

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

**2008-TS-01411**

**ESTATE OF REGENT TAYLOR**

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

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**BRIEF OF APPELLANT**

**ORAL ARGUMENT NOT REQUESTED**

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**Attorney for Appellant**

### **CERTIFICATE OF INTERESTED PARTIES**

The undersigned counsel of record for the Appellant, MELVIN SIMS, certifies that the following listed parties have an interest in the outcome of this case. These representations are made in order that the Justices of this Court may evaluate possible disqualifications or recusal:

1. MELVIN SIMS, Appellant
2. 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, J  
EWEL 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.
3. D. NEIL HARRIS, Chancery Judge of Greene County, Mississippi
4. WALTER H. HONEYCUTT, Attorney for Appellees
5. MARK A. MAPLES, Attorney for Appellees
6. HARVEY BARTON, Attorney for Appellees

**Appelles**

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AL SHIYOU, Attorney for Appellant

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## **STATEMENT OF THE ISSUES**

- I. Standard of Review-Whether the Chancellor abused his discretion in finding that Melvin Sims is the child of Bulah Loper and not of Carrie Dantzler Sims, as he claims.

## **STATEMENT OF THE CASE**

MELVIN SIMS, appeals from a Judgment Establishing Heirs entered in the Chancery Court of Greene County, Mississippi. The Chancery Court deemed SIMS as an heir of Bulah Loper, and not Carrie Dantzler Sims.

## **COURSE OF THE PROCEEDINGS AND DISPOSITION OF THE CASE IN THE COURT BELOW**

A suit was filed in the Chancery Court of Greene County, Mississippi seeking a determination of the heirs of Regent Taylor. Publication for unknown heirs was had in the time and manner prescribed by law, returnable to Greene County, Mississippi on March 23, 2007. No unknown heirs appeared, however a large number of known heirs did appear.

The case was continued from that date so that an evidentiary trial could be held by the Court. At the trial of this matter, a number of witnesses appeared and some 35 exhibits were introduced into evidence.

The Chancellor issued its Judgment Determining Heirs. Being aggrieved, SIMS filed his appeal of the Chancellor's ruling.

## **STATEMENT OF THE FACTS**

Regent Taylor, a female, died on July 21, 1917 as a resident of Greene County, Mississippi.

A suit was filed in the Chancery Court of Greene County, Mississippi seeking a determination of the heirs of Regent Taylor.

Publication for unknown heirs was had in the time and manner prescribed by law, returnable to Greene County, Mississippi on March 23, 2007. No unknown heirs appeared, however a large number of known heirs did appear.

The case was continued from that date so that an evidentiary trial could be held by the Court. At the trial of this matter, a number of witnesses appeared and some 35 exhibits were introduced into evidence.

During the trial of this matter, the Appellant, MELVIN SIMS, asserted that he is the child of Carrie Dantzler Sims. His assertion was by testimony and by documentary evidence.

In its Judgment Determining Heirs, the Court stated that the testimony and evidence presented at trial indicated that the Appellant herein, MELVIN SIMS, is the child of Bulah Loper, not Carrie Dantzler Sims, as he contends.

## **SUMMARY OF ARGUMENT**

### **I. Standard of Review-Whether the Chancellor abused his discretion in finding that Melvin Sims is the child of Bulah Loper.**

MELVIN SIMS submits that the standard of review used by this Court in reviewing a chancellor's findings is "abuse of discretion", and further submits that such discretion was abused when the chancellor, after hearing the evidence at trial as to the fact that MELVIN SIMS

is the son of Carrie Dantzler Sims, nonetheless, ruled that MELVIN SIMS, is the child of Bulah Loper, not Carrie Dantzler Sims, as he contends. **(RE.-19)** While SIMS understands that “this Court considers decisions of chancellors under a limited standard of review. *McNeil v. Hester*, 753 So. 2d 1057, 1063 (¶21) (Miss. 2000). Specifically, “[t]he chancellor, as the trier of fact, evaluates the sufficiency of the proof based on the credibility of witnesses and the weight of their testimony.” *Volmer v. Volmer*, 832 So. 2d 615, 621-22 (¶21) (Miss. Ct. App. 2002) (quoting *Fisher v. Fisher*, 771 So. 2d 364, 367 (¶8) (Miss. 2000)). As well as being the fact-finder, the chancellor is the sole judge of the credibility of witnesses when resolving discrepancies in a witness's testimony. *Murphy v. Murphy*, 631 So. 2d 812, 815 (Miss. 1994). Its findings **will not** be disturbed unless this Court finds that they were made in manifest error. *Richardson v. Cornes*, 903 So. 2d 51, 56 (¶18) (Miss. 2005). In other words, “where the record contains substantial credible evidence to support the chancellor's findings, we will defer to them.” *Volmer*, 832 So. 2d at 622 (¶21). Errors of law, however, are reviewed de novo. *Cooper v. Crabb*, 587 So. 2d 236, 239 (Miss. 1991)”. SIMS verily believes the Chancellor herein committed a manifest error and abuse of discretion which should result in his decision being overturned by this Court. The Chancellor relies, it appears, heavily on the Court’s question as to whether or not his mother, Carrie Dantzler Sims, “ever told you she was your mother” to which Mr. Sims responded “no”. **(RE. -19)** However, Sims would assert that most people never have their mother tell them “I am your mother”. Further, SIMS would also assert that following this logic, Bulah Loper, whom the Court decided is his mother, must not be his mother either, because she never told him “I am your mother”. SIMS would also assert that the documentary evidence he submitted, clearly establishes Carrie Dantzler Sims as his mother. **(RE.-9, 10 and 11).**

## ARGUMENT

### **I. Standard of Review-Whether the Chancellor abused his discretion in finding that Melvin Sims is the child of Bulah Loper.**

MELVIN SIMS submits that the standard of review used by this Court in reviewing a chancellor's findings is "abuse of discretion", and further submits that such discretion was abused when the chancellor, after hearing the evidence at trial as to the fact that MELVIN SIMS is the son of Carrie Dantzler Sims, nonetheless, ruled that MELVIN SIMS, is the child of Bulah Loper, not Carrie Dantzler Sims, as he contends. **(RE.-19)** While SIMS understands that "this Court considers decisions of chancellors under a limited standard of review. *McNeil v. Hester*, 753 So. 2d 1057, 1063 (¶21) (Miss. 2000). Specifically, "[t]he chancellor, as the trier of fact, evaluates the sufficiency of the proof based on the credibility of witnesses and the weight of their testimony." *Volmer v. Volmer*, 832 So. 2d 615, 621-22 (¶21) (Miss. Ct. App. 2002) (quoting *Fisher v. Fisher*, 771 So. 2d 364, 367 (¶8) (Miss. 2000)). As well as being the fact-finder, the chancellor is the sole judge of the credibility of witnesses when resolving discrepancies in a witness's testimony. *Murphy v. Murphy*, 631 So. 2d 812, 815 (Miss. 1994). Its findings **will not** be disturbed unless this Court finds that they were made in manifest error. *Richardson v. Cornes*, 903 So. 2d 51, 56 (¶18) (Miss. 2005). In other words, "where the record contains substantial credible evidence to support the chancellor's findings, we will defer to them." *Volmer*, 832 So. 2d at 622 (¶21). Errors of law, however, are reviewed de novo. *Cooper v. Crabb*, 587 So. 2d 236, 239 (Miss. 1991)". SIMS verily believes the Chancellor herein committed a manifest error and his decision should be overturned. The Chancellor relies, it appears, heavily on the Court's question as to whether or not his mother, Carrie Dantzler Sims, "ever told you she was your



mother” to which Mr. Sims responded “no”. **(RE.-19)** However, Sims would assert that most people never have their mother tell them “I am your mother”. Further, SIMS would also assert that following this logic, Bulah Loper, whom the Court decided is his mother, must not be his mother either, because she never told him “I am your mother”. SIMS would also assert that the documentary evidence he submitted, clearly establishes Carrie Dantzler Sims as his mother. **(RE.-9, 10 and 11).**

The only evidence which the Court has to support its decision as to the maternal parent of SIMS is the testimony of another witness and some deeds, over which confusion and misunderstanding reigns. **(RE.-17)**

SIMS proffered three separate documents which clearly establish his paternity. Trial Exhibit No. 17 **(RE.- 11)** is a copy of the “Educable Children” record from the Greene County Schools. These records reflect SIMS as the child of Carrie Sims. Trial Exhibit No. 16, **(RE.-10)** is a copy of SIMS record from the Social Security Administration which shows SIMS as the child of Carrie Dantzler Sims, as he contends. While it is clear that SIMS provided the information to obtain his delayed birth certificate, the same was and has never been contradicted before the Court. **(RE.-9).**

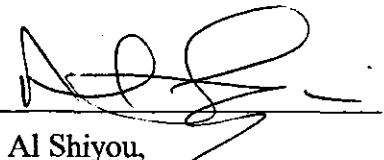
SIMS in his testimony before the Court was consistent in his position that Carrie Dantzler Sims was his mother. **(RE.-13 and 17).**

### **CONCLUSION**

In light of the overwhelming evidence in support of SIMS position that Carrie Dantzler Sims was his mother, the Chancellor abuse his discretion and committed a manifest error in determining that SIMS is the son of Bulah Loper and not Carrie Dantzler Sims.

Respectfully submitted, this the 4<sup>th</sup> day of September, 2009.

Melvin Sims, Appellant

BY:   
Al Shiyou,  
His Attorney

**CERTIFICATE OF SERVICE**

I, AL SHIYOU, do hereby certify that I have this day mailed by United States mail,  
postage prepaid, a true and correct copy of the above and foregoing Notice of Appeal to:


Hon. D. Neil Harris, Circuit Judge  
Greene County Chancery Court  
P.O. Box 998  
Pascagoula, MS 39568-0998

Hon. Walter H. Honeycutt  
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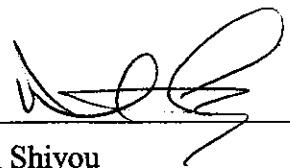
SO CERTIFIED, this the 4<sup>th</sup> day of September, 2009.

  
AL SHIYOU

**CERTIFICATE OF MAILING**

I, Al Shiyouni, do certify that I have this date, mailed via United States mail,  
postage prepaid, first class, an original and three (3) copies of the Appellant's Brief to the  
Clerk of the Supreme Court and this Appellant's Brief and copies therein are being  
deposited into the United States Mail on this, the 4<sup>th</sup> day of September, 2009, as required  
by M.R.A.P. Rule 25 (a) for filing of same to be deemed as of this date.

This the 4<sup>th</sup> day of September, 2009.

  
\_\_\_\_\_  
Al Shiyouni