

The Story of Luther Donnell

Summary:

In 1847, Caroline and her children escaped from owner George Ray of Trimble County, Kentucky, and made their way to Decatur County, Indiana where a series of events resulted in the arrest of Luther Donnell for aiding their escape. When the family reached Decatur County, Woodson Clark captured the family and confined them until he could arrange transportation south. The African American community enlisted the help of Luther Donnell, who worked to obtain a writ of habeas corpus to take possession of the family. Eventually the family was located and assisted via the Underground Railroad, by both the African American and White community, to Canada. Donnell was arrested under Indiana law and indicted for aiding Negroes to escape. The jury found him guilty. Then Ray brought suit in the U.S. Court for the recovery of the value of his slaves. He obtained a judgment for \$3000 (\$1500 for the value of the individuals plus court costs). In 1852, the Indiana Supreme Court overturned the criminal case verdict based on judicial error, that the Indiana law under which Donnell was prosecuted was unconstitutional.

The Story:

The court case involving Luther Donnell in Greensburg, Indiana (Decatur County) started with the actions of one mother as she and her family escaped slavery.

Much of what we know about the case comes from four main sources: the court cases (three total); William Hamilton who participated in the events and then wrote about the events for the 1915 county history; newspapers from the period; and letters written to Wilbur Siebert during his research on Indiana's Underground Railroad activity. From these sources, a timeline of the events can be pieced together.

In 1847 Caroline, an enslaved mother of four in Trimble County, Kentucky, decided to escape with her children (Frances 12; John 7; Amanda 4; and Henry 2).¹ When Caroline's owner, George Ray, discovered her escape, he issued a fugitive slave notice and offered a reward of \$500 for the return of the fugitives. While an actual slave ad has not been found, the ad was put into evidence at the court case.² On October 31, they crossed the Ohio River into Indiana and eventually reached southern Decatur County.³ Caroline and her children eventually reached Canada, but a series of events in Indiana lead to the prosecution of Luther Donnell.

Caroline crossed the Ohio River at Madison, Indiana (Jefferson County). She moved through Indiana using the Underground Railroad. From Madison, she and her family came through John Carr's home at Rykers Ridge (Jefferson County), then onto the Hicklin Settlement and to George Waggoner's home on Graham Creek (both in Ripley County). On November 1, 1847, Underground Railroad conductors brought the family through Napoleon, Indiana (Ripley County) to George McCoy's home in Decatur County.⁴

From there, they were to go to the Free Black Settlement near Clarksburg. On the way, McCoy stopped at the home of William Hamilton and asked for his assistance. Realizing they could not make it to Clarksburg, they proceeded to the home of a man named Pernell. He was uneasy about keeping the fugitives, so Hamilton went to Donnell for help, leaving the family with Pernell. Donnell rode to Clarksburg and asked members of the African American community to retrieve the family. During this time, Pernell took the family to the house of Jane Speed, where she hid them in an old, abandoned house on a nearby farm.⁵ Speed's boys were then sent to the home to take the family food.

A local man, Woodson Clark, a reported slave catcher and friend of Caroline's owner, knew of the family's escape. He testified later that he had noticed the Speed boys taking food into an "abandoned" house. Upon investigation, Clark found the family. He captured and confined them until he could arrange their transportation south. He locked the family in a fodder house on his son's property for more than 12 hours.⁶

When members of the Free Black community learned the family was missing, they went to the home of Donnell to alert him of the situation. Men from the African American community thought the family was at Woodson Clark's home, so twenty men kept watch until a *writ of habeas corpus* could be secured by Donnell. The *writ of habeas corpus* would have required Clark to produce the alleged fugitives, prove their ownership, and follow state procedures for the return to the slaves. In general, the Federal Government saw slavery as a property issue. The Fugitive Slave Act of 1783 saw the issue of escaped slaves as an interstate commerce issue. The owner of the property had the legal right to retrieve their property. For this reason, abolitionists would want as many of the court cases to stay under the Indiana State Court system. This allowed for the filing of a "writ of habeas corpus." If filed in time, this could, in a sense, give "ownership" of the person to the abolitionist, who could then assist the fugitive to get out of the State before the slave owner could file in federal courts, where the individual was now seen as property.⁷

Donnell rode to the house of Cyrus Hamilton and the two men went to the local judge's home to obtain a *writ of habeas corpus*. However, he had to find the sheriff in order to serve the warrant.⁸ On November 3, with the *writ* in hand, they went with the local constable to take possession of the family.⁹ Assuming, that since Woodson Clark had taken the family, they would be at his home, the constable searched Woodson's home, but the fugitives were not on the premises.

At this point, the facts are unclear. Donnell states he went home, but the group of African Americans decided to search the homes of Clark's boys for the family. They were found in the fodder house on the property of Woodson's son Richard. Donnell was arrested and convicted of being the man who removed the family from the fodder house, but he maintained his innocence.¹⁰

The family was taken into Franklin County for hiding, where they were separated in order to assure their safe passage. The two youngest children were taken to the home of William Beard of Union County.¹¹ The three others were taken on another route to the

home of Thomas Donnell, Luther's brother. It appears from memoirs and other documentation, that Luther was a part of the family's movements out of Decatur County. Luther and Thomas arranged for a carriage to transport the family. By alternate routes, Caroline and her two other children also made it to Beard's home. They left Union County, finally making their way to Canada.¹²

Donnell was indicted under Indiana law with five indictments for "aiding Negroes to Escape."¹³ Cyrus Hamilton paid Donnell's \$500 bond. When the jury was empanelled it included Woodson Clark (the slave catcher), Robert and James Hamilton (related to Cyrus Hamilton), and fifteen other men from the county.

When the case came up for trial on October 2, 1848 the defense moved to quash the indictment on the grounds set forth in the case of *Prigg vs. Pennsylvania*, which ruled that all state laws regarding the recovery of slaves as unconstitutional.¹⁴ The motion was overruled and the trial proceeded on March 13, 1849.

At the trial, Woodson Clark testified that he knew the woman was a slave of George Ray because he had visited Ray the previous fall and had seen her there "acting as slaves act."¹⁵ He went on to state that he had seen her at the abandoned home and after finding them, and recognizing them as fugitives, removed them to a fodder house in the same area.¹⁶ At the trial, Richard Clark (Woodson's son) testified that he saw Donnell and Hamilton take the woman and children from his fodder house.¹⁷ Donnell did not testify at the trial, and Indiana law prevented African Americans from testifying in cases.¹⁸ The jury found Donnell guilty on the second count of the indictment and assessed his fine at \$50.00 plus court costs (total equaled about \$125.00).¹⁹

After the guilty verdict, George Ray brought suite in the U.S. Court at Indianapolis for the recovery of the value of his slaves against Donnell. He obtained a judgment for \$1500 for the value of the individuals; this plus court costs, equaled \$3000.²⁰

Donnell appealed his case to the Indiana Supreme Court and in 1852, the Supreme Court overturned the verdict based on judicial error. The Supreme Court found that Section 15 of Chapter 53 of the R. S. 1843 law was void as it was contrary to the US Constitution and to convict a person under that section was in error.²¹ The Court wrote, "The section of the statute of our state upon which the indictment was grounded, according to the decision in *Prigg vs. Pennsylvania*, is unconstitutional and void."²² Although *Prigg vs. Pennsylvania* was primarily used to benefit slaveholders in retrieving alleged runaway slaves, in this case it was used for the opposite effect. Unsighted federal preemption analysis of *Prigg*, the "Indiana Supreme Court held that the part of the Indiana statute under which Donnell had been convicted was unconstitutional and voided because it concerned a use upon which the U.S. Congress had exclusive jurisdiction."²³

Donnell wrote an article in the *Free Indiana Sentinel*, an anti-slavery newspaper out of Centerville, Indiana which was reproduced in *The National Era*, requesting individuals to send money to him to help pay for his legal costs.²⁴ The case was also written up in the local Greensburg paper as well as many anti-slavery papers. *The North Star* had an

article on August 10, 1849 regarding the case; the *Free Indiana Sentinel* wrote several articles on the case, many of these same articles were then reproduced in other anti-slavery papers.²⁵

Those Involved:

Luther Donnell grew up in a home of abolitionists. His grandparents came to Kentucky in 1789. In 1792, they helped establish the Concord Presbyterian Church near Carlisle, Kentucky. Ohio abolitionist and Presbyterian minister John Rankin preached at the Concord Church for 4 years, becoming good friends with the Donnells. Rankin wrote in 1817, when he became the pastor of the Concord Church, he found an active abolition society, long before the “agitation by Garrison and other Northern Abolitionists began.”²⁶ By 1806 members of the Donnell family, including Luther’s father and uncle, helped create the Kentucky Abolitionist Society; Luther’s Uncle Samuel Donnell was president of this society and wrote anti-slavery narratives as early as 1792.²⁷ Luther was born into this family in 1809.

By 1823, the Donnells and others from the Concord Church came to Decatur County, Indiana.²⁸ These families included the Hamiltons, McCoys, and Hopkins.²⁹ These families were adamant anti-slavery proponents, so the new community in Decatur County contained this same fervor. They helped to establish the Kingston Presbyterian Church in 1823.

Like many early abolitionists, Donnell believed that colonization was the way to deal with the institution of slavery. In 1830, the Decatur County Colonization Society formed in his home; the Indiana Colonization Society formed in 1829.³⁰ By 1837, Donnell realized that colonization was not the answer so he disavowed the ways of the society.³¹

He helped form the Decatur County Anti-Slavery Society by 1836. Thomas Hamilton, one of the leaders of the organization, stated that at first, the society included almost all members of the Kingston Presbyterian Church.³² In 1838, Donnell became a founding member of the Indiana State Antislavery Society.³³

This case also shows the interconnectedness of the operations in Decatur County. Luther’s brother Robert married Clarrisa Hopkins in Kentucky in 1817.³⁴ Clarrissa’s father was Judge John Hopkins, who gave the *writ of habeas corpus* to Luther Donnell and William Hamilton.³⁵

When Caroline and her family traveled to Union County, she was helped by John Donnell and Lowery Donnell. Not only was Lowry Donnell related to Luther, but he was also married to the William Hamilton’s sister. In addition, later William Hamilton married one of Luther Donnell’s daughters.

Philander Hamilton (William Hamilton's cousin) served as the defense attorney for Luther Donnell, but died while the case was pending.³⁶

It is believed that Caroline and her children, via the Underground Railroad, made it to Canada. William Hamilton, in his 1915 article for the Decatur County history, wrote that Luther had received a letter from Caroline stating they were safe in Canada. To date no copy of this letter has been located.

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¹ State of Indiana vs. Luther A. Donnell, Day Judgment Circuit Court 3 (June 7, 1849); Wilbur Siebert Papers, McLean's Reports 4 Circuit Court of the United States, Indiana – May Term 1849, Indiana State Library Manuscript Division, volume 2, 309.

² "The Fugitive Slave Case," *Decatur Clarion*, 7 April 1849, p. 1, col 1.

³ McLean's, 309; Gwendolyn Crenshaw. "One Ran to Freedom, Another Caught and Bonded – The Case of Caroline, a fugitive slave, and Luther A. Donnell," *Black History News and Notes*, August/November 1986, 4.

⁴ Lewis Harding, *History of Decatur County* (Indianapolis: B.F. Bowne Co, 1915), 401; McLean's, 309.

⁵ Harding, 398-401.

⁶ *Ibid.*, 401; McLean's, 309; Transcript of Proceedings in the 13th Judicial Circuit Decatur Circuit Court, Decatur Circuit Court Order Book #7, Spring Term 1847, Copy of Transcript found at the Division of Historic Preservation and Archaeology.

⁷ William Smith. Interview with William Smith, prosecuting attorney for Decatur County, Indiana by Jeannie Regan-Dinius on September 17, 2004.

⁸ Harding, 401.

⁹ McLean's, 310.

¹⁰ State of Indiana vs Luther A. Donnell; McLean's, 309-312; Crenshaw, 5; Transcript, 7; Luther A. Donnell, "A Statement of Facts Connected with the Slave Case of Luther A. Donnell." *National Era*, 15 November 1849; available from www.accessible.com.content.lib.utexas.edu:2048/accessible/text/freedom/000204/00020435.htm accessed 7 November 2005,

¹¹ Harding, 403.

¹² *Ibid.*, 405.

¹³ Transcript of Proceedings.

¹⁴ George Nagle, "Fugitive Slave Incidents in Central Pennsylvania," *afrolumensproject*; available from www.afrolumens.org/rising_free/fugitive.html; Internet; accessed 28 December 2005; John Lalor, "Fugitive Slave Laws," *Cyclopedia of Political Science, Political Economy, and the Political History of the United States by the Best American and European Writers*; available from www.econlib.org/library/YPDBooks/Lalor/lley489.html; Internet; accessed 28 December 2005; Findlaw, "Prigg v. Com. of Pennsylvania, 41 U.S. 539 (1842)," *Findlaw for Legal Professionals*; available from <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol+41&invol=539>; Internet; accessed 28 December 2005; Transcript of Proceedings, 5.

¹⁵ "The Fugitive Slave Case," *Decatur Clarion*.

¹⁶ *Ibid.*

¹⁷ *Ibid.*; McLean's, 312.

¹⁸ Indiana law from 1831 prevented any African American from testifying in a case where a White person was a participant.

¹⁹ Harding, 405-406; Transcript of Proceedings, 7; Donnell in the *National Era*.

²⁰ Harding, 406; McLean's, 318; Donnell in the *National Era*; Wilbur Siebert Papers, Letter from J. Arnold to Wilbur Siebert December 30, 1895, Indiana State Library Manuscript Division, volume 2, 253.

²¹ This ruling was based on the *Prigg V Pennsylvania* case, which ruled that all state laws concerning the process by which fugitive slaves were to be detained was unconstitutional. Albert G. Porter, *Reports of the Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana, being an Official Continuation of Blackford's Reports Volume III*, (Indianapolis: Austin H. Brown, Printer, 1853), 480; Harding, 406.

²² Sandra Boyd Williams, "The Indiana Supreme Court and the Struggle Against Slavery," *The Indiana Law Review* 30 (1997): 311; Chief Justice Randall T. Shepard, "For Human Rights: Slave Cases and the Indiana Supreme Court," *Traces of Indiana and Midwestern History* (Summer 2004): 37.

²³ William, 305.

²⁴ Donnell in National Era.

²⁵ “Important Slave Case – The Black Code of Indiana,” The Sentinel, 17 October 1849, p 1, col 3; “The Fugitive Slave Case,” Decatur Clarion.

²⁶ Camilla Donnell, *The Donnell Family: A history and genealogy of the descendants of Thomas Donnell of Scotland* (Greenfield, Indiana: W. Mitchell Print Co, 1912), 134.

²⁷ *Ibid.*, 135.

²⁸ *Ibid.*, 23.

²⁹ *Ibid.*, 135.

³⁰ Harding, 398; Emma Lou Thornbrough, *Indiana in the Civil War Ear 1850-1880* (Indianapolis: Indiana Historical Society, 1992), 16.

³¹ Mary Elizabeth Donnell Mitchell, “Luther Donnell – Decatur County, Indiana’s Great Enemy of Slavery,” *Black History News & Notes* 97 (August 2004): 1 – 4.

³² Donnell, 136.

³³ Indiana Anti-Slavery Society, *Indiana Anti-Slavery Society Organizational Meeting 1838 Minutes, Proceedings of the Indiana Convention Assembled to Organize A State Anti-Slavery Society held in Milton, Wayne Co., September 12, 1838* (Cincinnati: Sam’l A. Alley, Printer, 1838).

³⁴ Gone but Not Forgotten, “Robert Barr Donnell (12 Feb 1797 - 22 Jun 1882),” *Gone But Not forgotten*; available from <http://www.gbnf.com/GENE1001/donnell/html/d0026/14449.HTM>; Internet; accessed 28 December 2005.

³⁵ William O. Smith, “A Synopsis of Two Elements of Decatur County’s Role in the Underground for the Escaping of Fugitive Slaves into Southeastern Indiana” available at the Division of Historic Preservation and Archaeology, Indianapolis.

³⁶ He was born to James Hamilton and Jane McCoy in Nicholas County, KY on September 20, 1819. He graduated from Hanover College and studied law. He was admitted to the bar of Decatur County Circuit Court in 1843. He served as a state legislator from 1846 - 1848. He died in 1849 at the age of 30; “The Pioneers Our Oldest Citizens, Who Made this Country What it is: A Successful Farm, Stock Raiser and A Splendid and Public Spirited Citizen – Robert A. Hamilton,” Greensburg Standard, 1 February 1907 available from www.rootsweb.com/~indecatu/Pioneer.Hamilton; accessed on 28 December 2005.