

Another anniversary for the overlooked Mrs. Dred Scott

April 6 marks a key date in one of the most divisive cases in the US Supreme Court's history. The *Dred Scott vs. Sanford* ruling led the nation into the Civil War. Dred's name remains well known. Lost is the story of his wife, Harriet, whose cause gives the case its greater meaning.

By [Lea VanderVelde](#) / April 6, 2012



Mike Everman examines St. Louis Circuit Court documents from 1828 in St. Louis Jan. 11. The Missouri State Archives worked with the St. Louis Circuit Court and Washington University to put 170 pages of the original Dred Scott documents from the 1840s on a Web site. Op-ed contributor Lea VanderVelde argues Americans should honor Dred Scott's wife, Harriet, for lighting 'the spark for profound constitutional reform.'

Kevin Manning/St. Louis Post-Dispatch/AP

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Today, April 6, marks an anniversary of the legal filing that became one of the most divisive cases in the history of the [US Supreme Court](#). Controversy over recent court debates – [Obamacare](#) or strip searches, for instance – pale in comparison.

The case in question is [Dred Scott vs. Sanford](#), which many historians credit with the ruling that sent the nation reeling into the Civil War. With the Dred Scott decision, the Supreme Court determined that African-Americans were inherently slaves. Dred's name remains well known today. Lost, though, is the story of his wife, Harriet, a common woman of considerable gumption, who was devoted to her family and whose commitment gives the case its greater meaning.

Americans owe her recognition and respect for her perseverance in the 11-year court battle that lit the spark for profound constitutional reform. She should be considered a Founding Mother, as her desire to give freedom to her daughters eventually led to freedom for so many Americans. Her example should instruct the hearts of freedom-lovers today.

American history is filled with women who played important roles, and then all but disappeared from view. That was already true for Harriet not long after the court's decision was handed down in 1857. Yet it was her grievance that fomented constitutional uproar.

Americans found it easier to imagine Dred as a single protagonist, a man in chains suing his plantation boss, when in fact, some would argue he was a relatively free, aging, domestic servant on the urban frontier. Harriet and her children were soon swept aside in the public debate over the case.

Few know that the impetus behind the court's much-debated decision was a family that wanted nothing more than to lead a stable, quiet life and raise their daughters as free people. The family sought judicial protection to protect them from the oppression of private slave owners who could control their lives.

Those values would eventually lead Harriet and her husband to the United States Supreme Court. But their legal battle began on April 6, 1846. On that day, both Dred and Harriet Scott filed petitions in the [St. Louis County](#) Circuit Court alleging that their residence in a free state and territory set them free.

What we know is that Harriet Robinson and Etheldred "Dred" Scott met at [Fort Snelling](#) in what is now [St. Paul, Minn.](#) in the summer of 1836 – then the isolated margin of free territory. Dred's master was the fort's doctor; Harriet's was the government agent to the Dakota nation.

The Scotts' living circumstances on the edge of the northern wilderness were very different from those of slaves in the plantation South. They were not chained or shackled. There is no evidence they were beaten. They were free to come and go as long as they got their work done, and no overseer watched their every move. They were constrained mostly by the isolation of the northern settlement, located so far from the next fort.

They married and over the coming years traveled to [Missouri](#) and back to Fort Snelling before settling permanently in [St. Louis](#) in 1840. There, Harriet worked as a washerwoman and Dred at odd jobs as they raised their daughters, Eliza and Lizzie. But in 1846, after six years in St. Louis and a brief sojourn by Dred to the theater of the [Mexican-American war](#), the Scotts sued for their freedom and started the legal process that would lead to the Supreme Court.

did the family sue when they did, after six years in St. Louis? One cannot know for sure, because both Dred and Harriet were illiterate and left no writings of their own. Reasoning from their circumstances, it makes sense to assume that at that point the family was at some greater risk of remaining the slaves of an often-absent master than in filing a lawsuit to establish their freedom.

By 1846, Dred's master, who seemed to have been more benign than many, had died, and his widow refused to sell Dred his freedom. Dred, who by now was aged and weakly, was not worth very much. But Harriet, 20 years younger, and their two daughters were considered valuable human assets.

At particular risk was Eliza, then eight, who had reached the age when masters sold children separately from the family. The children's status depended upon their mother's status. If Harriet was free, then so, too, were Eliza and Lizzie. If Harriet was enslaved, then Eliza and Lizzie would grow up as slaves. Given these circumstances, it seems the time had come to sue for their freedom.

The Scotts' case was grounded in Missouri law that followed the rule: once free, forever free. No one could be enslaved in the state who had once lived in free territory. The Scotts had lived in the free north, so they argued they were free.

This law had been upheld by numerous [Missouri Supreme Court](#) decisions, so the Missouri Court's reversal of the rule in their case, to deny them freedom, must have been a shock. The US Supreme Court went even further to categorically deny all blacks (freed slaves and descendants of those brought from [Africa](#) as slaves) legal citizenship rights.

It took an extended bloody war and constitutional amendments to secure for African-American families some of the stability that Harriet wanted for her own children.

Harriet gave only one magazine interview following the decision, and then the thread of her life was lost during the resulting chaos of the Civil War and Reconstruction. Even in the court's decision, she was conceded merely as a procedural paragraph, and her distinctive experiences were so deeply buried in the technicalities of the case as to be lost from view.

But the grievance of losing family to separations made by masters and losing children to the oppression of slavery is easily understood. Harriet's was such a fundamental and universal desire, that it should be recognized as the initiating spark of constitutional reform.

Let us, as Americans, continue to press for recognition of constitutional liberties that protect society's downtrodden and least well-off. We can start by recognizing and honoring Harriet's desire to give her children a future of liberty.

Lea VanderVelde is Josephine Witte professor of law at the [University of Iowa](#), Guggenheim fellow in Constitutional Studies, and author of "[Mrs. Dred Scott: A Life on Slavery's Frontier](#)," published by [Oxford University Press](#). Her next book, "[Redemption Songs: Suing for Freedom](#)," will appear later this year, also published by Oxford.