Mary Clark a woman of
Colour (complainant)
Appeal
vs Copy record
G.W. Johnston

Filed May 7th 1821
H.P. Coburn

Decided Nov 6th
1821

Pleas at Vincennes in the County of Knox & State of Indiana for the April Term in the Year of our Lord One thousand eight hundred and twenty one.

Before the Honorable Jonathan Daily Presiding Judge & Henry Noble & Mark Barnett associate Judges in and for said County of Knox.

Mary a Woman of Colour called Mary Clark

Against

General W. Johnston

Petition.

Be it Remembered that on this thirteenth day of April in the Year of our Lord One thousand eight Hundred & twenty one, the said Mary Clark filed her petition by Amory Kinney her Attorney which said petition is in the following Words and figures to wit:

"State of Indiana } Circuit Court April Term
" Knox County } ss. A D 1821

To the Honorable Judges of said Court

" the petition of Mary a Woman of Colour commonly
" called Mary Clark humbly sheweth that Your petitioner
" is holden as a slave in said County by General
" W. Johnston without any just or Legal claim contrary
" to Law and to the manifest wrong and injury of

Your

"Your petitioner Ulloa therefore prays that a Writ of
"Habeas Corpus may be directed to the Q. W. Johnston
"requiring him to bring Your petitioner forth with before
"Your Honours in said Court to shew cause why
"he thus detains her & Your petitioner as in duty bound
"Will Ever pray.

Mary Clark by her Attorney
Per Attorney."

"April 13th 1821.

Whereupon the Court issued their
Writ of Habeas Corpus in these words to wit: —

Habeas Corpus

"State of Indiana
Pike County } ss. Cir: Co: April Term 1821.

The Judges of said Court now in Session to
"General W. Johnston of said County. Greeting:—
"You are hereby required forth with to bring
"before us at the Court House in said County
"at 10 Oclock A.M. On the fourteenth Instant —
"Mary a Woman of Colour Commonly called
"Mary Clark said to be illegaly held in your
"Custody together with the day and cause of her
"Caption and detention to do, submit to and receive
"Whatsoever the said Court shall award and determine
"in the premises concerning her, given under our
"hands and seals at the Court house in said
"County this 13th day of April in the year of our
"Lord, Eighteen Hundred and twenty one.

J. Kelly Pres.t 1st Jud. Cir. (Seal)
A. Ruble
Mark Barnett } Associates."

And on the said return of the aforesaid Writ Here
Came the said General W. Johnson and says
"In Obedience to the above command I do hereby certify
"As I have [illegible]

J. Doty Pres. 1st Jud. Cir.
N. Ruble
Mark Barnett } Associates.

And on the said return of the aforesaid Writ Came Came the said General W. Johnson and says

"In Obedience to the above command I do hereby certify
"and return to the Honorable the Circuit Court
"of Knox County, that I have in my Custody the
"body of the above named Mary a Woman of colour
"called Mary Clark, and that I do detain her
"in Consequence of a purchase made by me from
"Benj. J. Harrison (for the sum of three Hundred and
"fifty Dollars secured to him by my notes of hand)
"and the annexed emancipation executed by said
"Harrison to the said Mary & her Indentures —
"(Certo also annexed) to my self for the term of
"Twenty years from the time of their execution, "Towit, the
"24th" October AD 1816. The time When the said purchase,
"Emancipation & Indentures were made & executed.
"Which is the cause of the said Mary's caption & detention;
"and which I humbly Conceive are sufficient in law
"to entitle me to her services until the expiration of her
"said Indentures: Wherefore &c. Gen. W. Johnston . . .
"Vincennes
"April 14th" 1821.

The following is a copy of the Emancipation
Which is attached to the foregoing return towit:
"Whereas I Benjamin J. Harrison in the Year one
"thousand eight hundred and fourteen, purchased
"a Negro woman called and named Mary, in
"the State of Kentucky as a Slave — And in the
"month of January AD. One thousand eight hundred

" Fifteen brought her to the Indiana Territory and
" took upon and from her an Indenture of servitude
" for thirty years; Which Indenture by consent of the
" said Mary, I have now destroyed and effectually
" cancelled. And do hereby Manumit, liberate & set
" free, and by these presents do save Manumitted,
" liberated & set free from any and all claim or claims
" of slavery and servitude of any kind, the said
" Mary not only now but forever hereafter. In Witness
" whereof, I have hereunto set my hand & seal at Vincennes
" this 24th of October AD. 1816.

B. I. HARRISON (Seal)

" Signed sealed and
" Delivered in presence of
" E. Stout
" Francoise Theriaequ
her
mark

Also is annexed to said return the
following Indenture to wit;

Indenture. " This Indenture Witnesseth, That Whereas
" Benjamin I. Harrison purchased me Mary Co
" Woman of Colour, in the State of Kentucky in the Year
" 1814. as a slave for life; and in the month
" of January 1815, brought me to Vincennes in the
" Indiana Territory - When I executed to him
" an Indenture of servitude upon myself for the
" Term of Thirty Years. And Whereas the said
" Ben. I. Harrison by my request has this day,
" the date of these presents, cancelled, annulled
" & destroyed the said Indentures; and has further,
" by his act, duly executed & acknowledged and
" delivered to me in presence of the Witnesses hereto,

" Term of Thirty Years. And Whereas the said
" Benj. S. Harrison by my request has this day,
" the date of these presents, cancelled, annulled

" & destroyed the said Indentures; and has further,
" by his Act, duly executed & acknowledged and
" delivered to me in presence of the Witnesses hereto,
" manumitted and set me free from Slavery and
" servitude. Now be it known unto all who-
" may see these presents, That I the said Mary
" a free woman of colour, of my own free will
" & accord, and for a Valuable consideration and
" for and in consideration of the stipulations & agree-
" ments herein after mentioned on the part of —
" General W. Johnston of Vincennes in Indiana, Have
" put, placed and bound myself, And by these
" presents Do put, place & bind my self as and in
" Quality of an Indented Servant and House maid
" to the said General W. Johnston his heirs, Excors,
" Admrs: and assigns for and during the term and
" time of Twenty Years next ensuing from the day
" of the date hereof, to be fully completed and ended:
" During all which term of time she the said Mary
" her said Master, his heirs, Executors & Admrs: &
" Assigns shall and will well and faithfully
" serve in all things appertaining to the duty
" of a good, sober, virtuous and industrious servant
" and House maid. And the said General
" W. Johnston for himself his heirs, Excors: Admrs:
" and assigns doth hereby covenant grant and
" agree to & with the said Mary that she shall

"and will find, provide and allow unto her, during
"all her aforesaid term of servitude, good and wholsome
"meat, Drink, lodging, Washing and Apparel both
"linnen & Woollen, fit and convenient for such
"a servant; And upon the expiration of her Term
"of servitude, the serving out her present Indentures
"faithfully, give unto her One suit of New
"clothes (not to exceed however in Value Twenty
"Dollars) and also one flax Wheel.

In Witness; Whereof the said Servant
"& the said Master have hereto set their hands
"and affixed their seals at Vincennes this 24th
"day of October Anno Domini One thousand
"eight hundred & Sixteen.

"Sealed & ack-
"-nowledged in
"presence of
"Wm. Hoult
"Francois + Thoriaequa" her mark

Mary + the mark of a free woman of colour. (Seal)
Wm. Johnstone (Seal)"

"Indiana
"Knox County } Set.

Be it remembered that on
"this day, the Twenty fourth day of October
"in the Year of Our Lord, One thousand eight

"eight Hundred and Sixteen, Before me the
"Subscriber a Justice of the Peace in and

"day, the twenty fourth day of October
" in the Year of Our Lord, One thousand eight
" eight hundred and Sixteen, Before me the
" Subscriber a Justice of the Peace in and
" for said County, personally came the within
" Named Woman of Colour, named Mary,
" And acknowledged (upon having the full
" of the Within and foregoing Indenture read
" known to her) that she did freely sign &
" Seal and as her voluntary act & deed
" deliver the same. And the said General
" W. Johnston also acknowledged the same.
" And they both desired, if necessary, that
" the same might be recorded as such.
" In Testimony whereof; I have hereunto
" Set my hand & Seal, the date above.

C. Stout J.P.P.C. (Seal)

And after Argument of counsel and the Court having Examined the return of Genl. W. Johnston and papers thereto annexed are of Opinion that the said Mary Clark a woman of Colour be remanded back to the said Genl. W. Johnston her master And that she serve out the time mentioned In the Indenture which the Defendant holds on her. and On motion Ordered that the said G.W. Johnston do recover of the present Applicant Mary Clark his costs and charges by him about his defence in this behalf expended, & the said Applicant in mercy &c.

From which Opinion & Decision of the Court the Applicant by Amory Kinney her Attorney prayed an Appeal to the Supreme Court of this State and by consent of the Defendant he wishing to have a final decision security is Dispensed with and an Appeal granted.

State of Indiana } Set.
Shore County }

I, John D. Early deputy Clerk of the Shore Circuit Court for Robert Dunlap Clerk of said Court in and for said County of Shore Do certify that the foregoing is a true transcript of the record papers filed in the foregoing cause.

In Testimony, Whereof I have hereunto set my hand and affixed the Seal of said Court at Vincennes the Twenty First day of April in the Year of our Lord, One thousand eight Hundred and twenty one.

John D. Early

Assignment of Errors.

[illegible] in the [illegible]

Assignment of Errors -

The appellant says there is manifest error in the record

that the Court below erred in giving judt for the appellee.

when it should have been for the appt

C Denny for appt

The appellee says that in the record appears no error in said judt

<u>creation</u>

Call for appellee