

Becoming Free, Remaining Free: Manumission and Enslavement in New Orleans, 1846-1862

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Review

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Schafer, Judith Kelleher *Becoming Free, Remaining Free: Manumission and Enslavement in New Orleans, 1846-1862*. Louisiana State University Press, \$49.95 ISBN 807128627

Fragile Freedom

Lawsuits illuminate struggle to maintain liberty

Legal historian Judith Kelleher Schafer's book compliments other recent and important studies of manumission and freedom in the antebellum South. Schafer's work, like Stephen Whitman and Christopher Phillips study of Maryland, supplies a critical picture of slave agency by focusing on the ways in which enslaved men and women negotiated their own freedom within a system that sought to thwart them at every turn. Sometimes individuals gained their freedom through self-purchase, made possible perhaps by monies earned selling produce raised at night or during free time. For others, freedom resulted from prolonged negotiations with owners, frequently stretching over years. A smaller number of individuals sought a legal remedy to their status, and sued in courts of law for their freedom. Mounting a freedom suit required some knowledge of law, including the possible loopholes that might apply to an individual's circumstances. Slave litigants also needed the ability to secure a lawyer—sadly, not always a competent one—and make good on the payment of their legal fees. These lawsuits illustrate the intertwined world of southern blacks and whites; the slave's fate in the courtroom frequently hinged on testimony provided by white neighbors, co-workers, employers, or acquaintances. Even though success in freedom suits proved elusive for many litigants, through the action itself, slaves directly challenged their status as chattel.

On several fronts, Schafer's study of late antebellum New Orleans is an important one. New Orleans possessed the South's largest slave market, which existed along side a significant multiethnic free population. Louisiana also operated under a legal system shaped by its French heritage, unlike any other

state. Although one can argue that New Orleans is an anomaly for these reasons, Schafer's story corroborates what we know about life for enslaved and free African Americans in other southern cities in the decades leading up to the Civil War. She crafts her analysis from legal records that are notoriously difficult to interpret, not to mention handle and transcribe. For this reason, scholars sometimes overlook freedom suits, which also occurred elsewhere in the urban south. Local court records dated between 1846 and 1862 detail the struggles of people of color exactly as Schafer's title suggests. She devotes the book's first half to the various efforts made by urban slaves to obtain their freedom, which mirrors stories told in other cities.

More striking is **Becoming Free, Remaining Free's** second half. Schafer documents attempts made by free people and former slaves to keep their freedom as they found themselves increasingly under attack by white who had grown apprehensive when the institution of slavery appeared in jeopardy. Even though free people of color enjoyed more legal rights than slaves (for example, they could testify in court), ordinary whites might challenge their free status without the slightest provocation or evidence. Schafer uncovers numerous examples of this kind of harassment that, in the extreme, included kidnapping and sale into slavery. Her proof for this particular practice (made famous by Solomon Northup) comes from the subsequent freedom suits that some kidnap victims launched. Although white kidnappers were seldom punished, occasionally plaintiffs did have their freedom reinstated through the New Orleans courts.

Like other southern states, Louisiana passed legislation throughout the antebellum period that attempted to force free people of color out of the state. A series of laws made immigration into Louisiana forbidden, and officials increasingly sought to identify and expel anyone who might have entered the state illegally. Accusations of contravention residents grew at such a fevered pitch that Schafer estimates between 1859 and 1862, one out of every five free persons of color in New Orleans had been arrested. Even though the poisonous atmosphere in the city forced some free people of color to leave for Mexico or Haiti, few of those who remained took the drastic step of re-enslaving themselves in order to remain safely in Louisiana, as happened elsewhere in the South.

Some readers will find Schafer's compressed narrative frustrating. She limits her analysis to the legal cases that she studied, adding little other supporting material other than what she found in local newspapers, although some chapters

do include contextual information about practices in other states. It remains for future scholars to take the valuable evidence that she has uncovered and thoroughly expand this significant story.

Kym S. Rice is the Assistant Director of the Museum Studies Program at The George Washington University in Washington, D.C. Her exhibition work focuses on African American history and includes "Before Freedom Came: African American Life in the Antebellum South."