



LaBrenda Garrett-Nelson, JD, LLM, Certified Genealogist®

LaGarrettGenealogy.com

**Analyzing Probate Records of Slaveholders to Identify Enslaved Ancestors
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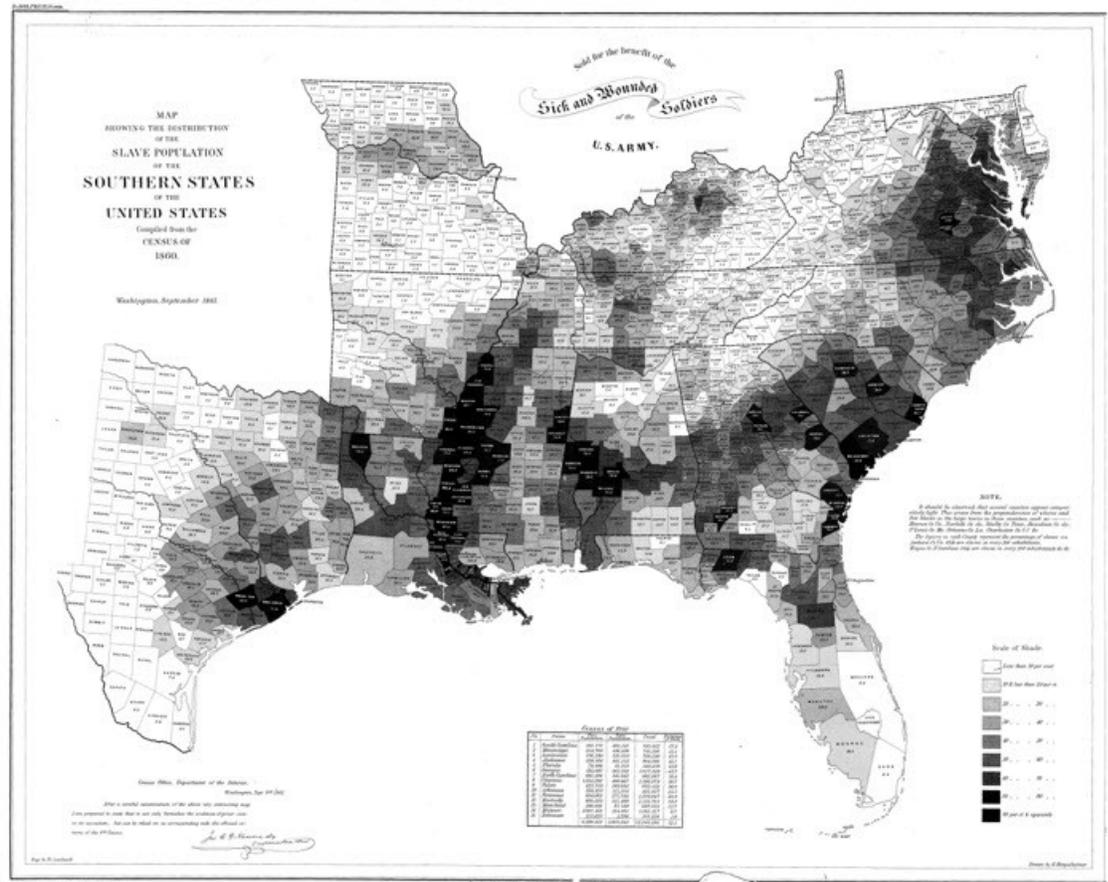
- I. Why look at a Slaveholder’s probate records?
 - A. The first prong of the Genealogical Proof Standard (GPS)¹ requires—
 1. “Reasonably exhaustive research”
 2. “Emphasizing original records”
 - B. Cluster Research
 1. The force of law in areas where slavery existed before 1865 guaranteed that few enslaved people had the ability to record their own histories or create their own records.
 2. Cluster Research is a methodology for identifying an enslaved ancestor by researching Family, Associates, and Neighbors (“FAN Club”).²
 3. An enslaved person’s FAN Club includes the slaveholding family, and that family’s probate records may contain genealogical information about the enslaved.
- II. Background: Census data explains the focus on probate records in the Historical Slave States
 - A. Before the “great migration” of African Americans from the South to the North and West —about 1900–1970— ninety percent of African Americans lived in the South.³

* Nothing in this document is intended or should be construed as legal advice.

¹ Board for Certification of Genealogists, *Genealogical Standards, 50th Anniversary Edition* (Nashville & New York: Ancestry Imprint, Turner Publishing, 2014), 1–3. Also, Thomas W. Jones, *Mastering Genealogical Proof*, (Arlington, Virginia: National Genealogical Society, 2013) 3–4.

² Elizabeth Shown Mills, *QuickSheet: The Historical Biographer’s Guide to Cluster Research (the FAN Principle)* (Baltimore: Genealogical Publishing Co., 2012).

³ “The Great Migration 1910-1970,” *Census.gov*, (<https://www.census.gov/dataviz/visualizations/020/> : accessed 5 June 2017). “The Great Migration: The African American Exodus from The South,” *Priceonomic.com* (<https://priceonomics.com/the-great-migration-the-african-american-exodus/> : accessed 5 June 2017).



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B. Migratory correlations between Southern states and selected cities provide clues regarding the origins of African American families now based outside the South.

III. Selected Terminology and the Probate Process

A. The probate process is prescribed by state law, but generally similar in all of the historical slave states:

1. Selected Terminology

⁴ Census.gov (https://www.census.gov/history/www/reference/maps/distribution_of_slaves_in_1860.html).

- i. Decedents who die with “Wills” versus those who die “Intestate”;
 - ii. Executors versus Administrators;
 - iii. Dower Rights of a widow versus Curtesy Rights of a widower.
 2. If a Will was offered for probate, it was “proved.”
 3. Either an executor or administrator was put in place to publish required notices, provide periodic accountings, and oversee any sales and the eventual distribution of assets to creditors or heirs.
 - B. Records generated in the probate process
 1. Consult applicable state law to determine what records should have been created.
 2. The Importance of Accurately Transcribing Documents found in probate files
 - i. 18th and 19th century American handwriting used archaic letterforms.
 - ii. Records created before the early 1900’s are characterized by a lack of standardized spelling and the use of phonetic spelling.⁵
- IV. Identify Slave-Holding Families With Estates Probated Before 1866
- A. Absent contrary evidence, start with the location of the formerly enslaved ancestor on the date of emancipation, or as close to that date as one can determine.
 1. Once a location is identified, consider any slaveholding families with the same surname.
 2. But note that newly freed people did not always use the name of the last enslaver.
 - B. Identify the current repository for the relevant time period.
 1. An estate was normally probated in the county where the decedent resided.

⁵ Val. D. Greenwood, “Familiar Record Practices: Problems and Terminology,” *The Researcher’s Guide to American Genealogy*, 3rd ed. (Baltimore, Maryland: Genealogical Publishing Co., Inc., 2000), 21-46, 32.

2. But note that counties all over the South have come into or gone out of existence or experienced boundary changes.
 3. *Familysearch* wikis are helpful in determining whether records have survived and where they are located.
- V. Analysis of Information in Probate Files
- A. Survey:
 1. The years involved in the probate of the Estate;
 2. The number of enslaved persons named in the probate file and notations of any identifying characteristics or relationships;
 3. Indications of other records that might be found (such as a sale or other action pursuant to an equity court decision);
 4. Any potential members of the FAN Club (*e.g.*, creditors or other distributees of the estate).
 - B. Use the usual sources to get back to 1870—
 1. Working backwards, begin with the most recent census and vital records.⁶
 2. Keep in mind that:
 - a. An ancestral couple may have been held by different enslavers at different locations; and
 - b. The slaveholder of a mother “owned” her “increase” (children).
 - C. Glean information from every document in a probate file and then consider what related records might exist.
 1. A sale bill may point to a subsequent owner whose records could provide additional information.
 2. An inventory may provide identifying information relevant to determining whether a named slave could be an ancestor, such

⁶ Garrett-Nelson, LaBrenda, “Researching African American Families that Came out of Slavery.” 5 January 2016. *Board for Certification of Genealogists Springboard*. <http://bcgcertification.org/blog/2016/01/> : accessed 7 June 2017). This blog post includes a bibliography of modern resources for African American research.

as a physical characteristic or a purchase price suggestive of youth or old age.

3. A last will & testament might provide for the emancipation of enslaved ancestors, name or imply members of family groups among the enslaved, “hint” of master-enslaved concubine,⁷ or provide other important background information.
4. Where heirs disagreed, they may have initiated a related equity court case.

Resource List

- Burroughs, Tony, “Finding African Americans on the 1870 Census,” *Heritage Quest* (January / February 2001): 50–56. Image copy.
(http://www.tonyburroughs.com/uploads/1/3/2/8/13281200/finding_african_americans_on_the_1870_census.pdf).
- Cox, William A., “From Slavery to Society: The Jerry Moore Family of Virginia and Pennsylvania,” *National Genealogical Society Quarterly*, 103 (December 2015): 281-303.
Information regarding a family’s origins was found in the will of a former slaveholder.
- Garrett-Nelson, LaBrenda, *A Guide To Researching African American Ancestors in Laurens County, South Carolina, and Selected Finding Aids* (Bloomington, Indiana: Xlibris, 2016). This is a model for researchers in other SC counties and other states.
- Hait, Michael “In the Shadow of Rebellions: Maryland Ridgelys in Slavery and Freedom,” *National Genealogical Quarterly* 100 (December 2012): 245-66. The author found direct evidence of a parent-child relationship in a will.
- HaithiTrust.org*. (<https://www.hathitrust.org/partnership>). This site is a partnership of academic & research institutions, offering a collection of millions of titles digitized from libraries around the world, including historical U.S. laws.
- Lowe, J. Mark, CG, “Estate Records and Enslaved Families,” *OnBoard* 20 (September 2014): 21-22.
- Paterson, David E. Records of Probate for a Typical Slave-holding Estate”
Afrigenas.com. (https://www.afrigenas.com/library/Probate_Records.pdf.)

⁷ John Anderson Brayton, “Check the Original! Two Lessons Learned the Hard Way: Hardy of South Carolina—A “Discreet” Omission to Hide an Indiscretion,” *National Genealogical Society Quarterly* 90, no. 1 (March 2002): 69–73. This article reminds genealogists to always check the original record, using a 1969 abstract that “omitted the primary heir and left out significant information that changed the entire thrust of” a 1769 “that hints of a master-slave concubinage.”