
Key, Elizabeth

(c. 1630-?),

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early legal petitioner for freedom, was born near present-day Newport News, Virginia, to an unknown slave woman and Thomas Key, a white Englishman. Key served as a burgess in Virginia's colonial assembly. That Elizabeth's mother is described in colonial records simply as a "slave" is significant for two reasons. First, it means that she was probably not a Christian, since African-born or descended slaves and servants who followed that faith were usually characterized as such in the legal record. Second, it suggests that at least some Africans were being classified as lifetime chattel in Virginia as early as the 1620s, when there were only a few hundred blacks in the colony.

Like that of her mother and of others of African descent in seventeenth-century Virginia, the precise legal status of Elizabeth Key was not clearly defined. Was she free like her father? Or a slave like her mother? Or something in between? A legal document drawn up by Thomas Key in 1636 before he left for England bound his daughter as a servant of Humphrey Higginson, a member of the colonial council of state who was also the child's godfather, for a period of nine years. Sometime before 1655, perhaps because Higginson had died, Elizabeth Key came to be a ward of yet another member of Virginia's colonial political elite, Colonel John Mottram, a justice of the peace in Northumberland County.

When Mottram died in 1655, Key, who was at that time twenty-five years old, sued for her freedom in the Northumberland County Court. Her lawyer, William Grinsted, petitioned the court for her freedom on several grounds. He noted, first, that under English common law children inherited their father's legal condition. Since Thomas Key had been born free, his daughter was also. Second, Grinsted, perhaps drawing on the earlier case involving John Graweere, argued that Elizabeth Key had been baptized as a Christian, preventing her from being enslaved. Finally, under the terms of her father's contract, Key's term of service to Higginson and then Mottram had expired ten years earlier, in 1645. In early 1655 these arguments convinced a jury of twelve colonists, presumably all white, to find in Elizabeth's favor. Her freedom was short-lived, however, following an appeal by the executor of Mottram's estate (another justice of the peace) to the Virginia General Court, which ruled that Elizabeth Key was indeed a slave. Later that year, however, Grinsted sought a hearing for Key's case before the Virginia General Assembly. The assembly then appointed a special committee of burgesses to investigate the matter. The committee agreed with the original decision of the Northumberland County Court, enabling Key to regain her freedom. An appeal by the Mottram estate to the governor of Virginia in 1656 appears to have failed.

It is significant that Key's case divided so many members of Virginia's close-knit colonial political elite. It may be worth noting that Grinsted, her attorney, had also been engaged in an earlier legal dispute with the Mottrams, suggesting that the Key case may have been an extension of that or some other matter. That Key later married Grinsted is also noteworthy. Whether their personal relationship

predated their professional one is unknown, but it may have been a factor in Grinstead's determination to pursue the case to the highest level. Yet there is no indication in the legal record that Grinstead—or Key for that matter—viewed their case as a challenge to slavery per se. They argued only that, as in England, the Christian children of freeborn men should also be free. Race or color was irrelevant. For the Mottrams and the members of the general court, however, the Key case represented a direct challenge to the right of white Virginians to enslave all blacks. In the second half of the seventeenth century, the colonists' belief in that right grew directly in proportion to their growing desire for a large, cheap, reliable, and self-reproducing labor force to maximize the profits from cultivating tobacco. Virginia, they argued, was not old England but should instead follow the English colonies in the West Indies, where staple crops like rice and sugar were cultivated by African slaves who were bound for life.

In 1662, only six years after the Key case, it became clear that the Mottrams' view had become the prevailing one in Virginia, with the passage of legislation requiring that the status of a child would be determined by the status of the mother, not the father. Under such a law Key would have been a slave in perpetuity. Further legislation in 1667 assured slaveholders that their slaves would no longer gain their freedom on the grounds of Christian baptism. The Key case thus appears to have prompted Virginia lawmakers to tighten the state's legal codes and prevent future generations of Africans in the colony from achieving even the limited freedoms that she and other early black settlers such as Anthony Johnson had enjoyed in the early seventeenth century.

Further Reading

Billings, Warren M. "The Cases of Fernando and Elizabeth Key: A Note on the Status of Blacks in Seventeenth-century Virginia," *William and Mary Quarterly*, 3rd series, 30 (July 1973): 467–474.

Higginbotham, A. Leon. *In the Matter of Color: Race and the American Legal Process; The Colonial Period* (1978).

Morgan, Edmund S. *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (1975)

See also

Graweere, John <<https://oxfordaasc.com/view/10.1093/acref/9780195301731.001.0001/acref-9780195301731-e-36947>>

Johnson, Anthony <<https://oxfordaasc.com/view/10.1093/acref/9780195301731.001.0001/acref-9780195301731-e-37214>>