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Chapter 3. Jack Smith: An Individual History and the Courtroom

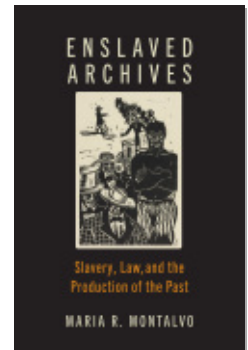
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Jack Smith

An Individual History and the Courtroom

Our responsibility to these vulnerable subjects is to acknowledge and resist the perpetuation of their subjugation and commodification in our own discourse and historical practices. It is a gesture toward redress.

—MARISA J. FUENTES, *Dispossessed Lives*

ON DECEMBER 31, 1853, Robert Hardin Marr filed a redhibition suit on behalf of his client Alfred A. Williams in the Second District Court of New Orleans. In his petition, Marr alleged that when Williams purchased an enslaved man named Jack Smith from William F. Talbot on January 1, 1853, Williams was unaware that Smith was suffering from a “certain incurable malady”: “consumption.” It was not until very recently, Marr went on, that Smith’s illness had become apparent to his owner, because it made it impossible for him to work. And as Talbot had refused to take Smith back and return the \$1,183 sale price, suing for redhibition was Williams’s last chance to recoup his investment in a slave he argued was useless.¹

Robert Marr presented three pieces of documentary evidence to support his claims in court: an act of sale and two letters that his client Williams sent to Talbot in 1853, informing him of Smith’s declining health and asking that Talbot issue a refund. But these documents alone did not and could not establish cause for redhibition. Marr not only had to explain that Smith was too sick to work but also had to prove, first, that Smith had been too sick to work before Williams purchased him; second, that Williams did not and could not have known about Smith’s illness when Williams bought Smith; and finally, that Williams had not

contributed to Smith's declining health since the date of sale. Marr thus needed to construct a historical narrative that centered on Jack Smith and moved forward and backward in time from the moment of sale.

During slave-centered redhibition suits, enslavers and their attorneys become historians of the enslaved, working to create a credible version of an enslaved person's past. The evidentiary requirements of these lawsuits combined with the limited availability of documentary evidence about enslaved individuals meant that plaintiffs could not necessarily win by fabricating a story about an unsound slave; they needed to construct and then corroborate—usually with testimony—a story about a *specific* enslaved person. Plaintiffs of course could and did use contracts to do some of that work, but because the evidence that was needed to establish cause for redhibition shifted depending on when a plaintiff filed suit and the nature of the complaint, contracts and the information contained therein could not always meet the burden of proof. And in the instances when their assertions and contracts alone were insufficient, enslavers and their lawyers turned to the enslaved.²

This chapter is about the last year of Jack Smith's life. It is also, necessarily, about what lawyers and witnesses said about him. Rather than summarize their arguments and testimony, I have endeavored to deconstruct the stories they told in court so as to reconstruct the extractive and exploitative practices that facilitated their construction. By suing for redhibition, Alfred A. Williams made the Second District Court of New Orleans into a site of historical production that centered on one enslaved man; records from *Williams v. Talbot* (1853) are not only our sole archival window into Smith's life, they are also the end result of Williams and his attorney's attempt to historicize Smith. When we consider how they were able to construct their history, we are left with a process that Jack Smith must have played an active role in.

Historicizing Jack Smith here and now is only possible because a man who owned him was invested in historicizing him in 1853. In this way, Smith is no different from the 332 enslaved people who found themselves at the center of 295 redhibition suits tried before the Orleans Parish Court. They too were sold in Louisiana, and at least 24 of them, like Smith, were led into courtrooms so that judges, juries, and witnesses

could subject them to real-time, invasive appraisals.³ But Jack Smith was unique in at least one way; to my knowledge, he is the only enslaved person who was transported to an out-of-state courtroom so that he could be present when individuals who were allowed to have their words preserved in the record responded to questions regarding his body and his past.⁴

This chapter is about Jack Smith, but it also stands to teach us something about the lives of other enslaved individuals. While historicizing Smith cannot tell every enslaved person's story, it does, first, reveal some of the strategies that enslavers relied on to extract important information from enslaved people. Second, it allows us to reach meaningful conclusions about how their efforts shaped the lives of the people they enslaved. And finally, it provides a road map for constructing histories of individuals who were meant to be historicized only as commodities.⁵ Thus, working to learn about Jack Smith's life can help us make sense of the circumstances of enslavement that shaped and constrained the lives of others.

Williams v. Talbot (1853) is the first slave-centered redhibition suit I can remember reading. Jack Smith provided my first step into this world of lawsuits, evidence, and stories about the past. Over time, my approach to learning about him has changed. At first, I summarized what lawyers and witnesses said about him, and I took arguments and testimony as direct evidence of Smith's life. But summarizing the stories that free people told about Jack Smith in court cannot, on its own, help us learn about his life. It can only help us understand what stories were worth telling and recording in the world as it then was. Getting as close as we can to Smith's life requires that we move beyond summarizing court records and toward interrogating the production of these records. In this way—by asking questions about not just what was said but also what it may have been like to be the focus of what was said—we put ourselves in a position to acknowledge and critically interrogate the roles that enslaved people could and did play in the making of the past. I can never know whether what I have written here is a part of Jack Smith's life that he would have wanted told. I do, however, hope that it is a story he would have recognized.

A Sale

On January 1, 1853, Alfred A. Williams bought five enslaved people from William F. Talbot, as well as several more, whose names we do not know, from George Davis.⁶ According to the bill of sale that Talbot penned and signed, the people Williams purchased were named Jack Smith, Logan Collins, John Smith, Terry Hayden, and Bright Smith. The sale took place at William Talbot's office, located at No. 7 Moreau Street, New Orleans; George Davis, who described himself as "long engaged in trade in slaves," managed a stand next door. When Davis was deposed in *Williams v. Talbot* (1853), he had little trouble remembering Jack Smith.⁷

As they stood outside Talbot's office door, Davis studied Smith's "chest, his arms and his hands. His hands," Davis would later recall, "were as hard as a board, showing that he had just come from work, and his muscles seemed as well developed as ever." During their 10-minute conversation, Davis testified, he never heard Smith "cough" or saw him "spit any blood." Based on this interaction, Davis "would have given six hundred dollars for [Smith] that day."⁸

There are at least two reasons to be skeptical of George Davis's description of Jack Smith. First, he arrived at his assessment by way of an invasive physical exam and interrogation. In those circumstances, it may have been in Smith's interest to neither cough nor divulge any information about a previous or existing illness, lest William Talbot overhear and reprimand him violently. Second, Davis, Talbot's neighbor and fellow slave trader, recounted his assessment under oath and during a civil suit in which he may have been invested in telling a story about Smith that would benefit Talbot's case. What we can be sure of is that Davis was in the business of appraising enslaved people. Whether or not he was honest about his conclusions regarding Smith, he was more than well acquainted with the process of extracting information from enslaved people's bodies and words so as to determine their soundness—so familiar, in fact, that he could certainly recite a plausible version of that process in court. He studied Jack Smith's hands and arms, carried on a brief discussion with him, and did the math in his head to deter-

mine what Smith was worth at the moment and could be worth in the future.⁹

None of the witnesses who testified in *Williams v. Talbot* (1853) discussed the other enslaved people whom Alfred A. Williams had purchased at any great length. We can gather their names and ages—at least the names and ages Williams and Talbot agreed to assign them—from the act of sale; and we can assume that as individuals Talbot intended to sell, they were subject to inspections and interrogations not so different from the one George Davis described in his testimony. The bill of sale that connects these enslaved individuals archivally gives us no insight into their respective paths to Talbot’s New Orleans stand, which may have mirrored Jack Smith’s in some ways or none at all.

Jack Smith was sold at least three times in 1852.¹⁰ Each of these transactions, save for the last, kept him in the vicinity of Independence, Missouri, where he had probably been for the previous seven years.¹¹ In November 1852, Jabez Smith—a resident of Independence who was then the largest slaveholder in Missouri¹²—sold Jack Smith to John Mattingly.¹³ According to another witness in *Williams v. Talbot* (1853), Mattingly, a slave trader who regularly purchased enslaved people in Kentucky and Missouri, had purchased Jack Smith “for a southern market.”¹⁴

When it comes to understanding the relationships and practices of traders who left behind few, if any, personal papers, advertisements can be especially useful. John Mattingly began publishing advertisements in the *Louisville (KY) Daily Journal* as early as December 1848. In these ads, he regularly informed enslavers that he wished to purchase 100 enslaved people for “the highest cash prices.”¹⁵ The following year, in the same paper, William F. Talbot and his two partners advertised a \$300 reward for Henry Buchanan and John Scott, two enslaved men who had absconded. If anyone should apprehend Henry or John, the ad read, they should “address our agent, Mr. John Mattingly, of Lexington, Kentucky.”¹⁶

If John Mattingly was acting as William F. Talbot’s agent when he purchased Jack Smith in November 1853, then Smith, at least legally, came into Talbot’s possession when Mattingly purchased him. Between

September and December of 1852, William Talbot advertised, in New Orleans's *Daily Picayune*, 150 enslaved people who had "just arrived" and were available for sale at his "old stand," located at no. 7 Moreau Street. The ad described those for sale as "likely" and "consisting of field hands, house servants and mechanics."¹⁷ Although Jack Smith would not have arrived in New Orleans until November or December 1852, those whom Talbot sold to Alfred Williams along with Smith may have already been in New Orleans when he arrived; it is also possible that they made the journey southward from Missouri with Smith. Regardless of how their paths converged in the Crescent City, at least one facet of their journey was the same: on January 1, 1853, William F. Talbot sold Jack Smith, Logan Collins, John Smith, Terry Hayden, and Bright Smith to Alfred A. Williams for a total of \$5,858. They were then transported to Williams's plantation in Baton Rouge just two days later. Save for the one, unnamed person among them whom Williams returned to Talbot due to a "defect of sight" some 30 or 40 days after the sale, this is where we lose Logan Collins, John Smith, Terry Hayden, and Bright Smith.¹⁸

Alfred A. Williams's lawsuit inserted the people he purchased from William F. Talbot into the written record, albeit briefly; and while Jack Smith's experiences before and after the sale creates a space for us to speculate that some of the experiences of those purchased alongside him could have been much the same, we have no way of knowing that for certain. To speculate further, when Smith became the focus of a redhibition suit, those sold alongside him in New Orleans may have been asked questions about him, by Alfred Williams or someone in his employ. If Williams thought Jack, Bright, and John's shared last name indicated a common previous owner, Bright and John may have been asked to disclose information about themselves and their pasts as they related to Jack Smith. The nature of records from *Williams v. Talbot* (1853) are such that anything we might wonder or attempt to reasonably conclude about John Smith, Bright Smith, Terry Hayden, and Logan Collins makes sense only in relation to Jack Smith. Court records from redhibition suits can be windows into an enslaved person's past, to be sure, but they are not all-seeing.

In November 1853, Alfred A. Williams sent a letter to William F. Talbot, informing him that Jack Smith was “consumptive, and was so before the sale and even before you [Talbot] bought him. The overseer who has charge of him,” Williams continued, “has had charge of him ever since I got him [and] hoped all along that it was only a common cold and would gradually wear off, using mild remedies during the spring and summer, and suffering him to do what he thought himself able as he had orders from me to take extraordinary care of all of them for a year.” He explained that Smith had been seen by two physicians and, because of his illness, had “not done anything” for a lengthy period; further, as he was “hoping to cure him up,” Williams “had a place fixed for him over the sugar kettles where he may inhale the vapor, and feed him from my table and do all that I can for him.” After attempting to convince Talbot that he could give him his money back and still fetch a high price for Smith, Williams turned to the subject of a potential lawsuit. Such proceedings, he wrote, “would be troublesome, annoying and expensive to both of us,” and “I believe,” he continued, “I can procure the affidavit of a gentleman who knows that Jack has had this cough two years ago.”¹⁹

Alfred Williams had a lawsuit on his mind when he wrote to William Talbot. In keeping a copy of his letter, a copy that Robert Marr, Williams’s attorney, would later present to the Second District Court, Williams was creating evidence, and he knew it. To establish cause for redhibition, Marr needed to prove that Williams had done everything in his power to treat Jack Smith’s illness and had in no way contributed to its development. Thus, Williams’s assertions about the “extraordinary care” Smith received, as well as the minimal work he was expected to do and the food he was given from Williams’s table, were probably more in line with the story his lawyer might need to tell in court than with the actual circumstances of Smith’s enslavement in 1853. What’s more, Williams’s final, looming threat of an affidavit from an unnamed source who could testify that Smith had been consumptive two years earlier indicates that he had already started looking for evidence elsewhere.

While the act of sale that William Talbot penned and signed as well as the letters Alfred Williams sent to Talbot in November 1853 could help Robert Marr build his case, they could not, on their own, establish cause

for redhibition. As an enslaved man, Jack Smith could not serve as a witness in court, but that did not stop Williams and his lawyer from looking to him for the information they needed to build their case. While they could rely on men in Williams's employ, including overseers and physicians, to testify that Smith had become increasingly ill as Williams did his best to treat him, they also needed to locate witnesses who could testify that they had seen Smith fail to work because of his illness *before* Williams purchased him. But first, they needed to know where to look.

Questions

On April 17, 1854, A. J. Villere sent a letter addressed to John W. Reid, J. B. Hovey, Charles H. Thornton, or "any Judge or Justice of the Peace in Jackson County, Missouri." Villere, a clerk for the Second District Court of New Orleans, expressed the court's "reposing confidence" in the "prudence and fidelity" of Jackson County's judges and justices of the peace before requesting they examine several witnesses on behalf of the plaintiff in *Williams v. Talbot* (1853). Along with his letter, Villere included two sets of questions, one from Robert Hardin Marr, Alfred Williams's attorney, and the other from William F. Talbot's lawyers, Edward Warren Moise and W. M. Randolph. The questions were intended for America Palmer, Daniel D. White, Lewis Sharp, Sally Handley Fisher, Robert G. Smart, and "others residing in the neighborhood of Independence in Jackson County, State of Missouri."²⁰

Looking outside Louisiana's borders for potential witnesses in a slave-centered redhibition suit was not unusual. Redhibition suits could easily become interstate affairs, especially when an enslaved person had recently been transported across state lines. Redhibition suits tried before the Orleans Parish Court included such cases as *Keys v. Brown* (1834), which involved a witness from Onondaga, New York; *Chabert v. Deverges Jr.* (1832), in which witnesses from South Carolina were deposed; and *Layson v. Boudar* (1845), in which witnesses from Maryland, North Carolina, the District of Columbia, and Virginia testified.²¹ Because Jack Smith had spent much of the previous decade enslaved on farms in northwestern Missouri, deposing out-of-state witnesses was not simply

a strategy Robert Marr chose to employ; it was also the only way he could build his case.

Of the five individuals named in A. J. Villere's letter, only three testified in *Williams v. Talbot* (1853): America Palmer, Daniel D. White, and Robert G. Smart.²² When Palmer and White testified on May 5, 1853, they responded to two sets of questions, the first, from Robert Marr, and the second, from Edward Moise and W. M. Randolph. Because the lawyers were sending their questions to a Missouri official who would interview the witnesses on their behalf, all strove to be as clear as possible. What follows are Moise and Randolph's set of questions in their entirety:

1st State your age and your occupation. State how long you have known Jack "or" jack Smith where did you first see him and where? Has he ever been in your service, if yes how long and what labor did he perform, or what was the general character of his occupation where you knew him. If you answer to the chief interrogatories that he has been sick state fully particularly and minutely the nature and general character of his disease? State what was the nature and character of the disease with which he was affected. Did he recover from it?

2nd State particularly how you know that the slave which is the subject of this suit is the same slave of whose health you answer in the interrogatories in chief and especially state the facts and circumstances from which you form your opinion.

3rd Do you know defendant? How do you know that he is the owner of the Slave of whose health you have answered. Is the fact known to you personally or do you not believe it because you have been so informed by others.²³

These questions demonstrate that William F. Talbot's attorneys were attempting to poke holes in the Missouri witnesses' testimony. If the attorneys could cast doubt on whatever information they had about Jack Smith, they could undermine Alfred Williams's claims about a long-standing illness. Whereas their first set of questions were meant to establish what the witnesses knew about Jack Smith, the second took aim

at how they could be certain that the enslaved person they were describing was the same enslaved person at the center of *Williams v. Talbot* (1853). Their questions were *exactly* what almost every attorney representing a defendant in a slave-centered redhibition suit asked witnesses who claimed to have knowledge about an enslaved person:

What do you know?

How do you know it?

How can you be sure that the person you're describing is the same person at the center of this lawsuit?

Robert Marr's questions were extensive and more detailed. Because it was Marr who requested that specific witnesses in Missouri be deposed, we can assume that he had good reason to believe their testimony would benefit his case. His questions, which are transcribed in their entirety here, tell a story all their own:

First. State your age residence and occupation.

Second. Do you know anything of a negro named Jack "or Jack Smith," formerly the property of Nathan Harroldson? If you do, State where you saw him first, in whose possession he was, when and where you saw him last, in whose possession he then was, and whether or not you recognize the Jack that you saw last, as the same Jack you saw first.

Third. Since you have known Jack has his health always been uniformly good? If it has not State what sickness he has had to your knowledge, does it affected him, how long he was sick, and whether his attack was violent or mild in its character.

Fourth. was or not the negro Jack whom you speak of once the property of Fisher, the husband now deceased of Mrs. Sally Handley Fisher? If he was from whom did Fisher buy him? Did or not Fisher return the negro to the person from whom he purchased him? If he did return him, State the cause and when this was.

Fifth. It is alleged that the negro in controversy was purchased by Talbot of one Jabez Smith of Independence, or of that vicinity. State if you knew from whom Smith bought him.

Sixth. This Suit is brought to recover the price paid for Jack on the ground that he has a certain incurable disease, viz the consumption State any fact coming within your knowledge going to show what is the truth with regard to this Statement and State also your means of knowing whatever you do State.

Seventh. State any fact within your knowledge going to show that the negro bought by Williams of Talbott is the same negro once sold by Harroldson to Fisher and the same negro about whose health you have testified Also state your means of knowing that he is the same. Where you saw that negro last, by whom he was shown to you, for what purpose, and in whose possession he was at the time he was so shown to you.²⁴

Robert Marr prodded his carefully selected witnesses to tell a story he already knew and believed they could recite. He mentioned three of Jack Smith's previous owners by name, including Nathan E. Harrelson, Richard Fisher, and Jabez Smith. Marr also recounted a specific instance when Smith had been purchased and returned. If we work backward from Edward Warren Moise and W. M. Randolph's questions—asking how they went about constructing them and where they obtained the information necessary to do so—we arrive at Louisiana's redhibition laws and the arguments Marr made in his petition. But their questions contained few details about Jack Smith; save for using Smith's name, Moise and Randolph's questions would not have been out of place in any redhibition suit wherein the plaintiff alleged that an enslaved person was too sick to be of any use. When we work backward from Robert Marr's questions, however, we arrive at information that was unique to Jack Smith. Marr did not simply ask the Missouri witnesses what they knew about Smith; he also described specific instances when Smith had been bought, sold, and returned because he was too sick to work. What's more, Marr designed his questions for five specific individuals, none of whom was among Smith's previous owners or had any discernible relationship with Alfred Williams. By including such detailed information in his questions, Robert Marr betrayed much in the way of how he located the Missouri witnesses and how he knew what to ask them. If

someone had asked Marr from whom he gathered all the details in his questions, and if he were inclined to tell the truth, he might have answered, “Jack Smith.”

Between January 1, 1853, and April 17, 1854—the day the Second District Court of New Orleans clerk sent two sets of questions to Independence, Missouri—Jack Smith was interrogated. Robert Marr’s questions demonstrate that he had some knowledge about Smith’s life in Missouri, but they tell us precious little about how he acquired it. Taking a closer look at those who testified on Alfred Williams’s behalf in Louisiana, however, allows us to come to some important conclusions about what the process of gathering that information may have looked like.

By 1850, Alfred Augustus Williams owned approximately 130 enslaved people.²⁵ He engaged in both cotton and sugar production on his sizable holdings, located on either side of the Mississippi River in East and West Baton Rouge Parishes. With so many enslaved people on his properties, it is unlikely that Williams was in the habit of regularly interacting with every person he owned; he had overseers to do that for him.²⁶

William F. J. Davis, a 27-year-old white man, worked as an overseer on Alfred Williams’s East Baton Rouge sugar plantation. He was also the only witness who testified about Jack Smith’s life between January and October 1853. Davis recalled first seeing Smith in January of that year, when he “landed at the plantation of A. A. Williams.” Two or three weeks later, Davis would later testify, he “discovered that Jack was afflicted with a bad cough”; his discovery by no means kept him from putting Smith to work. According to Davis, save for driving a bagasse cart for a week during rolling season and “working the kettles for three or four days, chopping wood” was the only work Jack Smith was employed at on the plantation up to the middle of October 1853.²⁷ And while Smith “frequently failed in getting his task owing to weakness,” Davis testified, “Jack was never punished for not getting his task” nor was he ever “unusually exposed to the wet and cold.”²⁸

As an overseer, William Davis’s job was to make sure that the men, women, and children whom Alfred Williams owned did theirs. By the 1850s, American enslavers with plantations as vast as Williams’s were well

practiced in violently managing enslaved people. Such practices involved employing men who, quite literally, oversaw the enslaved. While Davis's individual strategies remain obscured from our view, those that other enslaved people experienced at the hands of overseers are well documented.²⁹ Frederick Douglass remembered a man by the name of Austin Gore who possessed "all those traits of character indispensable to what is called a first-rate overseer." He was not only "proud, ambitious, and preserving" but also "artful, cruel, and obdurate." "Mr. Gore acted fully up to the maxim laid down by slaveholders," Douglass continued: "It is better that a dozen slaves suffer under the lash, than that the overseer should be convicted, in the presence of slaves, of having been at fault." Austin Gore "was cruel enough to inflict the severest punishment, artful enough to descend to the lowest trickery, and obdurate enough to be insensible to the voice of a reproving conscience. He was, of all the overseers, the most dreaded by the slaves. His presence was painful; his eye flashed confusion; and seldom was his sharp, shrill voice heard without producing horror and trembling in their ranks."³⁰

William Davis did not hear Jack Smith cough and lighten his workload; instead, as Alfred Williams likely expected, he may have employed violence and coercion to force Smith to work as much as he could. Williams left behind no personal papers, but what we know about Louisiana sugar planters tells us much about the kinds of labor that Williams and his overseers demanded of the enslaved. When he arrived in East Baton Rouge in January 1853, Jack Smith may have been forced to help plant sugarcane that would not be harvested until October, but, of course, there would have been much work to do other than planting and harvesting. Enslaved people maintained drainage canals and levees year-round; they constantly dug out the weeds that grew around the cane, produced other crops for sustenance, and chopped wood. During grinding season, which began in October, they cut cane at the root, stripped the leaves, and transported the crop to the mill. There, they extracted sugar juice through an evaporation process that involved four open kettles and a roaring furnace.³¹ It was there, at Williams's sugar house in the middle of grinding season, that Dr. Louis Favrot first encountered Jack Smith.

Dr. Favrot was one of five physicians who testified on Alfred Williams's behalf; he was also Williams's neighbor, and he treated Jack Smith on at least two occasions, once in October and again in November 1853.³² According to Dr. Favrot, he was not invited to Williams's East Baton Rouge plantation to examine Smith, but while the physician was on the property, Smith's cough caught his attention. He found Jack Smith "exposed like all the other hands about the sugar house, and upon further inspection, he discovered that Smith was suffering from fever, and," the doctor testified, "the boy informed the witness that he had fever every night." The physician subsequently told Williams and his overseer that Smith "was more sick than they appeared to think he was," prescribed some medicine, and returned three weeks later to examine Smith just once more. After inspecting some of Williams's other slaves in West Baton Rouge, Favrot "was requested" to take a look at Smith and "found him in the same situation as when he first saw him."³³

Smith was forced to work on Williams's sugar plantation throughout much of 1853. William Davis's testimony that Smith worked for only a few days was, in all likelihood, an outright lie. Dr. Louis Favrot heard Smith cough in October, and while it was severe enough to attract a doctor's attention, it had not yet convinced the overseer that Smith was too sick to work. When Favrot returned to examine Smith the following month, the physician found him "in the same situation," suggesting that by November 1853, neither an enduring cough nor a doctor's advice could prevent Alfred Williams and William Davis from forcing Jack Smith to work.

November 1853 was the last time Dr. Louis Favrot saw Jack Smith, but judging from his testimony, it was probably not the first time he had been asked to treat the people whom Alfred Williams claimed as his enslaved property. Plaintiffs in slave-centered redhibition suits, especially those whose claims centered on illnesses, often had physicians testify on their behalf. Calling a doctor to the stand could support plaintiff's cases in two ways: first, it could demonstrate that they had invested both money and resources in treating the enslaved individual in question; and second, doctors could historicize an illness, arguing that a specific condition must have existed well before a sale took place.³⁴ And while doc-

tors who examined enslaved people at an owner's behest surely provided treatment, we should not lose sight of the fact that these men were appraisers, invested in extracting information from the enslaved long before they set foot inside a courtroom. The honorific *Dr.* may have preceded their names, but on the ground, such physicians were not so different from overseers, working for a slaveowner and toward a shared goal of ensuring that an enslaved person was sound.³⁵

Enslavers dug for information and created it when it was valuable for them to do so. Jack Smith's health and ability to work had not suddenly become important to Alfred Williams when Robert Marr submitted a petition to the Second District Court of New Orleans; Smith's soundness mattered to Williams from the moment Smith became Williams's property on January 1, 1853. Just two days after the sale, Smith was working under the watchful eye of William Davis. His health and his ability to work definitely mattered to Williams then, but it mattered more, or at least received a different kind of attention, after Dr. Louis Favrot noticed Jack's cough.

Jack Smith was interrogated. Someone, and likely more than one person, asked him questions about himself. As an enslaved man, he would have been accustomed to being on the receiving end of requests that sounded more like demands; he would have known how to weigh potential responses, straining to produce an answer that might ward off punishment or yield a result he desired; and he would have known what it was like to give the wrong one. By the time Alfred Williams decided to sue William Talbot for redhibition, whoever was in the habit of asking Smith questions would have begun prying into his past and asked him not only how he was feeling but also how long he had been feeling that way. The interrogator would have prodded Smith into historicizing his cough, rooting its existence in 1852, if not earlier. The interrogator also would have encouraged Smith to recount previous instances when he had tried to work and failed because he was sick. And the interrogator would have insisted that Smith disclose the names of his former owners and any free individuals who could describe his illness in court. Information about Jack Smith had not *recently* become of interest to Alfred Williams. The focus and aim of that interest had merely shifted.

The information that Smith had about himself and his past was valuable to Williams, and he may have used violence and coercion or even promises of potential rewards to get it. But that would not have made it into the records of the Second District Court, as any hint of violence directed at Smith would have undermined Williams's claim. Thus, the precise circumstances surrounding the interrogations conducted in the interest of winning a lawsuit—not in the interest of assessing whether Smith could work on Williams's sugar plantation—remain deliberately elusive. We are also left to speculate whether whoever interrogated Smith explained why they were asking such questions. If Smith was in the dark, he may have found the answers to many of his questions at the Jackson County Courthouse.

Answers

Jack Smith met James Wallace for the first time on April 12, 1854. At the time, Smith was sick and lying in bed somewhere on Alfred A. Williams's West Baton Rouge property. Wallace, a 25-year-old white man, was then living and working on Williams's stock farm in East Baton Rouge. He had been summoned to West Baton Rouge by his employer, who had instructed him to transport Smith to Independence. The trip, Wallace would later testify, was "for the purposes of ascertaining whether the boy was diseased previous to the purchase of [Alfred] Williams and for the purpose of identifying the boy as the one purchased by Talbot."³⁶

Wallace and Smith set out for Independence, Missouri, on April 13, 1854. From West Baton Rouge, they headed for New Orleans, where they boarded the *Peter Tellon*, a steamboat bound for Missouri, probably on the evening of April 18, 1854.³⁷ The *Peter Tellon* was an 800-ton side-wheel steamboat constructed especially for the New Orleans trade. It regularly carried passengers and cargo—including sugar, cotton, tobacco, whiskey, lard, corn, and flour—from New Orleans and up the Mississippi, making stops in Louisville, Kentucky, and St. Louis, Missouri.³⁸ Despite James Wallace's testimony to the contrary, Jack Smith was in all likelihood confined to the steamboat's deck throughout the

voyage. He would have slept outside in the wet and the cold, among other enslaved people, the ship's cargo, and the poorest passengers.³⁹ On May 5, after what was no doubt a trying journey for Smith, he and Wallace finally arrived in Independence.

The details that consistently emerged in Robert Marr's questions and several witnesses' testimony can help us outline, albeit broadly, certain aspects of Jack Smith's time in Missouri. America Palmer remembered first seeing "the boy Jack" at the home of her daughter, Sally Handley Fisher, and son-in-law, Richard Fisher, in the spring of 1845 or 1846, but she could not remember exactly where or when Richard purchased Jack.⁴⁰ To her, he looked "healthy and sprightly." Daniel D. White, who met Jack at around the same time, "thought him unhealthy," telling his wife, Lucy, that "he would like to own him if he was sound" but did not believe he was. White, a slaveowner and farmer, thought himself a "good judge of the general health of slaves," and had he been interested in purchasing any enslaved people at the time, he "would not have bought [Jack Smith] for a sound negro."⁴¹

Even if Jack Smith did not share Daniel White's opinion, he may have believed that such an assessment was worth sharing with Richard Fisher. Soon after Fisher purchased him, Smith informed his new owner that he was "not sound nor strong," a comment Fisher subsequently shared with his mother-in-law. Together, Fisher; his wife, Sally; and America Palmer discussed Smith's remark, arriving at the conclusion that he had described himself as unsound in an attempt to manipulate Fisher "because he did not want to be sold." Several months later, Fisher and his family would ultimately come to agree with Smith's self-appraisal.⁴²

That summer, Fisher sent Smith to help raise "a heaved log house" at Daniel White's farm, also located in Independence. Smith worked alongside some 10 or 12 other enslaved men before he started "spitting blood and continued to do so for about an hour." White watched him cough up blood, waited until he decided Smith was well enough to walk, and finally sent him back to Fisher's farm. The next time he saw Smith, White thought he "looked badly," "puny and weakly." America Palmer, who witnessed Smith experience a similar "violent" attack, supposed it was caused by a hemorrhage of the lungs; and although she and a local

physician endeavored to treat him, Smith was scarcely able to work on Fisher's farm from then on.

Two men testified that they were present when Fisher returned Smith to his previous owner, but they told different stories, and neither mentioned the other. Freeman McKinney, who worked for Fisher in Independence but had since moved to San Jose, California, said that he had accompanied Fisher to return Smith at the end of February 1846; Daniel White, however, claimed "he was present when he [Richard Fisher] delivered [Jack Smith] back to the said Nathan E. Harrelson" and that the "cause assigned for Fisher's delivering said slave back and for Harrelson's taking him back was admitted by both of them to be the ill health or unsoundness of said slave."⁴³

It is possible that Jack Smith remained in Nathan Harrelson's possession until 1852. Robert Marr's questions as well as Jacob Hall's testimony indicate that it was Harrelson who sold Smith to Hall in the spring or summer of that year. By the 1850s, Harrelson was one of the largest landowners in Cass County, Missouri. He owned a dry goods store and regularly bought and sold land in northwestern Missouri, and he surely could have exploited Smith in any one of these ventures.⁴⁴ Hall, a farmer and attorney, testified that Smith worked on his Independence hemp farm as both a carpenter and a farmhand between May and November 1852, when he ultimately sold Smith to Jabez Smith, who subsequently sold him to John Mattingly, a slave trader who may have been acting as William F. Talbot's agent at the time.⁴⁵

While we cannot know precisely when Richard Fisher returned Jack Smith to his previous owner, I am fairly certain that by the time he arrived in Baton Rouge, Smith knew what it felt like to be sold and found wanting. When Robert Marr asked America Palmer and Daniel White whether "Fisher return[ed] the negro to the person who purchased him," Marr already knew the answer; but it was Palmer's and White's affirmation that he required. He depended on Jack Smith's willingness to disclose information about his past to help him locate witnesses such as Palmer and White—individuals whose connection to Smith could never have been deciphered archivally, as neither had ever bought, sold, or mortgaged him—because however rooted in reality Smith's

memories were, as an enslaved man, he could never recite them in the space of a courtroom. His lived experiences could be exploited only if they were narrated by free men and women who did not see him as a sick man in need of help and compassion but as an unsound slave. Robert Marr believed Jack Smith; he demonstrated his faith with every witness he called on and each question he asked them. And while I am confident in America Palmer's and Daniel White's story about Richard Fisher purchasing Smith and ultimately deciding to return him, I have deemed them credible for two reasons: Smith told that story first, and Palmer and White had nothing to lose by telling it in court.⁴⁶

When Jack Smith was interrogated in Louisiana, he was asked questions about his health and his previous owners, and, in response, he told stories about not only himself and his cough but also free individuals who had borne witness to what must have been difficult, even terrifying moments for him. He named names, those of the men who had previously owned him as well as their neighbors, employees, and family members. The out-of-state witnesses whom Robert Marr called on to testify hint at just how expansive Smith's world in Missouri must have been. Of course, he may have told other stories too, stories that involved precious memories of loved ones whom he did not dare hope to see again; but those would not have been of interest to Robert Marr and Alfred Williams and thus remain obscured from our view.

Jack Smith's experiences provide us with significant insight into a world where interrogation was among enslavers' tools. It is important to note, however, that enslavers' invasive maneuvers did not always cease once an enslaved person passed away. For some enslaved people, their bodies remained valuable sources of information, even in death. And in these instances, once more, enslavers turned to physicians for help.

On April 7, 1831, an enslaved child named Aggy was sold in New Orleans. When the day started, she was the property of Garland Tate, a white man from Campbell County, Virginia, and by the day's end, she was claimed by Adele Giraudeau, a free woman of color and resident of New Orleans. According to Giraudeau's lawyer, less than three days after the sale, "Aggy appeared to be unwell." Upon further inspection, likely by a physician, Giraudeau learned that Aggy was suffering from a

“chronic disease of the lungs.” Aggy’s condition did not improve, and she passed away on September 16, 1831. Two months later, Giraudeau sued Tate for redhibition in the Orleans Parish Court.

After Aggy died, or perhaps as she was dying, Adele Giraudeau hired two physicians to conduct an autopsy. On September 17, the day after Aggy died, they cut open her chest. They put their hands inside her lungs. They chatted among themselves as they looked for signs of disease. And they ultimately concluded that Aggy suffered and died from consumption. Later, at Adele Giraudeau’s request, the doctors testified before the Orleans Parish Court, describing their “inspection” and conclusions in vivid detail. Giraudeau had charged the physicians with not only prying information from Aggy’s body but also constructing a plausible historical narrative in court, one that placed the origins of Aggy’s illness well before Giraudeau made her purchase. One final time, an enslaver demanded that Aggy divulge information about herself and her past. Giraudeau must have thought the \$10 she paid each physician was well spent, with one testifying that based on the condition of Aggy’s lungs, she was sick for at least five or six years before the sale. They told the story Giraudeau needed them to tell, and we are left with the story they told.⁴⁷

Aggy was not a willing participant in the story Adele Giraudeau and her lawyer worked to tell in court. Aggy’s body divulged information when she did not have the consciousness necessary to consent or actively participate. Nevertheless, her body remained a site of her commodification. In life, Aggy’s body was subject to invasive inspections and appraisals as well. And it is important to note that even with consciousness and unwillingness, one’s body could still reveal information. Did Jack Smith’s body ever betray him? Did he ever cough or trip when he meant to breathe evenly and stand up straight? As enslavers delved for information, we cannot lose sight of the fact that enslaved people were simultaneously working to tell a certain story about themselves, too, to hide parts of themselves and their pasts while showing or inventing others. In these endeavors, one’s body was an important part of the story one told—though perhaps not always a consistent or deliberate part.

On May 9, 1854, four days after arriving in Independence, Jack Smith and James Wallace made their way to the Jackson County Courthouse. As Smith had spent much of the previous decade enslaved on farms within miles of the two-story, steepled building, the sight before them probably looked more familiar to him than to Wallace. On that Tuesday morning, America Palmer, Daniel D. White, and Robert G. Smart also made their way to the courthouse, and they exchanged words with Wallace and Smith before they entered the building. As Palmer and White were sworn and deposed before Jackson County Commissioner J. Brown Harvey, Smith and Wallace looked on, listening as a white man and a white woman responded to two sets of questions.

Robert G. Smart did not testify on May 9, 1854; he was deposed on August 25 of that year. Nevertheless, the fact that he had recognized Jack Smith three months earlier played an important part in his testimony, as he explained, “Jack was present at the time Mr. White and Mrs. Palmer were examined as witnesses.”⁴⁸ At the time, Smart continued, he thought Smith “looked badly used up, looked thin and emaciated,” and he was “evidently in very bad health.” Judging from America Palmer’s and Daniel White’s testimony, they were left with much the same impression. When responding to Robert Marr’s second set of questions,⁴⁹ Palmer answered as follows:

I first saw the boy Jack at the house of Richard Fisher my son in law now deceased about the spring of 1845 or 6. This boy was at said Fisher’s in Jackson County Missouri from Spring till late in the fall, and I now at this day recognize the boy Jack from his conversation more than from his personal appearance, he answers all my questions correctly as to matters transpiring in the family of said Fisher and relating to matters which no person unacquainted or not intimate with our family could possibly have answered correctly, and I have no doubt that the boy Jack now here in the possession of Mr. Wallace now before me while testifying, is the same slave which I saw first at Fisher’s. I should not have recognized the boy at this time by his personal appearance but he rehearsed particularly all the events transpiring in our family at the time he was there, which no person could do unless he had lived in our family.⁵⁰

America Palmer barely recognized Jack Smith when she saw him in May 1854. Almost a year and a half in Baton Rouge followed by a long journey up the Mississippi must have taken their toll. He was sick, he was dying, and he must have looked it. Had he been unwilling to answer Palmer's questions, her testimony may have been very different. And what answers might Smith have given if he had not been under the watchful eye of James Wallace? Any reluctance to respond or enthusiastically engage with Palmer and White would almost certainly have been met with a violent reprisal. And yet, Smith made a choice to participate in another interrogation. He had been taken to Missouri to perform, and he decided to perform as Alfred Williams and James Wallace demanded.

Williams paid Wallace to transport Smith to the Jackson County Courthouse so as to undermine any argument that William Talbot's attorneys hoped to make about the discrepancies between the enslaved man the Missouri witnesses would describe in their testimony and the enslaved man at the center of *Williams v. Talbot* (1853). Smith was not taken to Independence to testify under oath, but his informed responses were nevertheless essential to America Palmer's and Daniel White's testimony. His presence in that courtroom and his willingness to respond to their questions outside the courthouse on that Tuesday morning made their claims—and by extension, Robert Marr's and Alfred Williams's—more credible.

Neither Williams nor Marr would have sent Jack Smith to Independence if they did not believe it would help them establish cause for redhibition. And if we are to count violent punishments among the possibilities that crossed Smith's mind as he made his way to Missouri and eventually stood outside the Jackson County Courthouse, we must also consider that the journey may have been reason enough to cooperate. According to America Palmer and Daniel White, Smith had been enslaved on farms in Jackson County since at least 1845 or 1846. It is thus possible that there were enslaved people, family and friends, in Independence whom he hoped to see once more. As he arrived in town on May 5—four days before Palmer and White were deposed—we can choose to imagine, albeit hopefully, that sometime during those four

days, Smith experienced a joyful reunion, or even several, that he believed impossible when he was sold southward to New Orleans in November 1852.

Jack Smith and James Wallace returned to Alfred Williams's plantation in West Baton Rouge Parish on May 20 or 21, 1854. Dr. J. A. Cassot, who had examined Smith just before the journey, continued treating him after he arrived. "At that time," Dr. Cassot would testify almost three months later, "the cough was very troublesome, the expectoration very profuse, the night sweats copious, the strength greatly reduced, and diarrhea constant." He managed Smith's diet and continued to treat him over the next few weeks, but his health continued to deteriorate. He developed bedsores and, Dr. Cassot explained, "his symptoms went on increasing with very little mitigation." By the time Smith passed away in mid-June 1854, the doctor thought him reduced to a "perfect living skeleton."⁵¹

Alfred Williams's attempt to recoup his investment in Jack Smith continued for another two years after Smith's death.⁵² On April 21, 1856, Judge P. H. Morgan issued a verdict in favor of the defendant, William F. Talbot. That same day, Robert Marr filed an appeal on Williams's behalf. After reviewing the case and hearing arguments, Louisiana Supreme Court Justice James Lawrence Cole explained the higher court's decision in three short pages. He found fault with "the neglect of [the] plaintiff to send for aid for so many months after the first manifestation of symptoms of disease." It was Williams's "neglect" that convinced the Louisiana Supreme Court to "bar his action of redhibition." Justice Cole was also unconvinced by the testimony of the physicians who attempted to root Jack Smith's illness well in his past. The fact that Williams had not called a doctor when Smith's cough first revealed itself rendered any evidence the physicians provided "nugatory." If "the witnesses had been called at the first opening of the malady," Justice Cole reasoned, then they could have testified regarding the origins and development of Smith's illness, but because none of the five physicians who testified on Williams's behalf were called when Smith's cough first appeared, none could state for certain that his disease was not neglected or incurable before Williams purchased him. Ultimately, Justice Cole

decided that it was of no consequence whether Smith had suffered from an incurable disease. “Even if it could be proved,” he wrote, “this would not be of itself sufficient to cancel a sale, for if a physician called at the primary manifestation of the disease, the life of the slave might have been extended for some years.” In the end, the courts found fault with Alfred Williams, not because Jack Smith died, but because Williams had not made efficient use of him while he was alive. With that, the Louisiana Supreme Court reaffirmed the lower court’s decision.⁵³

Robert Marr and Alfred Williams depended on Jack Smith to help them establish cause for redhibition. In a space where he could neither speak nor have his words documented, Smith was essential, which is precisely why, even though we cannot take what witnesses and lawyers said about him at face value, we can dissect their statements so as to reconstruct the processes of extraction, historicization, and commodification that shaped Smith’s life and constrained his choices. Such an analysis not only illuminates the circumstances of Smith’s enslavement but also allows us to find traces of his lived experiences. That is not to say that what I have written here is the story Jack Smith would have wanted told; such assurances cannot be found in court records. It is only to say that it becomes impossible to write enslaved people out of our histories when we acknowledge that their enslavers never wrote them out of theirs.