

**IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI**

**ESTATE OF REGENT TAYLOR**

**2008-TS-01411**

**APPEAL FROM THE CHANCERY COURT OF GREENE COUNTY, MISSISSIPPI**

**BRIEF OF APPELLEE**

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**ATTORNEY FOR APPELLEE**

**ORAL ARGUMENT IS NOT REQUESTED**

**IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI**


**ESTATE OF REGENT TAYLOR**

**2008-TS-01411**

**CERTIFICATE OF INTERESTED PERSONS**

The undersigned counsel of record certifies that the following list of persons have an interest in the outcome of this case. These representations are made in order that the Justices of the Supreme Court and/or the Judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. Melvin Sims, Appellant
2. Al Shiyou, Attorney for Appellant
3. Bernice Pierce Anderson Butler, Carrie Dantzler Sims, Flossie Dantzler Butler, Randall Dantzler, Beulah Dantzler Loper, Francis Brown, Evonne Brown, Ruth Milton, Paul D. McCann, Shirley Taylor-Witherspoon, Samuel Taylor, Versie Mae Taylor, Dorothy Taylor Butler, Celia Mae (Celly) Taylor, Jewel Taylor Jones, Sterling Taylor, III, Arthur Taylor, Madelyn Taylor Rice, Shannon Taylor Barnel, Clifton Taylor, Jr., Margaret Taylor, Clarence Taylor, Geni L. Taylor, Lester Taylor, Marilyn Taylor, Donald "Duck" Taylor, Lonnie Ray Taylor, Cassandra Taylor, Juanita Johnson, Northea Edgar Butler, Delma Smith, Ora Lee Debose, Ollie T. Loper, Henry E. Loper, Oscar Williams, Christine Williams, Rosemary Williams, Annie Williams, Jean Williams, Donald Ray Williams, Carol Williams, Barbara A. Dantzler, and Randall Dantzler, Jr., Appellees
4. Mark A. Maples, Attorney for Dorothy Taylor Butler, Appellee
5. Hon. D. Neil Harris, Sr., Chancery Judge of Greene County, Mississippi
6. Walter H. Honeycutt, Attorney for Appellees
7. Harvey Barton, Attorney for Appellees

  
MARK A. MAPLES, Attorney for  
Dorothy Taylor Butler, Appellee

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## **STATEMENT OF THE ISSUE**

- I. "Melvin Sims, who is your Mama, Bulah Loper or Carrie Sims?"

## **STATEMENT OF THE FACTS**

1. Regent Taylor, late of Greene County, Mississippi, died July 2, 1917 (Exhibit 31).
2. Regent Taylor had four (4) children (Exhibits 2 and 6): Carrie Taylor, Stark Taylor, Daphne Taylor, and Della Taylor. Regent Taylor's four children are now deceased.
3. Melvin Sims testified Bulah Loper told him that she was his mother.
4. Exhibit 35, 1939 Census form, identifies Melvin Sims as the nephew of Carrie Sims.
5. Melvin Sims obtained a delayed birth certificate (Exhibit 15) later in life, on his own testimony.
6. Melvin Sims signed two deeds (Exhibits 13 and 19), along with the other known and admitted heirs of Bulah Loper, representing and certifying he was truly a child of Bulah.
7. Dorothy Butler testified, in response to a question, "Carrie Sims didn't have any children, she was too mean" (Record page 57, lines 2-3).
8. Juanita Johnson, born January 1, 1918, is the child of Flossie Butler (Record 98-99).
9. Juanita Johnson (Record page 102, lines 14-19): "Carrie Sims did not have any children to my knowledge."
10. Juanita Johnson does not know why Bulah Loper would give one of her children (Melvin) to her sister, Carrie Sims. "I just know that she left him with her" (Record page 119, lines 16-19). He (Melvin) grew up as Bulah's child (Record page 121, lines 4-5).

## ARGUMENT

Regent Taylor lived the greater part of her life in rural Greene County in the 1800s. Her four children were born in the 1800s. Regent Taylor died in 1917. But for the ownership of the approximate 120 acres of land, no estate proceeding would have been initiated at this time. But for some of the heirs attempting to resolve the land issue, no heirship question of a woman who died in 1917 would be raised and before the Court.

Naturally, with the death of a person in 1917, the issue of trying to resolve their heirs in 2010 raises a difficult question. The trier of fact obviously must wrestle with the documents that can be produced, and the recollections of some of the grandchildren and great grandchildren of Regent Taylor who are alive today, to relate to the Court stories their parents and grandparents told them about Regent Taylor.

The Chancellor received the stories, reviewed these documents, and concluded that Melvin Sims was the birth child of Bulah Loper. Admittedly, Melvin Sims was raised by Carrie Sims, and that fact was undisputed amongst any witnesses who testified in this matter. However, the only documentary evidence that could be produced substantiating Melvin Sims' claim that Carrie Sims was his mother was the delayed birth certificate that Melvin Sims only recently obtained.

Faced with the conflicting evidence of a delayed birth certificate issued shortly before the time this litigation was begun in the 2000s, as compared to the testimony of the witnesses who related their knowledge and understanding of Melvin Sims' birth mother, the old census records and school records indicating who Melvin Sims was and where he lived, coupled with the fact that Melvin Sims signed deeds by the other children of Bulah Loper claiming to be an heir of Bulah Loper, the Chancellor considered all these matters, and ruled the following:

- 1) Melvin Sims is an heir of Regent Taylor; and
- 2) Melvin Sims is an heir of Regent Taylor through the line of Bulah Loper, rather than through the line of Carrie Sims.

Melvin Sims appeals the Judgment of Heirship. Melvin claims he is an heir of Regent Taylor through Carrie Sims, his aunt who raised him, rather than Bulah Loper, his birth mother.

The Appellant, Melvin Sims, wants his cake, and hopes to eat it also.

Melvin, only recently, obtained a delayed birth certificate. This delayed birth certificate would entitle Melvin to a 1/5th share of 1/2 share of the Regent Taylor Estate.

However, when Melvin stood to benefit from the lineage of Bulah, he signed two deeds when property of Bulah was being sold, ready to participate in that bounty.

The Regent Taylor Court file in the Greene County Chancery Court, Cause No. 2006-111, refers to Regent Taylor owning approximately 120 acres of Greene County Real Property. Some members of this family generated income from this land – and the sum of approximately \$40,000.00 currently rests in the registry of the Court.

If Melvin Sims can convince this Court, by virtue of his delayed birth certificate that he obtained within the last decade, that he is the legal child of Carrie, he will inherit up to twelve acres of land and \$4,000.00. However, if Melvin is found to be the child of Bulah, he will inherit his share of her bounty with his siblings.

### **SUMMARY OF LAW**

The Standard of Review in a Chancery case is well settled under Mississippi law. The findings of a Chancellor in these matters will not be disturbed by the Appellate Court unless the Chancellor was manifestly wrong, clearly erroneous, or an erroneous legal standard was applied.

The Court of Appeals will not disturb the Chancellor's findings of fact unless the findings are manifestly wrong, clearly erroneous, or an erroneous legal standard was applied. *Pruitt v. Payne*, 14 So. 3d 806 (Miss. App. 2009).

An Appellate Court will not disturb the findings of a Chancellor when supported by substantial credible evidence unless the Chancellor abused his or her discretion, was manifestly wrong, clearly erroneous, or an erroneous legal standard was applied. *Conservatorship of Simpson*, 3 So. 3d 804 (Miss. App. 2009).

This Appellee, Dorothy Taylor Butler, submits the decision of the Chancellor was made after receiving the testimony of all the witnesses, reviewing the documents, and resolving the facts in the manner he did, that being to include Melvin Sims as an heir of Regent Taylor, although finding that Melvin Sims is an heir of Regent Taylor through the Bulah Loper line. This position is based on the portions of the record identified hereinabove, on the testimony of the witnesses, and the admission of Melvin Sims himself, who could not conclusively establish the identity of his mother. The Chancellor, when faced with this claim by Melvin Sims alone as to his version of his paternity (Carrie Sims) as opposed to all the other documents, including the old census records, school records, and testimony of witnesses, the Chancellor found that the other documents and other evidence had a greater, more persuasive weight, and thus found that Bulah Loper is the mother of Melvin Sims.

Section 91-1-29 of the Mississippi Code 1972, *Annotated*, provides that all heirs and next of kin shall be made a party to the proceedings so that the heirship can be determined. Said Section further provides that "upon satisfactory evidence as to the death of said person and as to the fact that the parties to said suit are his sole heirs at law, the court shall enter a judgment that the persons so described be recognized as the heirs at law of such a decedent." Further, the



determination of heirship shall be established by clear and convincing evidence under Sections 91-1-27 and 91-1-29. See also *Ivy v. Illinois Cent. Gulf R. Co.*, 510 So. 2d 520 (Miss. 1987).


### **CONCLUSION**

This Appellee submits that the Chancellor is the trier of fact, the person who sits in judgment of the character and credibility of the witnesses and the judge of the credibility of the oral and documentary evidence coming before him. This Appellee submits the Chancellor received the testimony and information, and concluded that the overwhelming weight of the evidence, the testimony of the witnesses, the old birth records from years ago, overrode Melvin Sims' recently obtained delayed birth certificate, which stated that Carrie Sims was his mother.

This Appellee even submits that Melvin Sims could have filed a request for delayed birth certificate claiming some other person could have been his natural mother, and the Chancery Court in that particular case, hearing no objection, could have ruled in favor of Melvin Sims as requested. This Appellee submits the issuing of the delayed birth certificate, in and of itself, should not be the controlling matter in this cause.

For the reasons cited hereinabove, the facts and references to the record referenced, this Appellee moves the Court to affirm the heirship determination of the Chancellor and remand this matter back to the Greene County Chancery Court for further proceedings along the matters of the estate of Regent Taylor.

RESPECTFULLY SUBMITTED,

  
MARK A. MAPLES, Attorney for  
Dorothy Taylor Butler, Appellee

**CERTIFICATE OF SERVICE**

I, MARK A. MAPLES, do hereby certify that I have this date mailed, by United States Mail, postage prepaid, a true and correct copy of the above and foregoing Brief of Appellee to:

Hon. D. Neil Harris, Sr.  
Chancery Court Judge  
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Hon. Harvey Barton  
Attorney at Law  
3007 Magnolia Street  
Pascagoula, MS 39567

THIS the 19 day of February, 2010.

  
MARK A. MAPLES

**CERTIFICATE OF MAILING**

I, MARK A. MAPLES, do hereby certify that I have this date mailed, by United States Mail, postage prepaid, an original and three (3) copies of Brief of Appellee to the Clerk of the Supreme Court on this, the 19 day of February, 2010.

THIS the 19 day of February, 2010.

  
MARK A. MAPLES

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