

Book VII.
Title XII.

Who cannot receive freedom.
(Qui non possunt ad libertatem pervenire.)

Bas. 48.17; Dig. ?¹

7.12.1. Emperors Severus and Antoninus to Torquatus.²

Since my divine father decided that slaves, condemned to perpetual chains by presidents of provinces or by others who have power to punish malefactors, cannot be given liberty, so also those to whom, during the time of undergoing punishment, a bequest for freedom or of an inheritance and legacy or trust is made, cannot obtain liberty, or get anything bequeathed to them. 1. But if they have served out the time of punishment and are entirely freed therefrom, and are restored to their former or simple status of slavery, they may, without any reference as to past punishment, receive both liberty as well as any property left them at that time in the testament of the deceased master.

Given June 16 (161 ?).³

7.12.2. Emperors Valerian and Gallien to Theodorus.

A slave forbidden by a testament to be manumitted, cannot receive liberty. But it is important to distinguish here whether the testator did not want the slaves, whom he stated to have been brought up with his sons, to be sold or manumitted because of house-services and necessary assistance to his sons, or because he wanted to inflict deserved punishment on them. 2. For in the former case, if the party whose interests were consulted has died and the need of service is ended, liberty may be given, but in the latter case, the punishment fixed for the slaves, must be carried out, since my divine parents decided that such restriction contained in a testament should fix perpetual servitude on those whose conduct has been bad, and liberty cannot be given them even through a supposititious purchaser.

¹ Blume left this reference blank and penciled in a question mark in his original.

² [Blume] There is some question as to when this constitution was written. The constitution of "my diving father" refers to the one mentioned in D. 48.19.33, where it is said that it was made by "fratres imperatores," evidently referring to Marcus Antoninus and Verus. See Buckland, Roman Law of Slavery 592.

³ Question mark in original.