Freeing Dred Scott

St. Louis confronts an icon of slavery, 1857-2007

Where was Dred Scott Way? *St. Louis Post-Dispatch* reporter Jake Wagman pondered the question as he walked through downtown St. Louis in May 2007. “Famed broadcaster Jack Buck has his way, bowling great Dick Weber has his lane and comedian Dick Gregory has his place,” Wagman wrote, as he stopped to consider the avenues of St. Louis history at a bench overlooking Mark McGwire Highway. “In a city that loves to name streets for its famous citizens,” Wagman wrote, “it has taken well over a century for Dred Scott—whose struggles helped shape the nation—to get any consideration.”

On March 6, 1857, in the infamous *Dred Scott v. Sandford* decision, the U.S. Supreme Court decided that Dred, Harriet, and their daughters Eliza and Lizzie would remain slaves. In words painful though familiar, Chief Justice Roger B. Taney declared that all of American history regarded “the class of persons who had been imported as slaves [and] their descendants . . . so far inferior that they had no rights which the white man was bound to respect.” Even when the

Scotts were emancipated on May 26, 1857, they remained prisoners of the *Dred Scott* case, symbols of a moment when the noose of slavery tightened.

In March 2007, *Dred Scott* made national news again. On its 150th anniversary, the decision was protested in ceremonies and performances, repudiated by Missouri justices, and mourned at a gathering of Scott descendents. And in May 2007, a ceremony less noted but more momentous occurred on Fourth Street, just outside the Old Courthouse in St. Louis. The approval came in time: on the 150th anniversary of the Scott family's emancipation, descendents and city council members celebrated together as the street was renamed Dred Scott Way.

Fig. 1. Following his loss in the U.S. Supreme Court and his family's emancipation by Taylor Blow, Dred Scott entered the visual record dignified but without joy. Dred Scott, Frank Leslie's Illustrated Newspaper, June 27, 1857. Courtesy of the American Antiquarian Society.

The *Dred Scott* case is universally known. High school students are taught how to properly disparage it and to understand its role in causing the Civil War. Legal theorist Derrick Bell has called the *Dred Scott* case "the most frequently overturned decision in history," given its subsequent denunciations by many courts. Yet repudiating the case did not always mean freeing the participants from its burden. For over a century, the Scotts themselves were little noted by the political and legal theorists who debated the *Dred Scott* case. The details of their lives were forgotten even in St. Louis, where they struck out for freedom. But one hundred fifty years later, the Scott family has been recovered, thanks to the actions of their descendents, African American leaders, activists, and historians, all determined to see Dred Scott and his family remembered in St. Louis and the nation.

Fig. 2. Harriet Scott rebuked the Leslie's reporter for suggesting a national tour for her husband. "She'd always been able to yarn her own livin, thank God," Harriet argued. Harriet Scott, Frank Leslie's Illustrated Newspaper, June 27, 1857. Courtesy of the American Antiquarian Society.

The man known as Dred Scott—a name he adopted later—was born into slavery around 1799 in Virginia. By adolescence, he was held by the Blow family, who moved him with their other possessions into Alabama and then Missouri. After the death of the family patriarch Peter Blow, Scott was sold to Dr. John Emerson, a U.S. Army surgeon, who in 1833 transferred from Jefferson Barracks in St. Louis to the Rock Island Arsenal in Illinois and then to Fort Snelling in what is now Minnesota. These moves made the case: Scott had been brought into a state and then a federal territory where slavery was prohibited.

Dred Scott did not intend to become famous. When he and Harriet Robinson Scott (a Pennsylvania-born slave he had met and married at Fort Snelling) filed for freedom in 1846—each signing Missouri court documents with an "X," the only remnant in their own hands—they did not see their petitions as test cases. For decades, the legal precedent in Missouri directed judges to set slaves free who could prove, with white witnesses, that they had been brought to reside in free territories or states. The first jury to hear the Scotts' case was told to ignore some of their key evidence and so the Scotts lost; after a new trial was granted, the second jury found for them in 1850.

Yet in 1852, on appeal, the Missouri Supreme Court ruled in *Scott v. Emerson* for Dr. Emerson's widow—despite the fact that she no longer resided in Missouri. Newly elected with a proslavery mandate, the justices could not have been clearer about their reasoning: "Times now are not as they were when the former decisions on this subject were made," the majority opinion read. When the Scotts' lawyers refiled in federal court, it was Irene Emerson's brother, the fur trader and railroad executive John F. A. Sanford, who became the defendant. As the case made its way to the Supreme Court, a clerk misspelled Sanford's name, hence the landmark U.S. Supreme Court case *Dred Scott v. Sandford*.

Fig. 3. Young women of keen ability entering their childbearing years, Dred and Harriet Scott's daughters Eliza and Lizzie would have commanded a high price in the slave market, trading as it did in sexual violence and calculating reproduction as an investment factor. They could only return to St. Louis once their freedom was secured. Eliza and Lizzie Scott, Frank Leslie's Illustrated Newspaper, June 27, 1857. Courtesy of the American Antiquarian Society.

When the decision was made, a few newspaper reporters sought out Dred Scott, finding his alley address in St. Louis. Their legwork affords the faintest glimpse of the man whose name the infamous decision immortalized. The reporters revealed Dred Scott had been married once before, but the marriage was disrupted when his wife was sold. The couple had had two sons, though both were dead. The articles also attested to the Scotts' long struggle to keep the family together, first by offering to purchase their own freedom from Irene Emerson and only then by petitioning for manumission. But the reporters performed their greatest service in allowing Dred Scott himself to speak. The prolonged nature of the case had provided him "a 'heap o' trouble,' he [Scott] says, and if he had known that 'it was gwine to last so long,' he would not have brought it." In the final sentence, the reporter said Scott believed "he could make thousands of dollars, if allowed, by traveling over the country and telling who he is."

The briefest words from Dred Scott add to the haunting power of his only known image. A month after Taylor Blow purchased the Scotts in order to free them, a correspondent for *Leslie's Illustrated* coaxed the family into the local

photography studio. The resulting daguerreotypes served as the basis for engravings on the front cover of the newsmagazine (figs. 1-3). The family appeared dignified but without joy, their frustrations displayed in slow exposure. Speaking with Harriet Scott, and raising the possibility of her husband touring the nation with his story, the *Leslie's* reporter elicited a rebuke: "Why don't white man 'tend to his business, and let dat nigger 'lone?" the dialect depiction read. Harriet Scott was adamant that her husband would stay home and that "she'd always been able to yarn her own livin, thank God." No more would be heard: Dred Scott died on September 17, 1858, after less than sixteen months of freedom. He was buried in St. Louis's Wesleyan cemetery, with expenses paid by Henry T. Blow. Dred Scott's story would have to be told by others.

When Dred Scott died, the *New York Times*noted his passage with a column-length obituary. "Few men who have achieved greatness have won it so effectually as this black champion," the editors declared, and certainly "the adverse decision [Scott] encountered here will . . . meet with reversal" as Scott "carried his case to the Supreme Court above." Despite the constant invocation of his name and his court case before and during the Civil War, Dred Scott's grave remained unmarked, even after Taylor Blow arranged for reinterment at Calvary Cemetery on November 27, 1867. In line with the growing segregationist sentiment, Scott's remains were placed near the center of two plots, so no white St. Louisans need spend eternity shoulder to shoulder with any African American, no matter how famous. When Harriet Scott died on June 17, 1876, she was buried in the Greenwood Cemetery, and her grave too was unmarked.

Fig. 4. On the thirtieth anniversary of the Dred Scott decision, the St. Louis Globe reengraved the daguerreotypes of Dred, Harriet, and Eliza Scott and added an image of John Madison, one of Dred and Harriet Scott's two surviving grandsons. Yet the reporter interviewed only Thomas C. Reynolds, a former secessionist governor of Missouri who recalled no specifics about the Scotts. Dred, Harriet, and Eliza Scott and John Madison, St. Louis Globe, January 10, 1886. Courtesy of 19th Century U.S. Newspapers, a Gale Digital Collection, a part of Cengate Learning.

Despite their anonymity in burial, the Scotts remained notable to a small number of white St. Louisans. In 1882, Mary L. Barnum, whose husband had owned the hotel where Dred Scott had worked, commissioned Scott's portrait for the Missouri Historical Society. For the dedication of the portrait, the Historical Society turned to James Milton Turner, a St. Louis County freedman who had been the Grant administration's ambassador to Liberia. The dedication of this portrait, Turner argued, demonstrated "the strict impartiality of all true history," integrating the story of how "the Negro has been with us . . . from the very beginning of the history of our State, and, indeed, of the nation itself." Turner hoped this commemoration would be "another olive branch from

the strong, gracefully extended to the weak." Dred Scott became Turner's symbol of opportunity, opening a space for racial justice.

Fig. 5. Nathan B. Young Jr. sought to tell proud stories of African American history in St. Louis, and he devoted two pages to Dred Scott and his descendants, explaining how Scott understood both what slavery had done to him and what his court case might do to the nation. "Who Was Dred Scott?" portrait of Dred Scott descendants, Your St. Louis and Mine (1937). Courtesy of St. Louis University Archives, Nathan B. Young Collection.

In 1886, the *St. Louis Daily Globe* marked the thirtieth anniversary of the *Dred Scott* case by reengraving the daguerreotype images of Dred, Harriet, and Lizzie Scott and adding an image of John Madison, one of two surviving grandsons (fig. 4). Yet no quotes from Scott descendents accompanied the images. Instead, the reporter questioned Thomas C. Reynolds, a former secessionist governor of Missouri who in 1857 had been U.S. district attorney in St. Louis. "Scott was a very respected negro," Reynolds observed, but he then said he had little memory of the actual people—including Scott—involved in Scott's court case.

"What Became of Dred Scott?" the *Globe-Democrat* asked when Scott's portrait was given a place of honor at the 1904 World's Fair. By then, white memories of the Scott family had so eroded that all kinds of falsehoods were put forward: Dred Scott living past the Civil War; Dred Scott cooking for the Prince of Wales on his visit to St. Louis, two years after Scott's death. These fictions colored the historical record—despite the accurate information present in the newspaper's own past articles.

Continuing down the path of misinformation, Mary Louise Dalton, librarian of the Missouri Historical Society further altered the picture. Scott was a "no-account nigger," she told *Harper's* correspondent and amateur historian Frederick Trevor Hill, who then labeled Scott "a shiftless, incapable specimen." (Even attempts to dignify the Scotts were tainted by caricature and distortion. Walter B. Stevens, the dean of the era's St. Louis historians, depicted Dred Scott as "the St. Louis slave who looked like an African king.") By 1935, Dred Scott was "shiftless and unreliable, and therefore frequently unemployed and without means to support his family." So read Scott's entry in the *Dictionary of American Biography.* Insofar as the entry says anything else about Scott, it characterizes him as merely a placeholder for the actions of others—bought by others, sold by others, freedom filed for by others, court case fought by others. Scott was an "ignorant and illiterate Negro," the entry stated, who "comprehended little of [his case's] significance, but signed his mark to the petition in the suit." The memory of Dred and Harriet Scott had reached its nadir.

Fig. 6. The genealogist Jesuit, Father Edward Dowling, rediscovered Scott's

gravesite in time for the centennial of the Dred Scott case. “We have in mind putting up only a simple monument,” he told the newspapers. “Then if someone some day wants to put up a better monument it will at least be known where Dred Scott lies.” Father Dowling indicates Dred Scott’s grave to John A. Madison, the Scotts’ great-grandson, and his family. St. Louis Globe-Democrat, February 10, 1957. Courtesy of the St. Louis Globe-Democrat Archives of the St. Louis Mercantile Library at the University of Missouri-St. Louis.

While white memories denigrated the Scott family, Nathan B. Young Jr. joined those African Americans searching out more truthful tales. The son of a prominent African American educator, Young had grown up in the circle of Booker T. Washington, graduated Yale Law School in 1918, and moved to St. Louis in 1927. In 1937, he published *Your St. Louis and Mine*, a compendium of African American history and culture in the city, that prominently featured Dred Scott and his descendants (fig. 5). Declaring that history had “paid little attention to Dred Scott as a man and pictured him as a puppet, as a simpleton,” Young insisted that Scott understood both what slavery had done to him and what his court case might do to the nation. This Dred Scott—the self-aware abolitionist—would become a hero of black activists and urban reformers.

During a 1954 conspiracy trial, Marcus A. Murphy, one-time Communist Party candidate for lieutenant governor in Missouri, declared, “I can at least speak to you as a human being.” It was “ninety-seven years ago,” Murphy said, when “another Negro stood in federal court to hear . . . that he was not a human being and had no rights which a white man was bound to respect”—repeating Taney’s exact phrase. That year the *Brown v. Board of Education* decision repudiated formal segregation, and Rosa Parks refused to move from her bus seat. The time had come for Dred Scott’s resurrection.

It was a genealogist, the Jesuit Father Edward Dowling, who rediscovered Scott’s gravesite in time for the centennial of the *Dred Scott* case in 1957 (fig. 6). Dowling spoke of a modest effort to mark the resting place. “We have in mind putting up only a simple monument,” he told the newspapers. “Then if someone some day wants to put up a better monument it will at least be known where Dred Scott lies.” On March 6, 1957, Scott’s descendants and Father Dowling joined the president of the St. Louis University Law School Student Bar Association to lay a wreath on the still-unmarked grave, following ceremonies in the Old Courthouse. When the granddaughter of Taylor Blow came forward to pay for a gravestone, one commentator, local socialist and journalist Frank P. O’Hare, worried about the symbolism. “A hundred years has not erased the ideology of the slave owners,” O’Hare charged, as forces still aligned to prevent “a monument for a slave to overtop the monument for the master.” Yet as O’Hare was writing, change was coming, with federal troops desegregating Little Rock High School.

In 1977, the originators of Negro History Week (now known as Black History Month) placed the first memorial to the *Dred Scott* case at St. Louis’s Old Courthouse. Scott’s great-grandson, John A. Madison, introduced his fellow

Scott relatives. While working as a mail handler, Madison had studied for a law degree, preparing to argue cases, as one reporter put it, in the “courts in which Dred Scott couldn’t even sue.” Madison, who had embraced his family history as national history, also provided the invocation and created the bold program illustration, “Breaking the Chains of Slavery” (fig. 7)

Fig. 7. Great-grandson John A. Madison Jr. provided the invocation and designed the bold program illustration for the ceremony to commemorate the Scotts’ efforts at the Old Courthouse, a ceremony organized in cooperation with Association for the Study of Afro-American Life and History. “Breaking the Chains of Slavery,” National Historic Marker Ceremony at the Old Courthouse, June 24, 1977. Courtesy of St. Louis University Archives, Nathan B. Young Collection, as well as Lynne M. Jackson and the Dred Scott Heritage Foundation.

In 2000 Dred and Harriet Scott’s petitions for freedom were retrieved from storage and placed on display at the main branch of the St. Louis Public Library, their “X”s speaking across history. Despite the resurgent interest in the Scotts and hundreds of other Missouri freedom petitions, only in 2006 was the true resting place of Harriet Scott finally rediscovered. A new plaque on the Old Courthouse emphasized the actions of Dred and Harriet in their own legal proceedings, and in time for the 150th anniversary of the famed court case, three novels about Dred Scott were published, two of which imagine the case from Scott’s perspective.

Fig. 8. After Jack Buck, after Dick Gregory, after Mark McGwire, Dred Scott finally got his Way, right in front of the courthouse where his case was heard more than one hundred and fifty years before. John A. Madison Jr. and other Dred Scott descendants dedicate Dred Scott Way, May 26, 2007. Courtesy of Lynne M. Jackson and the Dred Scott Heritage Foundation.

The effort to recover the experience of Dred and Harriet Scott continues today: Dred and Harriet Scott’s great-great-granddaughter, Lynn Jackson Madison, has founded the Dred Scott Heritage Foundation to promote anniversary events and raise money for a life-size statue of Scott at the Old Court House, the place where his case was first heard. To remember Dred, Harriet, Eliza, and Lizzie Scott is to open the door that the *Dred Scott* case closed and to acknowledge the universal humanity of those long held beyond the pale of citizenship or of memory. Their actions revealed injustice and hastened the end of slavery in the United States—an accomplishment well worth celebrating along Dred Scott Way (fig. 8).

Further Reading:

I thank the organizers of "The *Dred Scott Case* and its Legacy: Race, Law, and Equality," a March 2007 conference at the Washington University School of Law in St. Louis, where an earlier version of this essay was presented. For comments and suggestions, thanks also to Bonnie Stepenoff, Jill Lepore, Ken Winn, Bob Moore, Dennis Northcutt, Molly Kodner, Sophia Lee, Caroline Sherman, Katherine Foshko, Gretchen Heefner, Theresa Runstedtler, Jenifer Van Vleck, Helen Veit, and Edward Gray.

For the *Dred Scott* case, the classic sources remain Walter Ehrlich, *They Have No Rights: Dred Scott's Struggle for Freedom* (Westport, Conn., 1979) and Don Edward Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (New York, 1978). For a quick summary, see Christyn Elley, "Missouri's Dred Scott Case, 1846-1857."

Also see Kenneth C. Kaufman, *Dred Scott's Advocate: A Biography of Roswell M. Field* (Columbia, Mo., 1996); Paul Finkelman, "The Dred Scott Case, Slavery and the Politics of Law," *Hamline Law Review* 20 (Fall 1996): 1-42; Barbara Bennett Woodhouse, "Dred Scott's Daughters: Nineteenth Century Urban Girls at the Intersection of Race and Patriarchy," *Buffalo Law Review* 48 (Fall 2000): 669-701; and Mark A. Graber, *Dred Scott and the Problem of Constitutional Evil* (New York, 2006), among others.

On the Scott family themselves, the authority is Lea VanderVelde. See her article Lea VanderVelde and Sandhya Subramanian, "Mrs. Dred Scott," *The Yale Law Journal* 106.4 (January 1997): 1033-1122, and keep track of her forthcoming work.

Recent events and commemorations are chronicled in the *St. Louis Post-Dispatch* news and editorial pages. Jake Wagman's *Post-Dispatch* article "Dred Scott may join famous names on St. Louis streets," quoted in the first paragraph of this essay, appeared on May 18, 2007. See also the exhibits and programs at the following organization's Websites: Washington University in St. Louis Libraries, the Dred Scott Heritage Foundation, the Jefferson National Expansion Memorial, and the Missouri Historical Society.

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