

DISCOVERY: Georgia State Honors College Undergraduate Research Journal

Volume 3

Article 1

2-3-2016

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Recommended Citation

Basta, Hannah and Grey, Cam (2016) "Julia's Nuptials: Free, Freed, and Slave Marriage in Late Fifth Century Roman Law," *DISCOVERY: Georgia State Honors College Undergraduate Research Journal*: Vol. 3, Article 1.

DOI: <https://doi.org/10.31922/disc3.1>

Available at: <https://scholarworks.gsu.edu/discovery/vol3/iss1/1>

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Julia's Nuptials: Free, Freed, and Slave Marriage in Late Fifth Century Roman Law

In 468 AD, a certain woman named Julia went to the Western Roman Emperor Anthemius (420 – 472 AD; ruled 467 – 472 AD) to declare that she had married a freedman who was her former slave. In response, Anthemius declared that while her marriage and all such marriages that had occurred up until that point would remain legal, all subsequent unions between free women and freedmen would be prohibited. If anyone violated that law, the woman would be subject to property confiscation, deportation, and her children would become slaves (The novel of Anthemius, 2001, p. 570-571). A translated excerpt of the law is presented below:

A certain Julia pours out her prayers at Our imperial altars and affirms that marriage has befallen her with a person who had been a slave of her own household but who had obtained freedom by the splendid qualities of his character. She implores Our divine imperial Majesty that she may not be harmed by the fact that the venerable sanction of Constantine with the strictest severity does not permit her own slaves. Indeed she considers that it is not fitting that the constitutions concerning unions with slaves should be applied in her case, since she herself did not marry a slave, but a freedman. She considers especially that her marriage cannot incur blame, because no evident sanction has been issued in regard to the prohibition of unions with freedmen, and a deed can nevertheless be considered licit if it has not been forbidden previously by any law... First, therefore, We decree by this edictal sanction that marriages shall not lack legal validity if any similar unions shall be proved to have been entered upon prior to the year of the second consulship of Our Imperial Divinity... Therefore, since We desire to increase public decorum, from the present year of the consulship of Our Clemency We prohibit that mistresses and patronesses shall have the right to enter upon marriages with

their slaves or freedmen, in order that the renowned nobility of distinguished families may not be debased by the disgrace of an unworthy union and may not forfeit, by the contract of a very debased union, what it has obtained perhaps by the splendor of Senatorial birth, and in order that in the case of a woman, a very shameless embrace, by the bare distinction of free birth only, may not diminish the honor of her distinguished family. The provision shall undoubtedly be valid that whatever the sainted Constantine established by his venerable sanction with regard to unions with slaves shall be observed with perpetual validity.

In regard to those women who hereafter enter upon vows with their own freedmen, We sanction by this law that shall endure eternally that the regulation shall be observed that such forbidden unions shall obtain not even the name of marriage, but those women who execrably aspire to such illicit unions shall be smitten with confiscation of all their property and perpetual deportation. The offspring who are born from such an association shall be deprived not only of the right, but also of the title of children, and they shall also justly be assigned to a servile condition, so that Our fisc shall appropriate to itself the ownership of such children. (The novel of Anthemius, 570-571)

Previous approaches to this law have focused on the light it sheds on the place of slaves in Roman society. Specifically, they have suggested that it illustrates a concern over the supply of slaves, the moral problem that attended mixed unions between slaves and free persons, and the role the State sought to play in protecting the honor of women in their interactions with slaves (Evans-Grubbs, 1995; Harper, 2011). But the law of Anthemius deserves greater individual scholarly attention than it has received. This paper will argue that Julia's petition provided the emperor Anthemius with a political opportunity for his own self-representation in order to

solidify his relationship with the western senatorial aristocracy. To demonstrate this, I will lay out the possibilities surrounding Julia's identity, detail on the historiography of the law, the position of Roman law on the issue previously, and the emperor Anthemius.

Previous scholarship on the law has provided complementary interpretations with a focus on slavery. Evans-Grubbs (1995) advocates that the law was an attempt to preserve the slave supply. Up until this point, unions between freeborn women and freedmen had been considered technically legal, and the children of such unions were considered freeborn. Evans-Grubbs (1995) believes that "to allow such unions to exist would bring about a gradual decline in the number of slaves". Such an interpretation relies on the assumption that the primary source of slaves was internal, but Scheidel's (2011) study of slave numbers in late antiquity has demonstrated that the Roman slave supply was not primarily fueled by natural reproduction. Other sources such as the slave trade and warfare were important sources for slaves, as well. Since natural reproduction was not the primary source of the slave supply, this explanation for the law does not serve as an adequate interpretation.

In a complementary interpretation, this law has been enlisted in arguments about the moral attitude of the Roman elite towards slaves and freed slaves. One view asserts that although the law may represent the traditional elite's prejudices, it is difficult to determine where the impetus for those prejudices lay. According to Evans-Grubbs (1993), the very fact that such unions existed exemplified the claim that those prejudices "had little meaning to the women themselves". Presumably, then, those prejudices did not exist amongst those women who engaged in such unions with their freedmen. Harper (2011) has suggested that the State took it upon itself, in the absence of an authoritative male head of household, "to protect female honor". The State, as seen by Harper, was a powerful, important and intervening body. Out of this view,

he implies that by publishing this law, feminine honor was actually protected. This paper works alongside these interpretations, drawing from each to represent the law through a different perspective.

In order to begin to understand this law, we must ask who was Julia? Evans-Grubbs (1993) believes the most that can be said about Julia's identity and status was that she was "at least an *ingenua*", or a freeborn woman. But further work on the matter reveals this interpretation can be pushed further. Saller (1999) has shed some light on the role of women in a typical Roman household. The *pater familias*, meaning "estate owner" or "head of household," was typically male, and while legally women had the same rights to own property, it was not the case that in a household where a dominant male figure was present that a woman would have power over her children or slaves. The realities of *mater familias* were such that Roman women "in the absence of husbands" often wielded power over their dependents in a household. The law states that Julia married someone "who had been a slave of her own household", and given our knowledge of *mater familias* and the fact that it was Julia herself who had come forth before the emperor, it is possible to speculate that Julia was the head of her own household. The law also seems to focus explicitly on marriages between women in the aristocracy and slaves or freedmen as it prohibits such marriages "in order that the renowned nobility of distinguished families may not be debased". The law specifically mentions women of "Senatorial birth" and focuses on aristocratic families. This suggests that, since Anthemius is responding to her specific petition, Julia may have been a member of the upper class. We can reasonably conclude that Julia was an upper-class woman who may have been the head of her household. What does this say of Julia and her significance to Anthemius? Although Julia was presumably a member of the upper class, she did not have a male relative in the Senate at the time, for he would have acquired authority

over her household (Saller, 1999). This meant that neither Julia nor anyone in her household, including her freedman, possessed political power which could be wielded against Anthemius. So he allowed by his “imperial grace” for the declaration of her marriage as legal.

Anthemius saw Julia’s situation as a political opportunity. Why did he need a political opportunity? Anthemius was in a unique situation in that he was a non-Roman, Greek-speaking emperor at a time when the relations between the eastern and western Roman Empire were divided and strained. He had married the former eastern emperor’s daughter (O’Flynn, 1991). The death of the western emperor Severus in 465 left the western empire in an interregnum (Mathisen, 1991). Because his marriage left him some claim to power in the east, the eastern emperor Leo was eager to remove Anthemius as a threat to his own position as emperor. The western interregnum provided Leo with the opportunity to remove Anthemius from the east and subsequently to impose him onto the senatorial aristocracy in the western Empire.

Anthemius’s law was set within the context of a previous Roman law, the *senatus consultum Claudianum* (SCC). The SCC was issued in 52 AD under the emperor Claudius. The spirit of the law was preserved as a series of constitutions in the *Theodosian Code*, a codification of law compiled in 438 AD under the emperor Theodosius II (Harper, 2010). The SCC stated that free women who cohabited with slaves would become slaves, and their children would also become slaves. Notably, the law lacked any mention of freedmen and marriages between freeborn women and freedmen from when it was first enacted until Anthemius passed his legislation in 468 AD.

To understand the importance of the SCC with regard to the law of Anthemius, we turn to the emperor Augustus (27 BCE – 14 AD), who in the early first century prohibited marriage between members of the senate and freedmen, and all freeborn persons were prohibited from

marrying prostitutes and other people of such low status (McGinn, 1998). His marriage legislation played a role in the “construction of a moral ideology” in that the people in the Roman community would presumably follow the behavioral guidelines established by the law (McGinn, 1998). This established Augustus’s own image as a moral figure. His legislation set a precedent for subsequent emperors to use marriage as a means to legitimize their own authority over the Roman people, as well as their self-representations as figures of morality. If later emperors modeled their own images after Augustus, then a Roman emperor was expected to preserve Roman values, which also meant that the emperor had to be seen as a moral figure. By enacting the SCC, Claudius followed the practice set by Augustus to use legislation on the family to present himself as a figure of morality. The first Christian emperor Constantine the Great (306 – 337 AD), following the practice set by Augustus, criminalized the practice of abduction marriage (Evans-Grubbs, 1989). Constantine used his legislation on the family to uphold Roman values and modeled his actions after Augustus, presenting himself as a figure of morality. Anthemius followed the examples set by Augustus, Constantine, and Claudius, and used his legislation to make an impact on Roman morality to fulfill the duties of a Roman emperor, and thus mold his own image as an emperor to the Romans.

As a Greek, it was imperative for Anthemius to legitimize his authority by presenting himself as the embodiment of traditional Roman values amongst the conservative western aristocracy (O’Flynn, 1991). Anthemius possessed an impeccable military career with an impressive army, which added to his image; however, he still faced considerable opposition (O’Flynn, 1991). In these circumstances, we may suggest that Julia’s predicament provided Anthemius with an opportunity to secure his political power in Rome. Equipped with the precedents of the past, Anthemius prohibited marriage between free women and freedmen and

set the punishment for violating his new law at property confiscation and deportation for free women and enslavement of their children. Throughout the *Theodosian Code*, property confiscation and deportation were punishments reserved for serious crimes. These crimes included endangerment of national security, proscribed individuals, producing counterfeit money and hosting soothsayers. An extensive discussion on punishment in Roman law by Richard Bauman (1996) concludes that such punishments were “intensified” penalties, and in some instances, Bauman suggests confiscation of property and deportation were punishments meant to “replace the death penalty”. Thus, the consequences of breaking Anthemius’s law were severe. By prohibiting marriage between free women and freedmen or slaves and providing a harsh punishment for those that violated the new law, Anthemius was tailoring his image, that his objective was to preserve the “purity” of the senatorial aristocracy and other “distinguished” families. This goal was exactly what the traditional elite expected from a supposedly traditional “Roman” emperor. Julia’s petition, then, created the opportunity, which Anthemius seized, to strengthen the emperor’s relations with the western senatorial aristocracy.

Anthemius may have had an additional motive behind the law, one that was particularly focused on the many freedmen who were part of the imperial household. It was possible for those imperial freedmen closest to the emperor to be swayed by wealth and status. For instance, in the third century the emperor Alexander Severus discovered “one of his close associates receiving money in return for his...influence at court” (Kelly, 2004). Kelly (2004) claims, though, that while these cases existed, they did not reflect the norm. However, Anthemius himself hardly reflected the norm. Anthemius, a Roman emperor with non-Roman origins at a time when relations between the east and west were immensely strained, had reason to suspect such engagements could occur. Boudewijn Sirks has demonstrated that, with regard to the SCC,

slaves worked intimately with free persons (Harper, 2010). The emperor's slaves increasingly occupied administrative positions and during Claudius's reign, estimations suggest up to "two thirds of imperial slaves and freedmen were marrying freeborn women", so it was a genuine concern of the emperor to suspect such dealings (Harper, 2010). It was possible that Anthemius prohibited such marriages to ensure that no senatorial aristocratic woman could marry an imperial freedman. Such a union could have led to an imbalance of power within the senate, for one senator could potentially have risen above the desired state of constant tension within the senate and threatened Anthemius's power.

What of the slaves then? What does this tell us about slavery in Rome? The historiography on the law certainly does focus on slavery, and this interpretation does engage with questions about slavery. Slaves were woven into Roman society as a part of the fabric of everyday life. Slavery could be used as a metaphor to convey a larger argument (Grey, 2011). For instance, Christianity used slavery metaphorically, as a way to represent the Christian's relationship to God (Glancy, 2002). The aristocracy's concern with slaves and their relations to slaves allowed Anthemius to place these preoccupations as the focus of the law. By doing so, Anthemius used slaves and their place in Roman society for the purpose of communicating a larger objective, in order to forge his image as a Roman emperor.

In this paper, I have argued that Julia's petition to the emperor Anthemius provided him with a political opportunity to solidify his authority and relationship with the senatorial aristocracy. I have demonstrated this by examining the language of the law, the identity of this Julia, the historiography of the law and the previous position of Roman law on the matter of mixed unions. By doing so, I have demonstrated that slaves were such an essential part of Roman

life that Anthemius was able to use rhetoric surrounding slaves and slavery in Rome to accomplish his goals, that is, to affirm his authority over the Roman Empire and the Senate.

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