidently unpleasant to his relations and
acquaintances.” The preponderance of testimony suggests, however, that this unrest was weak enough that the Willises did not experience notable social or economic isolation.

Significantly, the most overt expression of displeasure over this public interracial relationship that is preserved in the documentary record occurred after Willis’ death. Once the ruling in favor of Amy Willis was handed down by the South Carolina Court of Appeals in 1860, a group of white men from Barnwell County petitioned the state legislature to make it “an indictable offense for any white man . . . to live in open connection with a negro or mulatto woman, as his wife, whether married or unmarried.”

No doubt Willis’s powerful economic and social status in Barnwell County accounted, in part, for the delay of such overt objection to relationships like his and Amy’s until after his death. This petition inadvertently reveals, however, that the people of Barnwell were trying to make sense of something much larger than one odd couple. The men of Barnwell justified their position precisely because they detected a new and concerning trend: “white men in this community are frequently found living in open connection with negro and mulatto women.”

Clearly, the instances of publicly displayed interracial relationships recorded in the legal record through probate court cases account for only a portion of the relationships that existed. For the community of Barnwell, South Carolina, Willis and Amy were not some aberration, but rather the latest case in a recent trend towards public, quasi-marital interracial relationships.

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99 Petition S165015, no. 28 (1860), South Carolina Department of Archives and History. As established in State v. Brunson, 2 Bail. 149, 18 S.C.L. 149 (S.C. App. 1831), fornication was not yet considered an indictable crime in South Carolina. Early Barnwell County records corroborate this point; while citizens were prosecuted for card playing, public drunkenness, and other moral offenses, none were indicted for fornication. Criminal Journals, Barnwell County Court of General Sessions, 1800-1822, South Carolina Department of Archives and History.

100 Petition S165015, no. 28 (1860), South Carolina Department of Archives and History.
In the utter absence of legal protection and sanctioning of a relationship that crossed the supposedly socially unacceptable lines of race and slavery, Willis and Amy nonetheless achieved the social recognition and status of a white, legally married couple within their native Williston. With the help of the abolitionist and popular presses, however, the unconventional application of marital roles and conception of family embodied by Amy and Willis’s relationship reached a national audience.

For the majority of the literate Barnwell County community, local newspapers, such as *The Daily South Carolinian*, likely served as the primary vehicle for transmitting the information about the case, all the way from Willis’s shocking death in Ohio to the eventual ruling in Amy’s favor five years later. Yet it is important to remember that, for most of these locals, the notable relationship between Amy and Willis was already well known; within Barnwell County, newspaper reports regarding the couple served as a means to stay apprised of the court case’s progression, rather than as an introduction to the unconventional circumstances of Amy and Willis’s relationship. For those outside of this rural community, however, these newspaper accounts were a critical gateway through which a larger public was presented with an envisioning of nineteenth-century marriage and family that challenged racial boundaries.

The dramatic and tragic circumstances of Willis’s death coupled with the fascinating and unlikely tale of the family he left behind attracted the interest of newspapers across the country. Over two-dozen articles appeared in no fewer than nineteen daily and weekly newspapers between Willis’s death in 1855 and the final ruling awarding inheritance rights to Amy and the children in 1860. Of interest here is not

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101 The following newspapers reported on the Willis family: *Cincinnati Gazette, Frederick Douglass’ Paper* (NY), *Wisconsin Patriot, Cincinnati Columbian, Baltimore Sun, Daily Ohio Statesman, National Era*
only the simple volume of responses, which is notable, but rather the regional and political diversity of those papers that chose to follow the case. Given Ohio’s central role in the Willis story, from supplying abolitionist attorney (and Cincinnati resident) John Jolliffe to housing Amy and the children after Elijah’s death on the shore of the Ohio River, it is not surprising that nearly one third of the press’s articles arose from Ohio newspapers. The remaining two thirds, however, ranged from Vermont to Georgia to Wisconsin and numerous points in between. The audience, too, was varied. Presses of prominent abolitionists like Frederick Douglass and William Lloyd Garrison as well as mainstream newspapers published the Willis family’s story. Thus, it was not only radicals and abolitionists who were introduced to Amy and Elijah’s unlikely partnership, but citizens operating well outside of these activist circles.

Contextualized within this politically and geographically diverse press interest, the way in which these newspapers portrayed Amy and Willis’s relationship carries even greater significance. While still acknowledging Willis’s and Amy’s separate legal identities in the South as owner and slave, the press often chose to represent the couple according to the way in which Willis and Amy had lived for so many years: as husband and wife. These articles seemingly embraced images of the couple as married without trepidation or judgmental tones, stating simply that Willis’s “wife, Mary Amy Turner and children . . . are mulattoes” previously under Willis’s ownership who would now inherit

his substantial estate.\textsuperscript{102} An exception to this trend in coverage concerns newspapers in South Carolina and Georgia. Even so, while they did not go so far as their northern counterparts, who portrayed the couple as married, they nevertheless recognized their relationship as more than master and slave. Indeed, the simple acts of southern newspapers choosing to refer to Amy by name and the children as Willis’s lent legitimacy to the relationship through the act of public recognition. Even with these more reserved southern interpretations, the thrust of many printed representations of the Willises is clear; these presses largely categorized Amy and Willis’s interracial relationship under the umbrella of marriage, even in light of their unorthodox history as slave and owner. Furthermore, the ease with which they seemed to do so suggests that this was not the nineteenth-century media’s first exposure to such couples.

The importance of this newspaper coverage lies not only in the ability of the diverse presses to conceive of and present Amy and Willis’s relationship as marriage, but also in the tools they used to do so. In print culture, language was crucial. For newspapers, as for any type of printed press, the deployment of language was necessarily strategic and designed to resonate with an intended audience. The presses that chose to represent Willis and Amy as partners in a marriage used language infused with an ideology their readership was sure to understand: romantic love. It was not enough to say that the couple had been “married . . . about thirteen years.”\textsuperscript{103} To more easily make sense in the larger ideological terrain of the mid-nineteenth century, language that matched the growing romantic understanding of marriage as a product of love, rather than economic

\textsuperscript{102} “The Sudden Death at Cincinnati,” [Baltimore] Sun, May 26, 1855, 1, quoting the Cincinnati Gazette. “Sudden Death of a Slaveholder,” Frederick Douglass’ Paper, June 8, 1855, 1, quoting the Cincinnati Gazette.

\textsuperscript{103} “The Sudden Death at Cincinnati,” [Baltimore] Sun, May 26, 1855, 1.
strategy, was employed by many newspapers. That “Mr. Willis . . . always manifested
towards her and the children a warm affection” revealed the couple’s conformity to these
marital standards.104 People around the nation read of Elijah and Amy Willis not as
master and slave, but as committed partners—as husband and wife.

Conclusion

The cases of the Cramphins and Willises cannot be considered common, but neither were they anomalous. Antebellum communities in the majority of slave states experienced instances where elite men discarded the boundaries of slavery and race and challenged legal and social conceptions of family and marriage in very public ways. The dispersion of appellate court records further suggests that these men’s legal challenges to dominant conceptions of racially homogenous marriage and family occurred with increasing frequency and surprising levels of success during the mid-nineteenth century. The 1833 Maryland case of Davis v. Calvert and the 1860 case of Willis v. Jolliffe provide windows onto the similar ways that two elite men in different times and places within the antebellum South conceived of and challenged the socially acceptable boundaries of legitimate marriage and family. These men, along with their enslaved partners, pushed their communities to expand conceptions of marriage and family to include interracial formulations through public enactment and assumption of marital roles.

Court testimony and, in the case of Barnwell residents, legal petitions, suggest that these local communities did not respond with unified levels of acceptance toward such relationships. But at the same time, the depositions of community members reveal that these couples were nevertheless viewed through the lens and language of marriage and family. Regardless of whether locals were happy about such relationships, their testimony, coupled with church records and newspaper accounts, implies that they
amended their understanding of legitimate family to include the interracial renderings introduced by elite white men within their respective Maryland and South Carolina communities.

The motivations and emotions of the enslaved women, unlike their male partners, remain largely obscured. Even in this absence, however, court testimony is still capable of illuminating ways in which these women may have experienced their elevated public social rank. Even in the absence of Amy and Caroline’s voices, court, church, and newspaper records suggest that both women possessed and wielded a level of power in public and within the household that aligned with their socially conferred status of free, married white women.

By recovering these couples’ stories, the history of interracial family in the United States takes on new and unexplored dimensions. These cases complicate many historians’ traditional conceptions of master-slave relationships as open secrets that were known within society, but not publicly acknowledged or legitimatized through social or legal channels by the involved white men or their local communities. The parallels between the lives and experiences of the Willises and Cramphins offer possibilities for reimagining not only the history of interracial families in some southern communities, but the larger paths leading to Loving v. Virginia.
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