

No. 26-1348

IN THE  
**United States Court of Appeals**  
**for the Third Circuit**

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**CITY OF PHILADELPHIA,**

*Plaintiff-Appellee,*

**v.**

**SECRETARY U.S. DEPARTMENT OF INTERIOR; U.S. DEPARTMENT  
OF INTERIOR; DIRECTOR NATIONAL PARK SERVICE; NATIONAL  
PARK SERVICE,**

*Defendants-Appellants.*

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ON APPEAL FROM THE MEMORANDUM OPINION AND ORDER OF THE HONORABLE  
C. RUFE ENTERED ON FEBRUARY 16, 2026 (DOCKET NO. 53) IN THE EASTERN  
DISTRICT OF PENNSYLVANIA, CIVIL ACTION No. 26-434

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**BRIEF OF AMICI CURIAE THE COUNCIL OF BISHOPS OF THE  
AFRICAN METHODIST EPISCOPAL CHURCH AND DR. ERICA  
ARMSTRONG DUNBAR IN SUPPORT OF APPELLEE AND THE  
AFFIRMATION OF THE DISTRICT COURT'S OPINION AND ORDER**

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**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Local Appellate Rule 26.1.1, the Mother Bethel African Methodist Episcopal Church submits the following corporate disclosure statement:

The African Methodist Episcopal Church is a religious, tax-exempt non-profit organization. No parent companies or shareholders own any interest in the African Methodist Episcopal Church.

## INTERESTS OF THE AMICI CURIAE<sup>1</sup>

This brief illuminates the historical significance of Bishop Richard Allen and Ona Judge, whose legacies were commemorated at the President’s House in Philadelphia in a six-panel exhibit called “Freedom and Slavery in the Making of a New Nation”. The National Park Service removed all references to Ms. Judge and Bishop Allen in 2025 as a result of Executive Order 14253. In doing so, the National Park Service also erased a critical truth about the founding of our nation: that while George Washington and the Founding Fathers advocated liberty and freedom, they simultaneously perpetuated the institution of slavery. But like Washington and Jefferson, Americans like Ona Judge and Bishop Allen also helped shape our nation, our culture, and our national discourse. The legacies of the enslaved and their enslavers, together, have helped define the conscience of this nation. They speak to the ongoing effort to fulfill its foundational ideals, and thus its destiny, through the “unfinished work” Lincoln spoke of at Gettysburg.<sup>2</sup>

This brief seeks to further that work by focusing on two individuals whose stories represent the importance of both the dark past and the aspirational truth of the greater American story.

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<sup>1</sup> All parties have consented to the filing of this brief. Further, counsel for Dr. Dunbar and the African Methodist Episcopal Church prepared this brief. No party or other person contributed to the preparation or funding of this brief, other than the amici and their counsel. *See* Fed. R. App. P. 29(c)(5).

<sup>2</sup> Lincoln, Abraham. “Gettysburg Address.” 19 Nov. 1863. *The Avalon Project*, Yale Law School, [avalon.law.yale.edu](http://avalon.law.yale.edu) (“It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced.”).

Dr. Erica Armstrong Dunbar is an American historian and a professor at Emory University. Dr. Dunbar has dedicated her career to studying the history of African American women, including Ona Judge. Ms. Judge was born enslaved at Mount Vernon and spent decades enslaved in the service of the first president of the United States and his wife, Martha Washington. In 1796, while living in the President's House in Philadelphia, Ona Judge escaped and found freedom. Dr. Dunbar wrote *Never Caught*, which narrates Ona Judge's life and places her story in the larger context of chattel slavery in the early United States. Her book also discusses George Washington's role in perpetuating the institution of slavery, and the subsequent abolitionist movement.

The Council of Bishops of the African Methodist Episcopal (AME) Church joins Dr. Dunbar in this brief. The founding of the church dates back to the late 18<sup>th</sup> century when free Black Philadelphians walked out of a segregated church service to form their own congregation, led by Bishop Richard Allen. This was the first independent Black church in America. Bishop Allen, born enslaved in 1760, served in the Revolutionary War on behalf of the Colonies, bought his own freedom, built his own thriving chimney-sweep business in Philadelphia, and then, through the Mother Bethel Church, helped to establish a community of free Black Philadelphians which played a critical role in the abolitionist movement and establishment of African American culture. To this day, the Mother Bethel Church,

Bishop Allen's first congregation, "stands in defense of disadvantaged and oppressed peoples in the 21st century" and carries on Bishop Allen's legacy.

### **INTRODUCTION AND SUMMARY OF ARGUMENT**

*"ABSCONDED from the household of the President of the United States, on Saturday afternoon, Oney Judge . . . As there was no suspicion of her going off, nor no provocation to do so, it is not easy to conjecture whither she has gone, or fully, what her design is . . . Ten dollars will be paid to any person (white or black) who will bring her home[.]"*

So reads an advertisement, published on May 24, 1796, in the Philadelphia Gazette & Universal Daily Advertiser and placed by the order of President George Washington. Ona Judge was not the only person Washington purported to "own". From age eleven until his death at 67 years old, Washington enslaved hundreds of people, including nine in the "President's House", located at 6<sup>th</sup> and Market Streets, where he lived while serving as the first president. Although Washington's role in the founding of this country is rightfully and universally celebrated, the individuals he enslaved have largely been consigned to the annals of history.

The "Freedom and Slavery in the Making of a New Nation" exhibit sought to rectify this injustice and tell the story of the people George Washington enslaved while living at the President's House. This was presented in the wider context of both the institution of slavery as it existed in Philadelphia, and the abolitionist

movement. In 2022, in compliance with the National Underground Railroad Network to Freedom Act of 1998, the exhibit was designated a National Underground Railroad Network site. This statute, passed by Congress with a unanimous vote in the Senate and only two dissenting votes in the House of Representatives, “establish[ed] an enduring national commemorative Underground Railroad program of education, example, reflection, and reconciliation.” Concomitant with this congressional mandate, the exhibit, consisting of six panels incorporated within the President’s House open-air archaeological site near Independence Hall, recounted the lives and historical impact of Ona Judge and Bishop Richard Allen, among others.

As we have mentioned, Ona Judge began her life enslaved on the Mount Vernon plantation and, in 1790, moved with the First Family to the new presidential residence in Philadelphia. For six years, Ms. Judge lived as a slave in the President’s House. This fact alone emphasizes her historical significance, for that site was a mere stone’s throw from where Thomas Jefferson had drafted the Declaration of Independence, which declared “that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”

In 1796, Ms. Judge made the perilous decision to escape. President Washington used the powers of his presidency to pursue her and continued to seek

her recapture for the rest of his life. Despite his efforts, Ms. Judge lived the rest of her life a free woman.

Ona Judge was not without help in her escape. The burgeoning community of free Black Philadelphians aided her. Among them was Bishop Richard Allen, one of the leaders of that community.

As we have also mentioned, Richard Allen was an African American man born into slavery who escaped bondage through “self-emancipation”—by purchasing his own freedom. In 1787, the same year the Continental Congress submitted the U.S. Constitution to the 13 states for ratification, Bishop Allen founded the Free African Society, the first Black mutual aid society in the country. Years later, facing racial discrimination and segregation by his own church, Bishop Allen led his parishioners in a walkout to form the Mother Bethel African Methodist Episcopal Church, the first independent church for Black congregants in the United States. Often referred to as a “Black Founding Father,” Bishop Allen was a driving force in forging a community of freedmen in Philadelphia that not only endured but served a vital role in the abolitionist movement.

And so, the exhibit in question tells the dichotomous truth of American history, and in doing so, also celebrates the American story: the resiliency of individuals like Ona Judge and Bishop Richard Allen, their steadfast dedication to

freedom and community, and the hard-fought progress their legacies continue to represent.

Pursuant to Executive Order 14253, the National Park Service removed the interpretative panels from the exhibit, thus expunging all reference to Ona Judge and Bishop Richard Allen. But an honest assessment would recognize that, paradoxically, the erasure of these individuals actually runs contrary to the stated purpose of the Executive Order, which was to “focus on the greatness of the achievements and progress of the American people[.]” In the 250 year history of the United States, few figures embody the “greatness of the achievements and progress of the American people” more than Ona Judge and Bishop Richard Allen. Indeed, as the 19<sup>th</sup> century African American preacher, John Palmer, noted:

If true greatness consists in self-sacrificing heroism and devotion . . . in that manifest patriotism which yearns to strike the blow which results in bringing freedom and liberty to an oppressed people . . . then Richard Allen was great.<sup>3</sup>

Of course, the same holds true for Ona Judge.

Their stories merit telling. Their memory deserves to be celebrated—not merely for their association with George Washington, but for the legacies they built as individuals whose lives reflect the ideals of the Declaration. Consistent with the National Underground Railroad Network to Freedom Act of 1998, this

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<sup>3</sup> Richard S. Newman, *FREEDOM’S PROPHET: BISHOP RICHARD ALLEN, THE AME CHURCH, AND THE BLACK FOUNDING FATHERS 2* (N.Y. Univ. Press 2008) (quoting Rev. John M. Palmer, “Was Richard Allen Great?” (Philadelphia, 1898), 1–10).

brief seeks to prevent the lives of Bishop Richard Allen and Ona Judge from being relegated to obscurity, and to secure their rightful place in the American narrative.

## ARGUMENT

### I. BORN INTO SLAVERY

#### A. Ona Judge

In or around 1773, Betty—deprived of a last name and known only as “Mulatto Betty”—had her third child, a girl named Ona Marie Judge.<sup>4</sup> Though Betty was enslaved on the Mount Vernon estate in Virginia, she technically was not “owned” by George Washington.<sup>5</sup> Rather, she was known as a “dower slave,” the “property” of the Estate of Martha Washington’s first husband, Daniel Park Custis. As such, Betty and all her children legally remained the property of the Custis Estate, even after Martha’s marriage to the first president. Ms. Judge’s father, Andrew Judge, was a White indentured servant working at Mount Vernon as well. Once Andrew Judge’s indenture expired, he left Mount Vernon and his family behind.<sup>6</sup>

Betty, however, remained at Mount Vernon with her children. Though enslaved, Betty would have been considered among the “lucky ones” because she was able to keep her family together. More often than not, children were torn from

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<sup>4</sup> Erica Armstrong Dunbar, *NEVER CAUGHT: THE WASHINGTONS' RELENTLESS PURSUIT OF THEIR RUNAWAY SLAVE, ONA JUDGE* 9 (2017).

<sup>5</sup> Philip D. Morgan, *"To Get Quit of Negroes": George Washington and Slavery*, 39 J. Am. Stud. 403, 404 (2005).

<sup>6</sup> Dunbar, *supra* n. 4, at 9–12.

their mothers and sold away, all to profit their owners.<sup>7</sup> As a skilled seamstress and valued worker, Betty may have had enough leverage to keep her children by her side, but she would have lived every day knowing that the survival of her family was subject to the whims of George and Martha Washington.<sup>8</sup> The conditions they endured were harsh and potentially brutal. Indeed, George Washington not only whipped and physically punished the people he enslaved when they disobeyed him; enslaved people who repeatedly caused problems or tried to self-emancipate were sold to plantations in the Caribbean.<sup>9</sup>

Ms. Judge, like her mother, became a talented seamstress and served Martha Washington from a young age. She attended to the first First Lady's most intimate affairs and was Martha Washington's "'go to girl' for just about everything."<sup>10</sup> She bathed Mrs. Washington, dressed her, accompanied her to social events, and prepared her attire.<sup>11</sup>

In 1789, Ms. Judge's world changed when Washington was elected the first president of the United States. The new role required him to move to the national capital at the time, New York City. Martha Washington brought the fifteen-year-

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<sup>7</sup> Dunbar, *supra* n. 4, at 8.

<sup>8</sup> *Id.*

<sup>9</sup> N.Y. Historical Soc'y, *Ona Judge*, Women & the American Story, <https://wams.nyhistory.org/life-story/oney-judge/> (last visited Apr. 27, 2026).

<sup>10</sup> Dunbar, *supra* n. 4, at 36.

<sup>11</sup> *Ona Judge*, George Washington's Mount Vernon, <https://www.mountvernon.org/library/digitalhistory/digital-encyclopedia/article/ona-judge> (last visited Apr. 27, 2026).

old Ona Judge with her.<sup>12</sup> The move to New York City would have been a jarring change for Ms. Judge, who had spent her entire life on a rural plantation along with the hundreds of enslaved people Washington kept at Mount Vernon.<sup>13</sup> By contrast, there was a growing community of freedmen in New York City (though there were still twice as many enslaved).<sup>14</sup> For the first time, Ms. Judge would see with her own eyes that freedom was within reach.

The move presented new challenges for Martha Washington as well—while her husband took charge of the executive branch, it fell to her to set the precedent for first ladies to come. In the bustling city, the elite would have looked to the First Family as tastemakers.<sup>15</sup> As Ms. Judge prepared Martha’s daily attire and accompanied her on social outings, she likely played an unseen role in shaping the new nation’s trends. Indeed, she was a part of a growing community of free and enslaved Black people who drove commerce, built religious institutions, and influenced culture throughout the North and the South. From music, to cuisine, to civic engagement, Black Americans, especially in Philadelphia, left their fingerprints on the shaping of American culture.

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<sup>12</sup> Dunbar, *supra* n. 4, at 43.

<sup>13</sup> Mary V. Thompson, *The Private Lives of George Washington’s Slaves*, PBS, <https://www.pbs.org/wgbh/pages/frontline/shows/jefferson/video/lives.html> (last visited Apr. 27, 2026).

<sup>14</sup> Dunbar, *supra* n. 4, at 42–43; *see also* NYC Department of Records & Information Services, *The Slow End of Slavery in New York Reflected in Brooklyn’s Old Town Records*, NYC Archives Blog (Feb. 26, 2021), <https://www.archives.nyc/blog/2021/2/26/enslaved-persons-in-the-kings-county-old-town-records>.

<sup>15</sup> Dunbar, *supra* n. 4, at 37.

In 1790, Thomas Jefferson and Alexander Hamilton struck a deal to move the national capital from New York City to Virginia.<sup>16</sup> In the interim, Philadelphia would serve as the temporary capital.<sup>17</sup> Once again, Ms. Judge’s fate lay in the hands of others, and she moved with the First Family to Philadelphia. Along with Ms. Judge, the Washingtons brought eight other enslaved people to Philadelphia—their cook Hercules, Hercules’s son Richmond, Ms. Judge’s brother Austin, and Christopher, Giles, Joe, Paris, and Moll.<sup>18</sup>

This presented the Washingtons with a unique challenge. Pennsylvania was experiencing an abolitionist awakening.<sup>19</sup> In 1780, Pennsylvania passed the “Act for the Gradual Abolition of Slavery,” providing that children born to enslaved mothers would be considered indentured servants until age 28, and that enslaved people brought to Pennsylvania by non-residents (like the Washingtons) could claim freedom after six months.<sup>20</sup>

Now Washington had to be concerned about both losing his slaves *and* incurring a financial penalty if any of them gained freedom since seven of the nine enslaved people were “dower slaves,” meaning they were not technically Washington’s “property”. Rather, they “belonged” to the Custis Estate, meaning

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<sup>16</sup> Act of July 16, 1790, ch. 28, 1 Stat. 130.

<sup>17</sup> *Id.*

<sup>18</sup> Dunbar, *supra* n. 4, at 54.

<sup>19</sup> *Id.* at 65.

<sup>20</sup> Act of Mar. 1, 1780, *An Act for the Gradual Abolition of Slavery* (Pa.), reprinted in *Prigg v. The Commonwealth of Pennsylvania*, 41 U.S. (16 Pet.) 539 (1842).

that Washington would have to pay the estate if they gained freedom or otherwise escaped.<sup>21</sup> Washington’s correspondence with his secretary, Tobias Lear, confirms that, to ensure none of his enslaved workers remained in Philadelphia long enough to claim freedom, he would institute a six-month rotation schedule between Philadelphia and Mount Vernon:

If upon taking good advise it is found expedient to send them back to Virginia, I wish to have it accomplished under pretext that may deceive both them and the Public;—and none I think would so effectually do this, as Mrs. Washington coming to Virginia next month . . . This would naturally bring her maid and Austin—and Hercules . . .<sup>22</sup>

Washington knew that doing so required “decei[t]” of both the public and those enslaved, as it violated the spirit of the law.<sup>23</sup> Further, he knew that if Ona Judge and the others found out how close they were to freedom, they would become, in the President’s own words, “*insolent* in a State of Slavery.”<sup>24</sup>

Washington’s concerns about emancipation were not unfounded—the abolitionist movement was growing in Philadelphia. By the end of the 18<sup>th</sup> century,

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<sup>21</sup> Letter from George Washington to Tobias Lear (Apr. 12, 1791) (on file with the Library of Congress).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* (emphasis added).

a burgeoning community of more than 6000 freed people lived in the city, among them, Bishop Richard Allen.<sup>25</sup>

### **B. Bishop Richard Allen**

Richard Allen’s evolution represents an eloquent affirmation of the foundational ideals set forth in the Declaration. His life’s work and achievements—including his service on behalf of the fledgling United States in the Revolutionary War—would seem precisely what Executive Order 14253 seeks to celebrate.

Born on February 14, 1760, Bishop Allen was known as “Negro Richard,” “property” of a Philadelphia attorney, Benjamin Chew.<sup>26</sup> Pennsylvania embraced the enslavement of Africans (though perhaps not as robustly as southern states, like Virginia). In 1760, as many as one in five families in Philadelphia owned slaves, enslaving approximately 90% of the Black population in the city.<sup>27</sup> In 1768, Chew sold Allen, along with his mother, father, and siblings, to a Delaware plantation owner named Stokely Sturgis.<sup>28</sup> Sometime later, Sturgis separated the family, selling his mother and three of Bishop Allen’s siblings.<sup>29</sup>

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<sup>25</sup> Gary B. Nash, *FORGING FREEDOM: THE FORMATION OF PHILADELPHIA'S BLACK COMMUNITY, 1720–1840* (1988).

<sup>26</sup> Newman, *supra* n. 3, at 28.

<sup>27</sup> *Id.* at 31, 54.

<sup>28</sup> Newman, *supra* n. 3, at 33; *see also* Richard Allen, *The Life, Experience, and Gospel Labours of the Rt. Rev. Richard Allen*, at \*6 (1833), <https://docsouth.unc.edu/neh/allen/allen.html>.

<sup>29</sup> Newman, *supra* n. 3, at 34.

After the separation from his mother—and possibly resulting from it—Richard Allen experienced a religious awakening.<sup>30</sup> As he described it,

[M]y confidence was strengthened that the Lord, for Christ's sake, had heard my prayers, and pardoned all my sins. I was constrained to go from house to house, exhorting my old companions, and telling to all around what a dear Saviour I had found. I joined the Methodist society[.]<sup>31</sup>

He joined Methodist “classes” that met in the forest surrounding the plantation, working “night and day to get [his] crops forward” so that he may attend meetings every other week. Soon, Allen arranged for Methodist preachers to come and minister at the plantation.<sup>32</sup> Sturgis, upon hearing the gospel, came to the belief “that he could not be satisfied to hold slaves, believing it to be wrong” and—in need of money—proposed to Allen and his brother that they buy their freedom.<sup>33</sup>

In 1780, Richard Allen struck a deal with Sturgis—Allen would pay Sturgis \$2,000 over five years in exchange for his freedom.<sup>34</sup> Allen worked multiple, backbreaking jobs, hauling bricks and splitting wood so vigorously that “[his] hands were so blistered and sore, that it was with difficulty [he] could open or shut them.”<sup>35</sup> He even worked as a wagon driver for the Colonial army, transporting salt

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<sup>30</sup> Nash, *supra* n. 25 at 95–96.

<sup>31</sup> Allen, *supra* n. 28, at \*2.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at \*3.

<sup>34</sup> Newman, *supra* n. 3, at 43.

<sup>35</sup> Allen, *supra* n. 28, at 3.

from “Rehobar County” and preaching on stops along the way.<sup>36</sup> A year-and-a-half early, in 1783, Allen paid his debt.<sup>37</sup> He would no longer be known as “Negro Richard” and adopted the surname “Allen.”<sup>38</sup> For Richard Allen, this was nothing less than a miracle:

We often thought that after our master’s death we were liable to be sold to the highest bidder, as he was much in debt; and thus my troubles were increased, and I was often brought to weep between the porch and the altar. But I have had reason to bless my dear Lord that a door was opened unexpectedly for me to buy my time, and enjoy my liberty.<sup>39</sup>

In 1783, Bishop Allen left Delaware to preach throughout Maryland, Pennsylvania, New Jersey, and Virginia. He preached to both White and Black parishioners, spreading his belief that both the enslaved and the enslavers prayed to the same God, and that slaveowners faced eternal damnation if they did not change their ways.<sup>40</sup>

In 1786, after years on the road, Bishop Allen received an offer to preach at St. George’s Church in Philadelphia.<sup>41</sup> Philadelphia had changed since Allen’s childhood 26 years prior—now, the city boasted a growing abolitionist movement

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Newman, *supra* n. 3, at 44.

<sup>39</sup> Allen, *supra* n. 28, at \*3.

<sup>40</sup> Newman, *supra* n. 3, at 47.

<sup>41</sup> *Id.* at 53–54.

and most Black Philadelphians, like Bishop Allen, were free.<sup>42</sup> Despite the growing population and community of Black Philadelphians, upon Bishop Allen's arrival the congregation included only five Black congregants. Within one year, he would grow this number to 42 by preaching on street corners and holding meetings at 5 a.m., when Black parishioners were permitted to worship.<sup>43</sup> Outside of the church, he was equally committed to fostering community development. In 1787, along with seven others, Allen co-founded the Free African Society. The Free African Society aimed to create a community of free Black Philadelphians, dedicated to the cause of mutual aid and promoting self-sufficiency in the burgeoning organization.<sup>44</sup>

Unfortunately, in response to the growing number of Black worshippers, the White members and clerics of St. George's sought to further segregate the Black congregants.<sup>45</sup> Kicked out of their customary pews in St. George's, the Black congregants gathered with Bishop Allen to pray on their knees.<sup>46</sup> A White Trustee attempted to force the congregants to cease their prayers and, in response, Bishop Allen and his co-laborer Absalom Jones led a walkout of the church.<sup>47</sup> Bishop Allen "hired a store room, and held worship by ourselves," along with Dr.

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 58.

<sup>44</sup> Newman, *supra* n. 3, at 59.

<sup>45</sup> Allen, *supra* n. 28, at \*7.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

Benjamin Rush and Robert Ralston.<sup>48</sup> As Allen himself described it, “[h]ere was the beginning and rise of the first African church in America.”<sup>49</sup>

This church would grow into the Mother Bethel African Methodist Episcopal Church, located just a few blocks away from the President’s House.

Leading the first Black church in America was but one of Allen’s many jobs—he also worked as a cobbler and established his own profitable chimney-sweep business.<sup>50</sup> Importantly, in March 1796, Allen provided services to none other than the first president, George Washington, as a chimney-sweep at the President’s House.<sup>51</sup> It is here that his path likely crossed with Ona Judge’s.

## II. THE FIGHT FOR FREEDOM

By 1796, Ms. Judge had lived in Philadelphia, enslaved by the First Family, for six years. She had increasingly communed with the free Black community of Philadelphia—the Washingtons permitted her to attend occasional community events like circuses and to visit local merchant shops.<sup>52</sup> Here, she would be exposed to Black entrepreneurs, activists, and clerics who were making new arguments for Black rights and even equal citizenship.<sup>53</sup> At the same time, Ms. Judge grew concerned, as “she understood that after the decease of her master and

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<sup>48</sup> *Id.* at \*7–8.

<sup>49</sup> *Id.* at \*8.

<sup>50</sup> Newman, *supra* n. 3, at 55–56.

<sup>51</sup> Dunbar, *supra* n. 4, at 107.

<sup>52</sup> Thompson, *supra* n. 13.

<sup>53</sup> Newman, *supra* n. 3, at 22–23.

mistress, she was to become the property of a granddaughter of theirs[.]” The Washingtons intended to give Ms. Judge to their granddaughter, Eliza Law, who was known for her volatile temperament, as a “wedding gift.”<sup>54</sup> Now Ms. Judge had only one option if she wanted to control her own fate: she had to escape.

Escape entailed extraordinary risk. First, the Fugitive Slave Act of 1793—signed into law by Washington—guaranteed a slaveowner’s right to recover an escaped slave: “when a person held to labor in any of the United States . . . shall escape into any other part of the said States or Territory, the person to whom such labor or service may be due . . . is hereby empowered to seize or arrest such fugitive from labor” and bring them before a judge or magistrate.<sup>55</sup> This meant that even if Ms. Judge made it to a state or territory which outlawed slavery, she could still be recaptured and brought back to Mount Vernon at any time. The law similarly made it a crime to aid in a fugitive’s escape.<sup>56</sup> Moreover, in the late 18<sup>th</sup> century, the “Underground Railroad” had not yet been established. Slaves escaping from the South had to confront bitter cold and unpredictable elements. Instead of taking shelter in strangers’ homes, they had to do so outdoors while avoiding capture and a return to bondage under Fugitive Slave Act.<sup>57</sup> Ms. Judge’s journey

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<sup>54</sup> Thomas H. Archibald, *Washington’s Runaway Slave: Interview with Ona Judge*, GRANITE FREEMAN, May 22, 1845 [hereinafter GRANITE FREEMAN].

<sup>55</sup> Act of Feb. 12, 1793, ch. 7, § 3, 1 Stat. 302, 302–05 (An Act respecting fugitives from justice, and persons escaping from the service of their masters).

<sup>56</sup> *Id.* at § 4.

<sup>57</sup> Dunbar, *supra* n. 4, at 100–01.

was all the more difficult because of her gender—90% of fugitives were male, and it was rare for any woman, White or Black, to travel alone.<sup>58</sup>

These were but some of the risks enslaved persons seeking freedom faced in 1796, as slaveowners relentlessly pursued fugitives. Escape also required leaving one's family behind, most likely forever. Ms. Judge's mother, brother, sisters, nieces, and nephews awaited her return to Mount Vernon. Escape meant not only saying goodbye forever, but risking their safety—often, slaveowners would punish remaining family members for another's escape.<sup>59</sup>

Ms. Judge weighed these risks and decided to escape on the evening of May 21, 1796.<sup>60</sup> Years later, she explained her escape in an interview with the *Granite Freeman*:

Whilst they were packing up to go, I didn't know where; for I knew that if I went back to Virginia, I never should get my liberty. I had friends among the colored people of Philadelphia, had my things carried there before hand and left while they were eating dinner.<sup>61</sup>

These “friends”—members of the community of freedmen in Philadelphia—guided Ms. Judge to the *Nancy*, captained by John Bolles, on which she sailed to Portsmouth, New Hampshire.<sup>62</sup>

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<sup>58</sup> *Id.* at 102.

<sup>59</sup> *Id.*

<sup>60</sup> GRANITE FREEMAN, *supra* n. 54.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

Circumstantial evidence suggests that Bishop Allen played a role in Ms. Judge's escape.<sup>63</sup> Months before Ms. Judge's escape, in March 1796, Bishop Allen collected fees for chimney-sweeping services performed at the President's House.<sup>64</sup> On May 10, 1796—just eleven days before Judge escaped—the Washingtons gave Judge \$1.25, which she likely spent at Bishop Allen's shoe shop where he worked as a cobbler.<sup>65</sup> Taken together, the evidence that Ms. Judge and Bishop Allen crossed paths, his well-established reputation as a community leader who helped fugitives, and the proximity between the Mother Bethel Church and the President's House, strongly indicate he aided in Ms. Judge's escape.<sup>66</sup>

Even after Ms. Judge safely landed in Portsmouth, New Hampshire, danger followed. Just two days after her escape, Washington's steward placed an advertisement seeking Ms. Judge's recapture in the *Philadelphia Gazette and Daily Advertiser*.<sup>67</sup> The advertisement noted that Ms. Judge had “no provocation” to run away—a belief Washington reiterated privately, writing that Ms. Judge “was brought up and treated more like a child than a Servant.”<sup>68</sup> But Washington knew

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<sup>63</sup> Judge refrained from naming those who aided in escape, as doing so was a federal crime. Dunbar, *supra* n. 4, at 108.

<sup>64</sup> *Id.*; see also Newman, *supra* n. 3, at 140–42.

<sup>65</sup> Dunbar, *supra* n. 4, at 107–08; see also Newman, *supra* n. 3, at 140–42.

<sup>66</sup> Dunbar, *supra* n. 4, at 107–08; see also Newman, *supra* n. 3, at 140–42.

<sup>67</sup> Advertisement for the Capture of Oney Judge, PHILA. GAZETTE, May 24, 1796, reprinted in Encyclopedia Virginia, <https://encyclopedia.virginia.org/primary-documents/advertisement-for-the-capture-of-oney-judge-philadelphia-gazette-may-24-1796/>.

<sup>68</sup> *Id.*; Letter from George Washington to Oliver Wolcott, Jr. (Sept. 1, 1796) (on file with the Library of Congress).

that the issue of slavery was increasingly fraught, especially in the North, and wanted to avoid a political scandal. He instructed the Portsmouth customs collector (whom he had nominated), Joseph Whipple, to assist in the recapture of Ms. Judge, but to do so privately as not to “excite a mob or riot.”<sup>69</sup>

Whipple—knowing that Ms. Judge was likely in need of work—put out the word that he was in need of a domestic servant, seeking to entrap her. Ms. Judge agreed to meet with Whipple but, soon thereafter, discerned his true intent. Whipple tried to negotiate a compromise, urging her to board a ship back to Philadelphia. Ms. Judge agreed in exchange for a promise that she would be free once she returned to Mount Vernon. She told Whipple she would meet him at the docks to return to Philadelphia, but she never intended to board the ship—instead, she slipped out of his grasp and never met him at the docks.<sup>70</sup> Whipple wrote Washington to inform him of the failed efforts, and to reassure Washington that, upon hearing that Ms. Judge planned to marry, he had instructed the local official not to give her a marriage certificate.<sup>71</sup>

When Washington learned of Whipple’s failure, he expressed his dismay that Whipple would attempt to negotiate with Ms. Judge at all:

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<sup>69</sup> Letter from Joseph Whipple to George Washington (Nov. 28, 1796) (on file with the Library of Congress).

<sup>70</sup> Dunbar, *supra* n. 4, at 142–46.

<sup>71</sup> Letter from Joseph Whipple to George Washington (Dec. 22, 1796) (on file with the Library of Congress).

To enter into such a compromise, as she has suggested to you, is totally inadmissible, for reasons that must strike at first view: for however well disposed I might be to a gradual abolition, or even to an entire emancipation of that description of People (if the latter was in itself practicable at this Moment) it would neither be politic or just, to reward unfaithfulness with a premature preference; and thereby discontent, beforehand, the minds of all her fellow Servants; who by their steady adherence, are far more deserving than herself, of favor.<sup>72</sup>

He further expressed to Whipple that Ms. Judge's escape could not have been of her own volition, and surmised that a "Frenchman" paramour had enticed her to escape.<sup>73</sup> This letter expresses Washington's internal contradiction—while, in his later years, he professed to be sympathetic to abolition, he was apparently unable to acknowledge Ms. Judge's desire to be free.

After this initial failed attempt, Ms. Judge continued to live free in Portsmouth. She converted to Christianity and, despite Whipple's best efforts to impede her, married a free Black sailor by the name of Staines and had three children of her own: Eliza, Will, and Nancy.<sup>74</sup> Instead of the comparatively light skilled labor that Ms. Judge had performed for Martha Washington, she was forced to do hard, manual labor to make ends meet.<sup>75</sup> But even as Ms. Judge lived as a

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<sup>72</sup> *Id.*

<sup>73</sup> *Id.*; see also George Washington to Oliver Wolcott, Jr., 1 September 1796 ("If enquiries are made openly, her Seducer (for she is simple and inoffensive herself) . . .").

<sup>74</sup> Mount Vernon Ladies' Association, *Ona Judge*, George Washington's Mount Vernon, <https://www.mountvernon.org/library/digitalhistory/digital-encyclopedia/article/ona-judge> (last visited Apr. 27, 2026).

<sup>75</sup> Dunbar, *supra* n. 4, at 122–24.

freewoman, the Custis Estate maintained an ownership interest in her and in her three children, who were technically born enslaved and subject to recapture at any moment.

George Washington could not let go of Ona Judge. He remained determined to force her return to Mount Vernon. His concern was based in part on Martha Washington's personal insult at losing her handmaid, and in part on the financial penalty he might incur for losing one of the Custis Estate's slaves. In August 1799, just 4 months before his death, Washington enlisted his nephew, Burwell Bassett Jr., to again seek Ms. Judge's return.<sup>76</sup> Like Whipple, Bassett began by attempting to persuade Ms. Judge to willingly return: he promised she would face no retaliation upon her return to Mount Vernon.<sup>77</sup> Ms. Judge responded "I am free now and choose to remain so" and flatly refused his offer.<sup>78</sup>

Undeterred, Bassett tried to capture Ms. Judge once again, this time by force. While staying in the home of the then-governor of New Hampshire, Governor Langdon, Bassett informed him of his intent to capture Ms. Judge.<sup>79</sup> Governor Langdon warned Ms. Judge and she fled Portsmouth for the nearby

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<sup>76</sup> George Washington to Burwell Bassett, Jr., 11 August 1799 (on file with the Library of Congress).

<sup>77</sup> GRANITE FREEMAN, *supra* n. 54.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

home of a free Black woman named Nancy Jack, along with her infant baby, Eliza, only to return once her husband came back from sea.<sup>80</sup>

The first president of the United States thus spent the last years of his life seeking the return of his property, Ona Judge, but she would live the rest of her life as a free woman, although she was still the legal property of George and Martha Washington. Despite the back-breaking work she endured in New Hampshire to provide for her family while facing harsh discrimination,<sup>81</sup> when asked whether she regretted her choice to escape from slavery, Ona Judge responded with “[a] fire that kindled in her age-bedimmed eye”: “No, I am free, and have, I trust, been made a child of God by the means.” And her escape was not only a personal victory: for every slave that escaped, others were inspired to do the same. Indeed, Ms. Judge eagerly told her story not once, but twice, to abolitionist newspapers in 1845 and again in 1847, driven to see her triumph recognized and remembered.<sup>82</sup>

Washington died on December 14, 1799, just a few months after his final attempt to recapture Ms. Judge. In his will, Washington stipulated that the enslaved people he “owned” would be freed upon his wife’s death.<sup>83</sup> This was not a particularly surprising decision on Washington’s part—in his later years, he grew

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<sup>80</sup> Rev. T. H. Adams, “Washington’s Runaway Slave”, *LIBERATOR* (Boston, Mass.), Aug. 22, 1845 [hereinafter *LIBERATOR*].

<sup>81</sup> Dunbar, *supra* n. 4, at 120–26.

<sup>82</sup> GRANITE FREEMAN, *supra* n. 54; *LIBERATOR*, *supra* n. 80.

<sup>83</sup> Thompson, *supra* n. 13. This directive would not have applied to Ona Judge or her children, technically “owned” by the Custis Estate and not Washington himself.

increasingly wary of the institution of slavery.<sup>84</sup> Washington was also counted among the donors solicited by Bishop Allen to help raise the Mother Bethel Church.<sup>85</sup> Perhaps he even read Bishop Allen's 1794 pamphlet, circulated to Philadelphians, entitled "A Narrative of the Proceedings of the Black People", in which he wrote the following address to slaveowners:

[W]e can tell you, from a degree of experience, that a Black man, although reduced to the most abject state human nature is capable of, short of real madness, can think, reflect, and feel injuries, although it may not be with the same degree of keen resentment and revenge, that you who have been and are our great oppressors, would manifest if reduced to the pitiable condition of a slave . . .<sup>86</sup>

It is worth noting that, upon Washington's passing, Bishop Allen eulogized the first president to his Mother Bethel congregation and saluted him for freeing those he enslaved, remarking "deeds like that are not common."<sup>87</sup>

Though we do not know for certain if Bishop Allen aided Ona Judge in her escape or helped to urge Washington toward emancipation, his role in helping

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<sup>84</sup> *The Papers of George Washington Digital Edition*, ed. Theodore J. Crackel. Charlottesville: University of Virginia Press, Rotunda, 2008.

<http://founders.archives.gov/documents/Washington/04-04-02-0019>] ("I can only say that there is not a man living who wishes more sincerely than I do, to see a plan adopted for the abolition of it—but there is only one proper and effectual mode by which it can be accomplished, & that is by Legislative authority[.]").

<sup>85</sup> Nash, *supra* n. 25, at 164.

<sup>86</sup> Absalom Jones & Richard Allen, *A Narrative of the Proceedings of the Black People, During the Late Awful Calamity in Philadelphia, in the Year 1793: And a Refutation of Some Censures, Thrown upon Them in Some Late Publications* (1794), <https://docsouth.unc.edu/neh/jones/jones.html>.

<sup>87</sup> Newman, *supra* n. 3, at 136.

others find freedom is well-documented. Bishop Allen petitioned Congress for the abolition of the slave trade, advocated for African American citizenship, and formed the Free Produce Society to boycott goods produced by slave labor.<sup>88</sup> As an entrepreneur, he hired young Black apprentices to allow others to become self-sufficient as well.

In his continued role as leader of the Mother Bethel Church, Bishop Allen tirelessly advocated for abolition. He insisted that Mother Bethel not only serve as a spiritual center for Black Philadelphians, but as a community center with a children's day school and adult night school.<sup>89</sup> The Mother Bethel Church continued to grow in both size and influence throughout Allen's life, expanding from approximately 121 members in 1795 to 457 members in 1805, and today boasting over 6000 congregations and millions of members in 39 nations.<sup>90</sup> In 1816, the church united with other Black Methodist congregations from neighboring states to form the official African Methodist Episcopal Church, and Allen was officially consecrated the first bishop of the African Methodist

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<sup>88</sup> *Id.* at 21–22, 111, 265.

<sup>89</sup> *Id.* at 56–57.

<sup>90</sup> Mother Bethel African Methodist Episcopal Church Records, 1794–1840, Univ. of Pa. Libraries, *Finding Aid* [https://findingaids.library.upenn.edu/records/legacy/SMREP\\_RAMAO1](https://findingaids.library.upenn.edu/records/legacy/SMREP_RAMAO1); *AME Church Marks 200 Years in Birthplace of Philadelphia*, CBS News Phila. (July 9, 2016), <https://www.cbsnews.com/philadelphia/news/ame-church-marks-200-years-in-birthplace-of-philadelphia/>.

Episcopal Church.<sup>91</sup> Until the end of the Civil War, many of these churches served as critical points in the Underground Railroad.<sup>92</sup>

### III. RECOGNIZING THEIR CONTRIBUTIONS

Over two hundred years later, Ona Judge and Bishop Allen have largely been deprived of the recognition they deserve.<sup>93</sup> Although Ms. Judge sought to memorialize her story by sitting for interviews with abolitionist papers, Dr. Dunbar's book, *Never Caught*, remains the only book written about her. Similarly, although Allen founded one of the largest and most influential churches in American history, very few modern biographies are dedicated to his memory.<sup>94</sup>

In 1998, Congress recognized that the narratives of those who heroically fled bondage and those who aided them risked fading into obscurity,<sup>95</sup> and found that:

The Underground Railroad bridged the divides of race, religion, sectional differences, and nationality; spanned State lines and international borders; and joined the American ideals of liberty and freedom expressed in the Declaration of Independence and the Constitution to the extraordinary actions of ordinary men and women working in common purpose to free a people.

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<sup>91</sup> *Richard Allen*, Rediscovering Black History, Nat'l Archives (June 9, 2021), <https://rediscovering-black-history.blogs.archives.gov/2021/06/09/richard-allen/>.

<sup>92</sup> Newman, *supra* n. 3, at 240 (“Buffalo’s AME membership became key participants in both the Underground Railroad and the Black convention movement.”).

<sup>93</sup> The Philadelphia City Council passed a resolution to designate May 21<sup>st</sup> as “Ona Judge Day,” a step towards commemorating the extraordinary life of Judge and acknowledging her impact on Philadelphia. Phila., Pa., City Council Res., Ona Judge Day (introduced by Councilmember Cindy Bass) (adopted 2025).

<sup>94</sup> Newman, *supra* n. 3, at 3.

<sup>95</sup> National Underground Railroad Network to Freedom Act of 1998, Pub. L. No. 105-203, § 2(a)(4)(A), 112 Stat. 678, 678 (1998) [hereinafter Underground Railroad Act].

With unanimous consent in the U.S. Senate and only two dissenting votes in the U.S. House, Congress passed the Underground Railroad Network to Freedom Act of 1998.<sup>96</sup> Congress authorized the National Park Service to “coordinate and facilitate Federal and non-Federal activities to commemorate, honor, and interpret the history of the Underground Railroad[.]”<sup>97</sup> The statute provides that the Secretary of the Interior *shall* establish a National Park Service Program, now known as the “National Underground Railroad Network to Freedom.”<sup>98</sup>

In 2022, the exhibit at the President’s House was designated a National Underground Railroad Network to Freedom site.<sup>99</sup> In compliance with the statute’s mandate, the exhibit discussed the experience of enslaved people, their efforts to seek freedom, and those who assisted in the journey. With respect to Ms. Judge, the panels recount her daily life as an enslaved person at the President’s House, as well as her escape from enslavement. With respect to Bishop Allen, the panels reflect his “self-emancipation” by purchasing his freedom, the foundation of the Mother Bethel Church, and his role in the abolitionist movement, including the Underground Railroad Station located in the Mother Bethel Church.

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<sup>96</sup> 144 Cong. Rec. H4718 (daily ed. June 22, 1998) (Roll Call Vote No. 264, passing H.R. 1635); 144 Cong. Rec. S7216 (daily ed. June 25, 1998) (passing H.R. 1635 by unanimous consent).

<sup>97</sup> Underground Railroad Act §§ 2(a)(4)(A); (b)(2).

<sup>98</sup> *Id.* § 3(a).

<sup>99</sup> Nat’l Park Serv., *National Park Service Underground Railroad Network to Freedom Program Announces New Designations and National Award Recipients* (Sept. 29, 2022), <https://www.nps.gov/orgs/1207/09-29-2022-ugrr-ntf.htm>.

These panels exposed another side of American history, often concealed but as critically important to understanding the American story as the lives of Washington and Jefferson. The lives of Americans like Ona Judge and Bishop Allen more fully explain our Founders' stories, and thus are essential to the story of our founding. Their collective history speaks to our collective goodness and should be told in accordance with the law, the truth and our desire to be, and remain, free.

### **CONCLUSION**

For all the foregoing reasons, amici curiae the Council of Bishops of the African Methodist Episcopal Church and Dr. Erica Armstrong Dunbar respectfully urge this Court to affirm the well-reasoned Order and Opinion of the Honorable Cynthia Rufe entered on February 16, 2026, and dismiss this appeal.

Dated: April 29, 2026.

Respectfully submitted,

/s/ Timothy Lewis

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**COMBINED CERTIFICATE OF COMPLIANCE**

I, Timothy K. Lewis, a 7<sup>th</sup> generation descendent of Thomas Jefferson and his slave, Sally Hemings, hereby certify that:

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B)(i) because this brief contains 5,628 words, as determined by the word-count function of Microsoft Word 365, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f); and

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the typestyle requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 365 in 14-point Times New Roman font.

3. I am a member in good standing of the bar of this Court.

4. The text in the electronic copy of this brief is identical to the text in the paper copies of the brief filed with the Court.

5. This brief was scanned for viruses using Microsoft Defender, version 1.353.717.0, and no viruses were detected.

Dated: April 29, 2026

/s/ Timothy K. Lewis  
\_\_\_\_\_  
Timothy K. Lewis

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of April, 2026, I caused a copy of the foregoing to be filed through the Court's electronic docketing system, which will electronically serve upon all counsel of record a notification of the filing.

/s/ Timothy K. Lewis

Timothy K. Lewis