A Male Slave Escapes and a Border Guard is Punished

This case appears to be directly related to the “Ordinances on Fords and Passes” (Jinguan ling 津關令) (sec. 3.28) in the Statutes and Ordinances of the Second Year (Ernian lüling 二年律令) text. In no. 1, the opening item of that ordinance, probably the earliest in the collection, the Chief Prosecutor complains to the Emperor, “There is still no specific ordinance for the sentencing of vaulting over the frontier defenses or going through passes without proper authorization.” He then petitions for a lengthy ordinance to remedy that situation, including laying out the penalties for those who transgress the frontier and for those who allow them to escape. The Emperor approved the petition, thereby creating an enforceable ordinance.

This case, which took place sometime during the reign of Emperor Gaozu, was probably just the type of case that made the need for such an ordinance obvious. The dossier was submitted by the Governor of Beidi Commandery, located to the far northwest of the capital on the frontier with the nomadic Xiongnu, in what is now northeastern Gansu. A male slave named Yi absconded from his master and then ‘vaulted over the frontier defenses’ (yuèsaì 越塞), meaning he crossed the frontier without authorization at a place not designated as a ford or pass, circumventing or vaulting over the defensive emplacements. If he had been apprehended, ordinance no. 1 decrees that he matched having his left foot severed and being made a wall-builder. This punishment is even more severe than the usual penalty for an absconding slave, who had his face tattooed and was returned to his master.

What is apparent from this case, however, is that he was not apprehended. His escape route happened to pass near the post of a frontier garrison conscript named You, a holder of rank no. 6 on the Han ranking scale, a fairly high rank for commoners, who normally could reach only rank no. 8. If the “Ordinances on Fords and Passes” had been in effect at the time this case transpired, the Governor of Beidi Commandery would not have needed to write to the Commandant of the Court for clarification on this matter. According to ordinance no. 1, “When the [pass] officials, [garrison] conscripts, and those in charge [of the post] do not catch him: [order them] to redeem shaving.” This obviously would have been the proper match for You if that ordinance had been in place. He may not have even been aware that a runaway slave crossed...
near his post, probably at night, but that would be no excuse. He was in charge of that area and would have to pay twelve liǎng of gold to redeem the penalty of having the facial hair shaved. At least he did not knowingly let Yi through the border. That would have resulted in ‘sharing the same crime’ with the slave, as well as its matching punishment, namely, amputation of the left foot and a hard-labor sentence, which his rank would have commutted to shaving of the facial hair and a lesser hard-labor sentence.

This case and the others in this collection that involve border and passport issues highlight the great importance of border security during the early Han period. This concern extended not just to the frontier with the nomads to the north but also to the borders with the Regional Lords who were nominally subordinate to the power of the Han imperial center.