

In the Circuit Court of the United States
For the Eastern District of Virginia.

To the Honorable the Judges of the said Court.

The petition of Edmund Kinney
humbly sheweth that he is a citizen of the
United States, and has resided for five
years in the County of Hanover, in the State
of Virginia; that your petitioner is a man
of color, of the negro race, and that he is now
unlawfully restrained of his liberty, within
the jurisdiction of this court, and in viola-
tion of the Constitution and laws of the
United States; and that the following are
the facts concerning the said unlawful
detention.

That your petitioner is so restrained
of his liberty by being kept, unlawfully, in
the public jail and penitentiary house of
the State of Virginia, at the City of Richmond,
in the custody of Samuel A. Swanwick, the
Superintendent of said penitentiary, by
virtue of a pretended sentence of the County
Court of the said County of Hanover, in the
State aforesaid, pronounced on the 19th
day of March, A. D. 1879; that said pre-
tended sentence was pronounced in a
certain criminal prosecution, then pending
in the said County Court, on the part of the
Commonwealth of Virginia against your
petitioner and one Mary S. Hall; and
that the facts and circumstances attend-

ing said prosecution are as follows:

In the month of October last past, your petitioner and the said Mary S. Hall, the latter being, also, a citizen of the United States and a white woman, visited the city of Washington, in the District of Columbia, and were there, on the 8th. day of the said month duly, and in accordance with the laws of the United States prevailing in the said District, united in the bonds of matrimony. That soon thereafter your petitioner and the said Mary S. Hall returned to the State of Virginia and to the said County of Hanover, and there lived together as man and wife until the institution of said prosecution, soon after which they were arrested and tried in the said County Court on a charge of feloniously leaving the State of Virginia for the purpose of marrying, and for having married in the District of Columbia as aforesaid, and for having returned to the State and resided as aforesaid. a verdict of guilty was rendered, upon which your petitioner and the said Mary S. Hall were sentenced to serve a term of five years at hard labor in the said penitentiary, where they are now confined as aforesaid.

A certified copy of the record in the said criminal prosecution is herewith filed, marked "A" and prayed to be taken as a part of this petition. —

Your petitioner avers that there was no lawful impediment whatever to the marriage of your petitioner with the said Mary S. Hall; that both your petitioner and the said Mary S. Hall were, at the time of their said marriage, of lawful age, and in every way qualified under the laws of the United States, in force in the District of Columbia, to intermarry as they did; and that they were tried and convicted as aforesaid, and are now confined in the penitentiary as aforesaid, for no other reason than that your petitioner, being a negro man, and the said Mary S. Hall, being a white woman, left the State of Virginia, and were married as aforesaid, and returned to the state and lived together as man and wife as aforesaid. —

Your petitioner insists that his conviction and detention as aforesaid is illegal, and that he is unlawfully restrained of his liberty, in consequence, in violation of the Constitution and laws of the United States. He insists that the statutes of the State of Virginia prohibiting the intermarriage of whites and negroes, and prescribing penalties for such persons leaving the state to marry and returning to the state after having gone out of it and married, are unconstitutional and void, and especially so

because they impose restrictions upon the constitutional right of citizens of the United States to freely contract among themselves irrespective of race or color, and are otherwise oppressive, unequal, and in violation of the Constitution of the United States.

Your petitioner further insists that his detention as aforesaid is illegal, and in violation of his rights under the Constitution and laws of the United States, because he says - that he and the said Mary S. Hall having been lawfully married in the District of Columbia, according to the forms prescribed by, and under the sanction of, the laws of the United States, in force in the said District, the said marriage was valid there, at the place where celebrated, and must therefore be held to be valid throughout the territory of the United States; that it was a privilege which belonged to your petitioner and the said Mary S. Hall, as citizens of the United States, to leave the State of Virginia and go into the District of Columbia as aforesaid, that it was equally their privilege as such citizens while there to enter into the marriage contract as they did, that it was equally their privilege to as such citizens to return to the State of Virginia as they did, and that therefore, their conviction and detention as aforesaid is an abridgment of their privileges as citi-

zens of the United States by the State of Virginia which is forbidden by the Constitution of the United States.

Wherefore your petitioner prays that this Honorable Court will be pleased to award the writ of Habeas corpus directed to the said Samuel A. Swanu, Superintendent of the said penitentiary, requiring him to bring before this Honorable Court the body of your petitioner, with the cause of his detention, so that the same may be enquired into and such relief afforded as shall be agreeable to law and justice.

And your petitioner will ever pray.

Witness

Edmund ^{his} X Kinnery
mark

Thos. S. Atkins

Subscribed and sworn to before me this
2^d day of May 1879.

Thos. S. Atkins

U.S. Court, E. Dist. of Va.

The petition of Edmund Kinney,
filed on the 3rd day of May, A. D. 1879,
praying for a writ of Habeas Corpus,
having been read and considered, and
the arguments of counsel heard, it is
considered by the Court that the prayer
of the ~~petition~~ petition be and the same
hereby is granted.

And therefore on motion of
petitioner's counsel a rehearing is
granted by the Court.

United States of America
Eastern District of Virginia.

Pleas before the United States
District Court for the Eastern District
of Virginia, at the Custom House there-
of, at the City of Richmond in said
District, on the 16th day of May 1879.

Be it remembered that on the day
and year above written came the
petitioner by her counsel and filed her
application for a writ of Habeas Corpus,
which petition is in the words & figures
to wit:

Petitioner The petition of Mary S. Kinney
also sometimes called Mary S. Hoall
humbly sheweth that she is a citizen
of the United States and has resided
for five years in the County of Hanover
in the State of Virginia; that your
petitioner is a white woman, and
that she is now unlawfully restrained
of her liberty, within the jurisdiction
of this Court, and in violation of the
Constitution and laws of the United
States, and that the following are the
facts concerning the said unlawful
detention.

That your petitioner is so restrained of her liberty by being kept unlawfully in the public jail and penitentiary house of the State of Virginia, at the City of Richmond, in the custody of Samuel A. Swann, the Superintendent of said penitentiary, by virtue of a pretended sentence of the County Court of said County of Hanover, in the State aforesaid, pronounced on the 19th day of March 1879. that said pretended sentence was pronounced in a certain criminal prosecution, then pending in the said County Court, on the part of the Commonwealth of Virginia against your petitioner & one Edmund Kinney, and that the facts and circumstances attending said prosecution are as follows.

In the month of October last past, your petitioner and the said Edmund Kinney, the latter being also a citizen of the United States, and a negro man, visited the City of Washington in the District of Columbia, and were there on the 8th day of the said month duly and in accordance with the laws of the United States prevailing in

the said District, united in the bonds of matrimony, that soon thereafter your petitioner and the said Edmund Kinney returned to the State of Virginia and to the said County of Hanover and there lived together as man and wife until the institution of said prosecution, soon after which they were arrested and tried in the said County Court on a charge of feloniously leaving the State of Virginia for the purpose of marrying ^{and for having married in the District of Columbia as aforesaid} and for having returned to the State and cohabited as aforesaid, a Verdict of guilty was rendered upon which your petitioner and the said Edmund Kinney were sentenced to serve a term of five years at hard labor in the said penitentiary, where they are now confined as aforesaid, A certified copy of the record in the said Criminal prosecution is herewith filed, marked "A" & prayed to be taken as a part of this petition.

Your petitioner avers that there was no lawful impediment whatever to the marriage of your petitioner with the said Edmund Kinney, that both your petitioner and the said Edmund Kinney were at the time of their marriage of lawful age and in every way qualified

under the laws of the United States in force in the District of Columbia, to intermarry as they did, and that they were tried and convicted as aforesaid, and are now confined in the penitentiary as aforesaid, for no other reason than that your petitioner being a white woman and the said Edmund Kinney being a negro man, left the State of Virginia & were married as aforesaid, and returned to the State and lived together as man & wife as aforesaid. —

Your petitioner insists that her conviction and detention as aforesaid is illegal, and that she is unlawfully restrained of her liberty in consequence, in violation of the Constitution and laws of the United States. She insists that the statutes of the State of Virginia prohibiting the intermarriage of whites and negroes, and prescribing penalties for such persons leaving the State to marry and returning to the State after having gone out of it and married, are unconstitutional and void and especially so, because they impose restrictions upon the constitutional right of citizens of the United States to

freely contract among themselves irrespec-
-tive of race or color and are otherwise
oppressive, unequal, and in violation
of the Constitution of the United States.

Your petitioner further insists
that her detention as aforesaid is
illegal and violation of her rights under
the Constitution and laws of the United
States, because she says - that she
and ^{the said} Edmund Kinney having been
lawfully married in the District of
Columbia according to the forms prescribed
by and under the sanction of the laws
of the United States in force in the said
District, the said marriage was valid
there at the place where celebrated, and
must therefore be held to be valid through-
out the territory of the United States, that
it was a privilege which belonged to
your petitioner and the said Edmund Kinney
as citizens of the United States, to leave
the State of Virginia and go into the
District of Columbia as aforesaid, that
it was equally their privilege as such
citizens while there to enter into the mar-
-riage contract as they did, that it was
equally their privilege as such citizens
to return to the State of Virginia as they
did, and that therefore their conviction

and detention as aforesaid is an abridgement of their privilege as citizens of the United States by the State of Virginia which is forbidden by the Constitution of the United States.

Wherefore your petitioner prays that ^{this} Honorable Court will be pleased to award the writ of Habeas Corpus, directed to the said Samuel A. Swann, Superintendent of the said Penitentiary requiring him to bring before this Honorable Court the body of your petitioner with the cause of her detention, so that the same may be enquired into and such relief afforded as shall be agreeable to law and Justice.

And your petitioner will ever pray, Mary Skinnery also called
Mary S. ^{her} ~~her~~ ^{ma} Hall

Subscribed and sworn to before me
this 16th day of May 1879.

Thos. S. Atkins
U.S. Commissioner
E Dist of Virginia.

L. L. Lewis
Attorney for petitioner.

The record referred to in the foregoing petition from the County Court of Hanover County is in the words & figures to wit:

Virginia

Pleas before the County Court of Hanover County at the Court house on Wednesday the 19th day of March A.D. 1879.

Copy of
Records &
Indictment

Be it remembered that at a County Court held for said County at the Court house on Wednesday the 18th day of December A.D. 1878.

H. W. Kingfield, foreman, W. A. Pollard, G. A. Day, Ellett Lipscomb, Thaddeus Foster, and Franklin Vunch, six of Special Grand Jurors drawn summoned and in attendance upon this in the manner prescribed by law, and C. T. Gravilliau a person summoned from bystanders and adjudged duly qualified were sworn a Special Grand Jury of inquest in and for the body of this County, and having received their charge withdrew to consider of their Indictments, and after sometime returned into Court having found the following Indictment made

The following presentment to wit:

An Indictment against Mary S. Hall and Edmund Kinney for a felony.
"A True bill"

Which Indictment is in the words and figures following to wit:

Indictment
Virginia

Hanover County to wit;
In the County Court of said County at the December term A.D. 1878, the Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Hanover, upon their oaths present, That Mary S. Hall a white woman and Edmund Kinney a negro man, did on the 8th day of October 1878, both of them then resident in the said County of Hanover and State of Virginia, feloniously go out of said State of Virginia for the purpose of being married to each other and with the intention of returning to said State, and were feloniously married to each other out of said State, & did afterwards on the - day of - 1878, feloniously return to said County of Hanover and State of Virginia and did feloniously

freely contract among themselves irrespec-
-tive of race or color and are otherwise
oppressive, unequal, and in violation
of the Constitution of the United States.

Your petitioner further insists
that her detention as aforesaid is
illegal and violation of her rights under
the Constitution and laws of the United
States, because she says - that she
and ^{the said} Edmund Kinney having been
~~an~~ lawfully married in the District of
Columbia according to the forms prescribed
by and under the sanction of the laws
of the United States in force in the said
District, the said marriage was valid
there at the place where celebrated, and
must therefore be held to be valid through-
out the territory of the United States, that
it was a privilege which belonged to
your petitioner and the said Edmund Kinney
as citizens of the United States, to leave
the State of Virginia and go into the
District of Columbia as aforesaid, that
it was equally their privilege as such
citizens while there to enter into the mar-
riage contract as they did, that it was
equally their privilege as such citizens
to return to the State of Virginia as they
did, and that therefore their conviction

and detention as aforesaid is an abridgement of their privileges as citizens of the United States by the State of Virginia which is forbidden by the Constitution of the United States.

Wherefore your petitioners pray that ^{this} Honorable Court will be pleased to award the writ of Habeas Corpus, directed to the said Samuel A. Swann, Superintendent of the said Penitentiary requiring him to bring before this Honorable Court the body of your petitioners with the cause of her detention, so that the same may be enquired into and such relief afforded as shall be agreeable to law and Justice.

And your petitioners will ever pray,
Mary Skinner also called
Mary S. ^{her} _{mother} Hall

Subscribed and sworn to before me
this 16th day of May 1879.

Thos. S. Atkins
U.S. Commissioner
E. Dist of Virginia.

L. L. Lewis
Attorney for petitioners.