

## ***State of North Carolina v. Negro Will, a Slave of James S. Battle, 1834***

### **Overview**

Students will explore the landmark NC Supreme Court case *State of NC v. Negro Will*. Will was enslaved by [James Battle](#) (who purchased [Rocky Mount Mills in 1847](#)) in Edgecombe County, NC. In 1834, after being shot in the back by Battle's white overseer, Will defended himself with a knife, resulting in the death of the overseer. In this activity, students will predict what they think happened to Will when being tried as they learn the actual case outcome. They will then determine how they think best to publically acknowledge the case today, using [NC's highway historical marker](#) as a point of discussion.

### **Materials**

- Excerpts from North Carolina's [Slaves and Free Persons of Color - An Act Concerning Slaves and Free Persons of Color](#), attached
- "State of North Carolina v. Negro Will," a Slave of James S. Battle, 1834
- "NC slave who killed white overseer in 1834 honored with NC marker," article attached and available [here](#)
- *State v. Will* historical marker image, attached and available [here](#)
- Historical marker template, attached

### **Preparation**

In order to study the history of slavery effectively and safely, teachers must have established a safe classroom with clear expectations of respect, open-mindedness, and civil conversation. See Carolina K-12's "[Activities](#)" section of the Database of K-12 Resources for ways to ensure a classroom environment conducive to the effective exploration of sensitive issues. This lesson also includes the term "negro," which students should be forewarned about. Ensure they understand that in the past, this was a term for referring to African Americans. The term today is outdated and offensive, however, and should not be used unless one is reading aloud directly from a historical document or work of literature.

### **Procedure**

#### **North Carolina Slavery Laws**

1. To set the stage for an exploration of *State v. Will*, remind students what the legal reality was like for enslaved people in the 1800s. As a warm up, teachers can provide the attached excerpts (cut apart) of "North Carolina's [Slaves and Free Persons of Color - An Act Concerning Slaves and Free Persons of Color](#)," which is a compilation of laws meant to govern the use, trade, and monitoring of "human commodities," ranging from the mid-1700's to 1866. In partners or small groups, provide one excerpt per pair/group and instruct students to take around 5-8 minutes to review the North Carolina law provided and discuss the corresponding questions. Ask students to then summarize their law for the remainder of class and share their thoughts. Afterwards further discuss:
  - Is there anything you can identify that all of these laws have in common?
    - Information to optionally discuss with students: "Beyond regulating the treatment of new and runaway slaves, the Act also dictated the day-to-day rules affecting slaves. For example, any slave found "guilty of producing any forged free pass or certificate" was subjected to "as many lashes on his bare back, not exceeding thirty-nine, as the . . . justice may in his discretion direct" (p. 3). Escaped slaves who kill "cattle and hogs" or commit "other injuries" to survive while absconding were to be immediately called out for surrender (p. 3). If they failed to surrender, it became "lawful for any person . . . to kill and destroy such slave or slaves, by such ways and means as he shall think fit, without accusation or impeachment of any crime for the same" (p. 3). Slaves were

prohibited from carrying guns or weapons, even for hunting, or both they and their owner faced punishment. Slaves were also prohibited from raising livestock, preaching in public, selling liquor, hiring out their time, teaching or attempting to teach "any other slave to read or write," and playing any "game of cards, dice, nine-pins, or any game of hazard or change, for any money, liquor, or any kind of property" (p. 4).

Any slaves found guilty of conspiracy or insurrection faced death or transport to another state (p. 5). Any free person who participated in "any conspiracy, rebellion or insurrection of the slaves," including the procurement of weapons, "shall be adjudged guilty of a felony and shall suffer death without benefit of clergy" (p. 5). The Act dictated where and when slaves could be tried for other offenses, both large and small. Slaves, however, as well as "all negroes, Indians, mulattoes, and all persons of mixed blood, descended from negro and Indian ancestors, to the fourth generation inclusive . . . whether bond or free, shall be deemed and taken to be incapable in law to be witnesses in any case whatsoever, except against each other" (p. 6)." ([Source](#))

- How would you describe the rights of enslaved people in 1800s society based on what you have already learned as well as these NC laws in particular?
- In what various ways would the lives of slaves be impacted by these unjust laws on a daily basis?
- Despite such unjust restrictions, how did enslaved people resist and survive in the face of extreme adversity?

### ***State v. Will***

2. Tell students that they are going to take a further look at the rights of slaves in North Carolina through a landmark NC Supreme Court case, *State of North Carolina v. Negro Will, a Slave of James S. Battle, 1834*. (Ensure students are adequately prepared to understand the historical use of the term "negro." See "Preparation" above.) Explain to students that Will was enslaved by [James Battle](#) (who purchased [Rocky Mount Mills in 1847](#)) in Edgecombe County, NC. In 1834, after being shot in the back by Battle's white overseer, Will defended himself with a knife, resulting in the death of the overseer. Provide students (individually, in partners or small groups) the attached worksheet which describes Will's case and poses questions throughout. Students should take around 20 minutes to read the details and discuss the questions before reflecting as an entire class.

### **NC Historical Marker for *State v. Will***

3. As an optional culmination, ask students how they think *State v. Will* should be remembered, beyond textbooks. What are some of the various ways societies remember and educate about what they deem important history (i.e., museums, memorials, plaques, markers, etc.)? Is *State v. Will* an example of history that should be publicly honored/remembered and why or why not? After students weigh in with their thoughts, provide them with the article "NC slave who killed white overseer in 1834 honored with NC marker," attached and available [here](#) to read (questions are provided at the end.)
4. After discussing their thoughts on the article, project the attached image of the *State v. Will* historical marker and ask students to weigh in with their opinions:
  - What do you think the purpose of the marker is?
  - Why do you think the Historical Marker Advisory Committee chose this in particular to honor with a marker?
  - What is your opinion of the design and the text chosen?
  - If you were to redo the marker, what might you change and why?
5. As an optional closing activity, provide students with the attached historical marker template and have them design their own revised marker for *State v. Will* specifically aimed at interesting and teaching students their age regarding the case and what they feel is most important to learn about it. Teachers should determine parameters for the design (for instance, teachers might instruct students to include text, a quote, an image or symbol, etc.)

**Excerpts from North Carolina's**  
**Slaves and Free Persons of Color. An Act Concerning Slaves and Free Persons of Color**

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1741 c 35 s 35, 36, 37. 1831 c 44 Slaves not to go armed.

25. No slave shall go armed with gun, sword, club or other weapon, or shall keep any such weapon, or shall hunt or range with a gun in the woods, upon any pretence whatsoever; and if any slave shall be found offending herein, it shall and may be lawful for any person or persons to seize, and take to his own use, such gun, sword or other weapon, and to apprehend and deliver such slave to the next constable, who is enjoined and required, without further order or warrant, to give such slave twenty lashes on his or her bare back, and to send him or her home: and the master or owner of such slave shall pay the taker-up of such armed slave the same reward as by this act is allowed for taking up runaways.

- What was made illegal for enslaved people according to this law?
  
  - Why do you think enslaved people were restricted in this particular way?
  
  - What can you infer about society during the time this law was written based on what it prohibits?
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1741 c 35 s 38 No slave to go off his masters pl'ntation without leave in writing.

26. No slave shall go from off the plantation or seat of land where such slave shall be appointed to live without a certificate of leave, in writing, for so doing from his or her master or overseer.

- What was made illegal for enslaved people according to this law?
  
- Why do you think enslaved people were restricted in this particular way?
  
- What can you infer about society during the time this law was written based on what it prohibits?

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1741 c 35 s 39 1779 c 152 s 1 Slaves not to raise stock.

27. No slave shall be permitted on any pretence whatever, to raise any horses, cattle, hogs or sheep, but all such belonging to any slave, or in any slave's mark, shall be seized and sold by the county. Wardens as directed in the act entitled an act concerning the Poor.

- What was made illegal for enslaved people according to this law?
- Why do you think enslaved people were restricted in this particular way?
- What can you infer about society during the time this law was written based on what it prohibits?

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1830 c 6 s 2 No slave to teach another to read.

29. If any slave shall teach or attempt to teach, any other slave to read or write, the use of figures excepted, he or she may be carried before any justice of the peace, and on conviction thereof, shall be sentenced to receive thirty-nine lashes on his or her bare back.

- What was made illegal for enslaved people according to this law?
  - Why do you think enslaved people were restricted in this particular way?
  - What can you infer about society during the time this law was written based on what it prohibits?
-

1830 c 10 s 1 Slaves not to game.

31. It shall not be lawful for any slave or slaves to play at any game of cards, dice, nine-pins, or any game of hazard or chance, for any money, liquor, or any kind of property, whether the same be staked or not; and any slave so offending shall, upon conviction before a justice of the peace, receive a whipping on his or her bare back, not exceeding thirty-nine lashes.

- What was made illegal for enslaved people according to this law?
  - Why do you think enslaved people were restricted in this particular way?
  - What can you infer about society during the time this law was written based on what it prohibits?
- 

1794 c 406 s 2 Negroes not to meet for the purpose of dancing &c. without written permission.

35. No person shall grant permission for any meeting or meetings of the negroes of others, or people of colour, at his, her or their houses, or on his, her or their plantation for the purpose of drinking or **dancing**, under the penalty of forfeiting **twenty** dollars on conviction of such offence, in any court having jurisdiction thereof, unless such slave shall have a special permit in writing or otherwise from his or her owner for that purpose.

- What was made illegal for enslaved people according to this law?
  - Why do you think enslaved people were restricted in this particular way?
  - What can you infer about society during the time this law was written based on what it prohibits?
-

1831 c 4 s 1 Slaves and free negroes not to preach in public.

36. It shall not be lawful under any pretence for any slave, or free person of colour to preach or exhort in public or in any manner to officiate as a preacher or teacher in any prayer meeting, or other association for worship where slaves of different families are collected together; and if any free person of colour shall be thereof duly convicted on indictment before any court having jurisdiction thereof, he shall, for each offence, receive, not exceeding thirty-nine lashes on his bare back; and where any slave shall be guilty of a violation of this act, he shall, on conviction before a single magistrate, receive not exceeding thirty-nine lashes on his bare back.

- What was made illegal for enslaved people according to this law?
  - Why do you think enslaved people were restricted in this particular way?
  - What can you infer about society during the time this law was written based on what it prohibits?
- 

1802 c 618 s 1 Conspiracy of slaves, how punished.

37. If any number of slaves shall at any time hereafter, consult, advise or conspire to rebel or make insurrection, or shall plot or conspire the murder of any person, or persons whatsoever, every such consulting, plotting or conspiring, shall be adjudged and deemed felony, and the slave or slaves convicted thereof in the manner prescribed by law, shall suffer death or be transported, as hereinafter provided.

- What was made illegal for enslaved people according to this law?
  - Why do you think enslaved people were restricted in this particular way?
  - What can you infer about society during the time this law was written based on what it prohibits?
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1777 c 115 s 42 1821 c 1123. Against whom slaves and other persons of colour may be witnesses.

52. All negroes, Indians, mulattoes, and all persons of mixed blood, descended from negro and Indian ancestors, to the fourth generation inclusive (though one ancestor of each generation may have been a white person) whether bond or free, shall be deemed and taken to be incapable in law to be witnesses in any case whatsoever, except against each other. In all pleas of the State where the defendant may be a negro, Indian or mulatto, or person of mixed blood, descended from negro, or Indian ancestors, to the fourth generation inclusive (though one ancestor of each generation may have been a white person) whether such defendant be bond or free, the evidence of a negro or negroes, Indian or Indians, mulatto or mulattoes, and of all persons of mixed blood, descended from negro and Indian ancestors to the fourth generation, inclusive (though one ancestor of each generation may have been a white person) whether the person or persons whose evidence is offered, be bond or free, shall be admissible and the witness competent, subject, nevertheless, to be excluded upon any other grounds of incompetency which may exist.

- What was made illegal for enslaved people according to this law?
  - Why do you think enslaved people were restricted in this particular way?
  - What can you infer about society during the time this law was written based on what it prohibits?
-

Name: \_\_\_\_\_

***"State of North Carolina v. Negro Will," a Slave of James S. Battle, 1834***

On January 22<sup>nd</sup>, 1834, an enslaved man by the name of Will, property of James S. Battle, killed Richard Baxter, an overseer employed by James Battle. Edgecombe County Circuit Court records recount that early on the morning of January 22<sup>nd</sup>, Will and another slave by the name of Allen, serving as foreman, had a dispute over a farm tool, described as a hoe. Will was angered since he was generally the exclusive user of the hoe, but Allen had instructed another slave to use the tool on that day. After a verbal dispute with Allen over the tool, Will went to work on packing cotton approximately ¼ mile away.

Later, the foreman Allen informed James Battle's overseer, Richard Baxter, of the verbal dispute between he and Will, upon which the overseer went into his house to retrieve a gun. While he was retrieving his weapon, his wife was heard commenting, "I would not my dear," to which Baxter replied, "I will." Shortly after, Baxter emerged from his home and told Allen that he was going after Will, and that the foreman was to follow him with a cowhide strip.

Baxter then rode to where Will was working and ordered him to come down from the box upon which he stood packing cotton. Will was described as having followed directions, taking off his hat "in an humble manner" as he dismounted the box. Baxter is then said to have "spoke some words" to Will that were not heard by three other slaves present, but that caused Will to begin to retreat from Baxter. When Will was approximately 10-15 steps away from the overseer, Baxter shot Will in the back.

Although it appeared the wound could cause death, Will began to run away, upon which Baxter ordered the foreman (Allen) to pursue him on foot, while he mounted his horse to chase Will. Baxter, catching up to Will after a 6-8 minute chase, hit him with his right hand and struggled with Will. Allen then arrived and also tried to physically subdue Will, who at this point struck out with a knife at Allen. Will missed the foreman and cut Baxter. Wounded, Baxter lost his hold on Will, who then continued to run into the woods. Baxter sat bleeding on the ground and commented, "Will has killed me; if I had minded what my poor wife said, I should not have been in this fix."

Due to a wound on his thigh, chest, and right arm delivered by Will in the struggle, Baxter died from blood loss. Later that same day, Will presented himself to his master, James S. Battle, and surrendered. Will was arrested the following day.

- 1. How do you predict James Battle responded when he learned of this situation? What actions to you imagine he took and why?**

After a careful investigation of the circumstances, Battle was convinced that Will had acted in self-defense under extreme provocation. Battle therefore was determined to see that Will received justice and thereby became the first slave owner in the South to defend a slave in court against the charge of murdering a white man.

- 2. What do you predict happened when Will was tried in the Circuit Court of Edgecombe County before a judge and a jury?**



**3. If you were Will's lawyer, what would you argue in his defense?**

When Will was tried in the Circuit Court of Edgecombe County before Judge Donnell and a jury, they determined that Will was guilty of murder and pronounced a sentence of death.

Battle then engaged two leading members of the North Carolina bar to represent Will, Bartholomew F. Moore and George Washington Mordecai, to represent him. To Moore, Battle paid the extraordinary fee of \$1,000. Moore and Mordecai took Will's appeal to the state supreme court, where they were opposed by Attorney General J. R. Daniel. The case was heard by Chief Justice Thomas Ruffin, and his associates Justice Joseph J. Daniel and Justice William Gaston. These men were charged with ruling on a very important question: Was Richard Baxter within the law in his treatment of Will and does a slave have a right to defend himself against an abusive master?

**4. What decision do you think the NC Supreme Court made in *State v. Will*? Would they uphold the lower court's decision that Will was guilty of murder? Explain your prediction.**

In his brief and oral argument before the NC Supreme Court, Will's attorneys demanded that the law display a humane attitude toward Will. They maintained that Chief Justice Thomas Ruffin's 1829 decision in *State v. John Mann*, in which Ruffin had written that "the power of the master must be absolute in order to render the submission of the slave perfect," was repulsive and at odds with prior case law. Although it disagreed with Moore on this point, the court unanimously reversed Will's conviction.

Writing for himself, Ruffin, and Justice Joseph J. Daniel, Justice Gaston reasoned that, had the killing been committed by free man upon free man, it could have been no more than manslaughter (a lesser charge than murder, since it assumes the killing does not involve planning or malice). If between master and apprentice, the deed could have been attributed to "a brief fury" that did not leave the mind capable of the sort of calm, rational thought required for murder. In forceful language, he continued: "If the passions of the slave be excited into unlawful violence by the inhumanity of a master . . . is it a conclusion of law that such passion must spring from diabolical malice?"

Gaston's opinion was praised by moderate antislavery forces throughout the country; passages were quoted in prominent newspapers and law journals. Beginning in the 1890s, historians praised the decision's "humanity;" the case supposedly did much to abate the harshness of prior law, such as Ruffin's opinion in *Mann*.

**5. What is surprising about this case overall? Why do you think it is considered such an important historical case for the state of NC?**

## Slave who killed white overseer in 1834 honored with NC marker

by Josh Shaffer

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### BATTLEBORO

In 1834, on a plantation in Edgecombe County, a slave named Will refused to share a hoe he had made with his own hands, an act of defiance that got him shot in the back by his white overseer. As he lay wounded, Will reached up and fatally slashed his attacker on the hip and the arm, earning himself a trip to the gallows.

But before the death sentence could be carried out, the plantation owner hired a lawyer to defend Will, paying the unheard-of fee of \$1,000. That lawyer, Bartholomew Moore, would one day become the state's attorney general. But at age 33, he persuaded the court to overturn an earlier ruling governing slavery and reduce Will's sentence to manslaughter – arguing that slaves were entitled to self-defense.

“The prisoner is a human being,” wrote William Gaston, then a justice of the N.C. Supreme Court, “degraded by slavery, but yet having ‘organs, senses, dimensions, passions,’ like our own.”

The case of *State v. Will* is widely considered a landmark case in the rights for slaves, chipping away at the brutality of the system. The case hardly granted Will his freedom, sending him from his jail cell back into forced plantation labor. But it demonstrated shifting attitudes in a state that only five years earlier had ruled “the power of the master must be absolute, to render the submission of the slave perfect.”

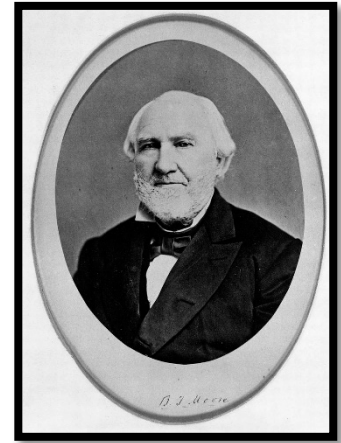
On Saturday, the state will dedicate a historical marker near the spot where Will struck back, placing him in the company of the slave poet George Moses Horton, the fugitive slave writer, abolitionist Harriet Jacobs and Dred Wimberly, a slave who became a state senator. It comes at the request of the Phoenix Historical Society in Tarboro, which called Will's defense “a simple act of resistance to slavery.”

Just north of Rocky Mount, the town of Battleboro started as a railroad depot, though the plantation that owned Will predates any train lines. It belonged to James Smith Battle at the time of Will's shooting, but later passed to a far more well-known relative: Kemp Plummer Battle, who became president of the University of North Carolina.

In his “Memories of an Old-Time Tar Heel,” Battle wrote, “I can truthfully say that I treated our slaves as well as I thought possible. The law did not allow them to be taught reading and writing. ... Little could be done for them except to feed and clothe them well and look after their health and provide overseers of high character and intelligence.”

Battle spoke fondly of a longtime slave named Allen, who was one-fourth white: “The estimation in which Allen was held by the neighborhood is shown by the fact that after my grandfather's death, when his slaves were sold at auction at a time of financial depression, Allen brought \$500 while other Negro men brought only \$300.”

It was Allen, Battle and other historians note, who demanded Will's hoe. Once refused, he reported the slave's insubordination to the overseer, Richard Baxter. Baxter got his gun and ordered Allen to get a whip and follow him.



*Bartholomew Moore, a lawyer hired to defend a slave named Will who killed his master in self defense, argued “Absolute power is irresponsible power.” He later became state attorney general. N.C. Archives*

Once confronted, Will removed his hat in deference to the overseer. But shortly into his reprimand, he began running. Baxter shot Will in the back and commanded two slaves to give chase. As Will struggled on the ground, he cut a wound with a knife that caused Baxter to bleed to death.

Moore, one of two lawyers hired to defend Will, came from a poor farming background and carried a reputation for backing the underdog. Historical accounts differ on whether he was unknown at the time, and therefore good enough to defend a slave, or whether he already found the respect that would bring high office.

He argued against a murder case on legal grounds – Baxter would have faced manslaughter charges had he killed Will – and as a moral question. “Absolute power,” he argued, “is irresponsible power.” His defense struck a note with Gaston, who decided the case for the N.C. Supreme Court.

It may be difficult, viewed through a modern lens, to see this decision as a move toward justice considering slavery would endure for another three decades. Will’s success in court seems even more hollow considering James Smith Battle sent him to a plantation in Mississippi after the trial, hoping to avoid any difficulties on his own land with a slave who had killed a white man.

In Mississippi, Will killed a fellow slave and – that time – died by hanging. His wife, known as Aunt Rose, was heard to lament, “Will surely had hard luck.”

But nearly two centuries later, on the road where he lived in bondage, his name and his pride remain.

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*A state highway historical marker will be dedicated at 275 New Hope Church Road, Battleboro, on June 10 at 2 p.m.*

#### **ANSWER:**

- In what ways does it seem that James Battle differed from many slave holders?
- The article discusses Battle claiming to treat his slaves “well” - regardless of how a slave may have been treated, in what ways was slavery still a cruel and unjust institution, and why is it important to make this distinction?
- Why do you think a state historical marker was dedicated to State v. Will?
- *In your opinion, was State v. Will “a move toward justice?” Why or why not?*

***State v. Will* Historical Marker Image**



