

**IN THE SUPREME COURT OF MISSISSIPPI
NO. 2011-CA-01179**

JOHN A. SALTER

APPELLANT

vs.

**MADISON COUNTY CHANCERY CLERK AND
CARYN QUILTER**

APPELLEES

APPEAL FROM MADISON COUNTY CHANCERY COURT

BRIEF OF APPELLEE CARYN S. QUILTER

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**ORAL ARGUMENT
NOT REQUESTED**

CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of this Court may evaluate possible disqualification or recusal.

1. John A. Salter, appellant.
2. Caryn S. Quilter, petitioner and appellee
3. Arthur Johnston, Madison County Chancery Clerk and Conservator of the Estate of Medora Salter Weaver.
4. Medora Salter Weaver, ward.
5. Honorable Cynthia Brewer, Chancellor.

SO CERTIFIED, this the 24th day of January, 2012.



LUTHER T. MUNFORD
Counsel for Caryn Quilter

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INTRODUCTION

After a contested hearing, the chancellor appointed Arthur Johnston, Chancery Clerk of Madison County, as conservator of the estate of Medora Salter Weaver. Caryn S. Quilter, the niece who sought the conservatorship, asks that the chancery court's order be affirmed.

STATEMENT OF THE ISSUES

1. Whether the chancellor committed manifest error in determining that Medora Salter Weaver is in need of conservatorship.
2. Whether the chancellor committed manifest error in choosing the chancery clerk to act as conservator instead of the ward's 84 year old tax-protestor brother, appellant John A. Salter.

STATEMENT OF THE CASE

Course of Proceedings. On August 4, 2011, Caryn Quilter petitioned the Madison County Chancery Court to appoint her as conservator for the person and estate of her aunt, Medora Salter Weaver. Process was served on Weaver's two brothers, Cary W. Salter and John A. Salter. Cary W. Salter waived process and joined the petition for Quilter to be named as the conservator.

Brother John A. Salter ("appellant Salter"), however, father of Caryn Quilter, opposed the conservatorship. He cross-petitioned the court and asked that he be appointed conservator. After hearing testimony, the chancellor, Hon. Cindy Brewer, found that Weaver was in need of a conservatorship. She

appointed the chancery clerk, Arthur Johnston, to serve as conservator. CP. 16-19.

Appellant Salter then appealed to this Court pro se. While the appeal was pending, the chancellor issued a restraining order against him after he took Weaver on an unauthorized trip to Texas. The chancellor's order is not found in the official record but is an appendix to this brief.

Statement of the Facts. Caryn Quilter, an attorney for the Mississippi Senate for 20 years, has long been one on which her widowed aunt, Medora Salter Weaver, relied as did her husband James D. Weaver, before his death in 2000. In 1999, Weaver, who lived in Houston, Texas, made Quilter the alternate executor and trustee under his will. T.26 In 2000 the ward, Medora Weaver, named Quilter as the contact under her long-term care insurance. T. 26. In 2010, Weaver executed a release that allowed the long-term insurance carrier to discuss her policy with Quilter. T. 26.

In 2011, Quilter took five weeks off from her job with the Senate to take care of her aunt. T.28. In May, she went to Houston, stayed at Weaver's home, and determined it would be in Weaver's best interest to be in Mississippi. T.26. Weaver has no relatives in Texas, but does have relatives in Mississippi. T.28.

In June 2011 Quilter and her husband Steve Quilter went to Houston and moved Weaver to Jackson. Weaver gave Quilter her power of attorney. T. 28-30.

She stayed in Quilter's home for four days before moving to The Blake, a retirement home in Ridgeland. T. 14. She is happy there. T. 28. Another Weaver niece, Florence Gay Salter, said that Weaver was friendly to Quilter until shortly before the conservatorship hearing. T. 14. See also T. 12.

Quilter petitioned the Madison County Chancery Court to have a conservatorship established as a substitute for the Texas power of attorney she already held. CP. 1. A conservatorship would, of course, make her handling of her aunt's affairs subject to court review.

Attached to the petition are certificates from a medical doctor, Rebekah Moulder, M.D., and a psychologist, Heath Gordon, stating that they had personally examined Weaver and are of the opinion that "because of her physical incapacities and infirmities, she is unable to attend her physical needs or to manage her own financial affairs and estate." CP. 4-5. At the hearing, Weaver told the court she has Alzheimer's, and declared at one point that she did not know who Quilter was. T.6.

Appellant Salter, Quilter's father, is a tax protestor who has not paid income taxes since 1978, has not held a job within the memory of his relatives, and has taken bankruptcy in the past. T. 20-21. At the trial he said he did not remember a chain letter scam to which he had forged Quilter's name nor did he remember asking her for \$1,200 to carry out a mysterious plan to eliminate her

mortgage. T. 19. His niece, Florence Gay Salter, said that he had tried to enlist her in dubious schemes and was not fit to be conservator for her aunt. T. 14. Salter admitted that in 2009 he had taken a friend to visit Weaver and, while there, the friend ran up a \$600 telephone bill at Weaver's expense. T.23.

Appellant Salter asked the court to make him the conservator for Weaver. He had Weaver, who is incompetent, state that Quilter was a thief, and he accused Quilter and her husband of "kidnapping" Weaver when they brought her to Jackson. T. 18; Salter Brief at 5.

When the chancellor proposed a joint conservatorship, Quilter told the court that she just did "not see that it would work at all for us to have any joint responsibility." T. 26.

The chancellor then declared that Weaver was in need of a conservatorship and said she would appoint the chancery clerk to that position "based upon the ill will" as evidenced by the "testimonies here today of the family members . . ." T. 31.

The court ruled as follows:

THE COURT: All right. There being nothing further in regard to the petition before the Court in Cause No. 2011-0780-B, and the prayer for the creation of a conservatorship as it relates to Medora Salter Weaver. The Court has heard the testimony of two persons, one being a niece of the ward, and the other being another niece of the ward, and the counter-petition of the elder brother of the ward, being the eighty-four, almost

eighty-five, year old gentleman represented by Ms. Saling.

Based upon everything before the Court today, the Court is of the opinion, as are these family members, that Ms. Medora Salter Weaver is in need of a conservatorship and, therefore, a conservatorship is hereby required as it relates to her person and her estate. From henceforth Ms. Weaver shall be under a conservatorship in this court. The Court finds based upon the entire review of the facts and circumstances - - is there something beeping?

MR. SALTER: I beg your pardon.

THE COURT: What is beeping?

MR. SALTER: Oh, I'm sorry. I don't hear that well.

THE COURT: Thank you, sir.

The Court is of the opinion that it is in the best interest of the ward that the conservatorship, both the person and the estate, be placed in an objective, non-related person and does hereby select the Honorable Arthur Johnston, who is bonded and licensed in the State of Mississippi as a result of his services on behalf of the Chancery Clerk's job. He is also in a position to be a licensed, practicing attorney to know the ends and outs of the laws of the State of Mississippi as it relates to the protection of the assets and the person of Ms. Weaver. I select Mr. Johnston to serve in the capacity of the conservator of the person based upon the ill will that I justify [sic] in these testimonies here today of the family members and do not find that to be in the best interest of the ward, Ms. Weaver. Therefore, I place the entire conservatorship duties upon Mr. Arthur Johnston effective immediately here today.

Are there questions? (no response) Very well. There being no questions, the petitioner is hereby required to draft the paperwork reflecting the conservatorship of

Medora Salter Weaver, effective immediately, based upon a thorough review of the two doctors' statements and all persons being in agreement that a conservatorship is in the best interest of Ms. Weaver.

And based upon a thorough review of the testimony and the facts of these petitions does hereby deny the petition of Ms. Quilter that she be the conservator and does hereby deny the petition of Mr. Salter that he be the conservator and does hereby place the objective person of Arthur Johnston to serve in this capacity.

Mr. Johnston, you will take your oath immediately and begin your services. You may speak with the young lady, Ms. Quilter, who has previously had the power of attorney, in regard to her ceasing her duties and responsibilities as well as the power of attorney effective immediately, as well as speak to all the family members who happen to be here today about any needs that they may see that the ward may need while she stays at the Blake.

T. 30-32.

After Johnston became conservator, Salter took Weaver on an unauthorized trip to Texas. When Johnston telephoned him, Salter said he was only in south Jackson. In his brief, Salter blames this on his having taken a wrong turn and not realizing that he was out of the state. Salter Brief at 8-9. The chancellor then enjoined Salter from taking Weaver away from The Blake. See Appendix.

SUMMARY OF THE ARGUMENT

Although when she filed the petition Caryn Quilter asked that the court appoint her as conservator of her aunt, she now asks this Court to affirm the appointment of Arthur Johnston as conservator. The evidence shows that he is

fully qualified and Quilter is hopeful that his appointment will reduce future conflict between her and her father, appellant Salter.

ARGUMENT

The standard of review in conservatorship matters is that the chancellor's appointment of a conservator, if based on findings of fact, will be upheld unless her findings are manifestly wrong or clearly erroneous. *In re Conservatorship of Hester*, 989 So.2d 986, 989(8) (Miss. 2008); *In re Estate of Ladner*, 909 So.2d 1051, 1054(b) (Miss. 2004). On appeal, a chancellor's findings will not be reversed unless "manifestly wrong, clearly erroneous, or an erroneous legal standard was applied." *In re Estate of Ladner*, 909 So.2d 1051, 1054(6) (Miss. 2004).

I. The chancellor's finding that Weaver needs a conservatorship is supported by the evidence and is not manifestly erroneous.

The Chancellor credited the two affidavits attached to the petition. She also heard Weaver admit that she had Alzheimer's and deny that she even knew who Quilter was.

The pro se Brief of Appellant John Salter argues that the medical professional's affidavits are "questionable at best" but offers no evidence to support that contention. Salter Brief at 2. He also offers his own opinion that Weaver's problem may not be Alzheimer's disease at all but may just be the

result of ingestion of “certain unnatural substances deemed acceptable by the FDA.” Salter Brief at 9.

It was fully within the Chancellor’s authority to accept the opinion of medical professionals over the speculations of an 84-year-old financially irresponsible tax protestor.

II. The chancellor’s appointment of Arthur Johnston is supported by the evidence and is not manifestly erroneous.

A. Arthur Johnston is qualified to serve as conservator.

The Chancellor stated her reasons for reporting Arthur Johnston as conservator and they are quoted above. The Salter Brief does not question Johnston’s credentials or his integrity. It in no way suggests that he is unqualified to serve as conservator.

B. The evidence supports the chancellor’s decision not to name appellant Salter as conservator.

The evidence shows that John Salter is an 84 year old tax protestor who has not within memory held an actual job and at various times has attempted to foist on both his niece and his daughter various get-rich-quick schemes. He argues that he can serve as a conservator at less expense than Johnston can.

The Salter Brief not only does not dispute the ground the chancellor gave for choosing Johnston, but it provides additional evidence to support the chancellor’s conclusion. The chancellor said she was appointing Johnston because of “ill will” among family members. The Salter Brief dramatically

illustrates the ill will he bears toward his daughter Caryn and her husband Steve Quilter. That ill will is the reason for Johnston's appointment and is the reason why Caryn Quilter now supports that appointment.

CONCLUSION

The chancellor's decision to place Weaver into a conservatorship and to appoint Arthur Johnston as her conservator should be affirmed.

Quilter sought the conservatorship for herself but she believes that the chancellor's decision is supported by the evidence and will help avoid future conflict between Quilter and her father.

Quilter respectfully prays, however, that this Court will either affirm without opinion or will not publish an opinion in this matter, for two reasons:

First, the only issue is whether the chancellor's decision was supported by the evidence. It was. No manifest error, nor even the slightest error, has been shown. There is no legal issue here whose resolution would benefit the public.


Second, the record contains allegations against Quilter, her husband, and the chancellor that are as unsupported as they are false and scandalous. The allegations were made by an incompetent woman with Alzheimer's and a vindictive, litigious and irresponsible father.

Quilter sought this conservatorship with the best of intentions. She wanted to take her aunt's affairs out of Quilter's sole control, which Quilter enjoyed

because of the power of attorney, and to place them under the supervision of a court. She should not be punished for the good deed with an opinion that repeats wholly unfounded allegations against her.

RESPECTFULLY SUBMITTED, this the 24 day of January, 2012.

CARYN S. QUILTER

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the Brief of Appellee Caryn S. Quilter has been served via U.S. Mail, postage prepaid, on the following:

John A. Salter
848 Lakeland Drive
Jackson, MS 39216

Arthur S. Johnston, III
Post Office Box 3294
Ridgeland, MS 39158-3294

Honorable Cynthia Lee Brewer
Madison County Chancery Court
146 W. Center St.
Post Office Box 404
Canton, MS 39046-0404

This the 24th day of January, 2012.



Luther T. Munford

APPENDIX

IN THE CHANCERY COURT OF MADISON COUNTY, MISSISSIPPI

IN THE MATTER OF THE CONSERVATORSHIP
OF MEDORA SALTER WEAVER

NO. 2011-780-B

ORDER

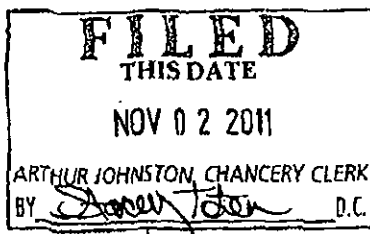
THIS CAUSE having come before the Court *sua sponte*, and the Court, having taken judicial notice of the events occurring during the late evening and early morning hours of October 31, 2011 and November 1, 2011 pertaining to the ward herein, Medora S. Weaver, as those events are set forth in that certain report filed by Arthur Johnston, Chancery Clerk of Madison County, Mississippi with the Ridgeland Police Department, a true and correct copy of which is on file with said Department as Case No. 2011-016958, finds and orders as follows:

1. Mr. John Salter is hereby restrained from removing the ward, Medora Salter Weaver from her residential facility, The Blake, until further order of this Court. Mr. Salter may visit with the ward, but must do so at The Blake.

2. In the event Mr. Salter or anyone acting on his behalf removes Medora Salter Weaver from The Blake,

- (a) Officials at The Blake are directed to advise both the Conservator and the Ridgeland Police Department of such fact and of the violation of this Order, and
- (b) Upon such notification, any sworn law enforcement officer is hereby ordered and directed to apprehend John Salter and the ward, Medora Salter Weaver, and return the ward to her residential facility, The Blake, immediately.

SO ORDERED AND ADJUDGED, this the 2nd day of November, 2011.



[Signature]
CHANCELLOR
STATE OF MISSISSIPPI
MADISON COUNTY
I, Arthur Johnston, Chancery Clerk of the above named County and State, do certify that the foregoing instrument is a true and correct copy of the original. Witness my signature and seal of court
This the 2nd day of November, 2011
ARTHUR JOHNSTON, CHANCERY CLERK
BY: [Signature] D.C.

