

11633

Before me the undersigned authority in and for said County and State personally appeared James N. Rutherford who is known to me and who being first by me duly sworn, deposes and says as follows:

My name is James N. Rutherford. I reside on Cahaba Valley Road, Shelby County, Alabama. I am 53 years of age and have spent virtually all my life in Shelby County. My father was George W. Rutherford, also known as G. W. Rutherford, who lived on Valleydale Road, Shelby County, Alabama. George W. Rutherford was at one time the owner of the following real property in Shelby County, Alabama:

Parcel 1: $W\frac{1}{2}$ of the $SE\frac{1}{4}$ of Section 30, Township 19, Range 2 West, containing 80 acres, more or less.

Parcel 2: $SW\frac{1}{4}$ of $NE\frac{1}{4}$ of Section 30, Township 19, Range 2 West, except a lot in the NW corner being 50'x 150'.

Parcel 3: $SW\frac{1}{2}$ of $SE\frac{1}{4}$ of $NE\frac{1}{4}$ of Section 30, Township 19, Range 2 West.

The property described above was owned by George W. Rutherford until he sold it to Catherine N. Gilmore on or about August 27, 1934; the deed is recorded in Book 94, Page 349 of the Probate Records of Shelby County, Alabama.

The purpose of this affidavit is to clarify certain aspects of E. Frances Gilmore's title to the above property. I now live, and have always lived, in close proximity to the above described property; hence, I am quite familiar with its ownership.

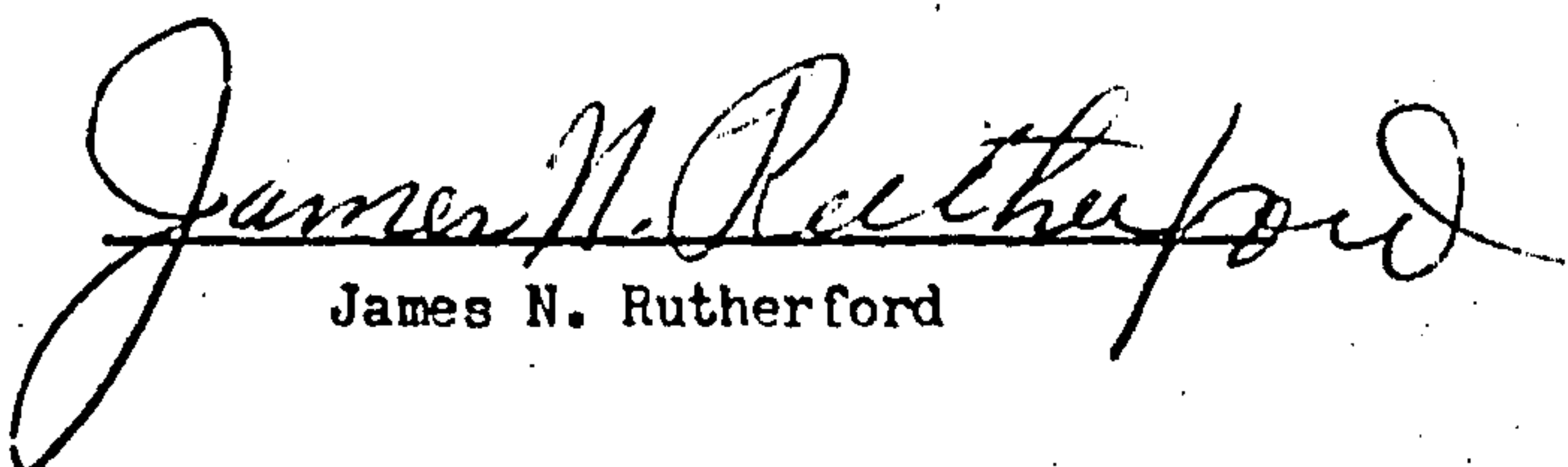
Although I do not remember the specific transaction, I do know that my father purchased Parcel 1 on November 27, 1915 from W. A. Hays, W. A. Walker and wife, Edith Walker, W. M. Hays and wife Nannie Hays, Lucile McKenzie and husband, S. E. McKenzie, R. B. Hays and wife, Carlotta Hays, J. Howard Hays, and Eunice Hays. The instrument is recorded in Deed Book 60, Page 145, in the Probate Records of Shelby County, Alabama. Upon the execution and delivery of the deed, my father went into actual, notorious, open, adverse, peaceful and exclusive possession of Parcel 1. He farmed and cultivated the land, and he was in the continuous, actual, open, notorious, and peaceful possession of this land each and every year from 1915 to 1934. After the sale of this land in 1934 it has been in the possession of the Gilmore family.

They have lived on the land and cultivated it. It has been used as a home-
stead. Their possession has been continuous, actual, open, notorious, and
peaceful from the year 1934 to the present. My father paid the taxes on
Parcel 1 from 1915 to 1934; I continue to pay taxes on the mineral and mining
rights which were reserved when the surface rights were sold to the Gilmores
in 1934. From 1934 to the present the taxes have been paid by the Gilmore
family. I have never heard of anyone named Hays, Walker, or McKenzie, their
heirs or assigns, claiming Parcel 1 either through acts of physical possession
or assessment of taxes.

The land described as Parcel 2 was purchased by my father on September 12,
1917 from Alabama Fuel & Iron Company, a corporation, the deed being recorded
in Deed Book 64, Page 501 of the Probate Records of Shelby County, Alabama.
The property conveyed to my father was the entire quarter-quarter section,
except one 50' x 150' lot. My father went into immediate possession of the
land. We fenced the property described in Parcel 2; I remember well that
in the year 1926 we dug holes for the fence around this quarter-quarter section.
The possession of this tract by my father was uninterrupted, actual, open,
notorious, and peaceful for a period of 17 years. The land was actually
cultivated by our family. From 1934 the Gilmores have had continuous, open,
actual, notorious, and peaceful possession of this tract of land. I have
never heard of anyone named Kendrick, Oswell, or Perkins, or their heirs or
assigns, claiming the land described as Parcel 2. The taxes were paid by
George W. Rutherford for some 17 years. Since 1934 the taxes have been paid
by the Gilmores.

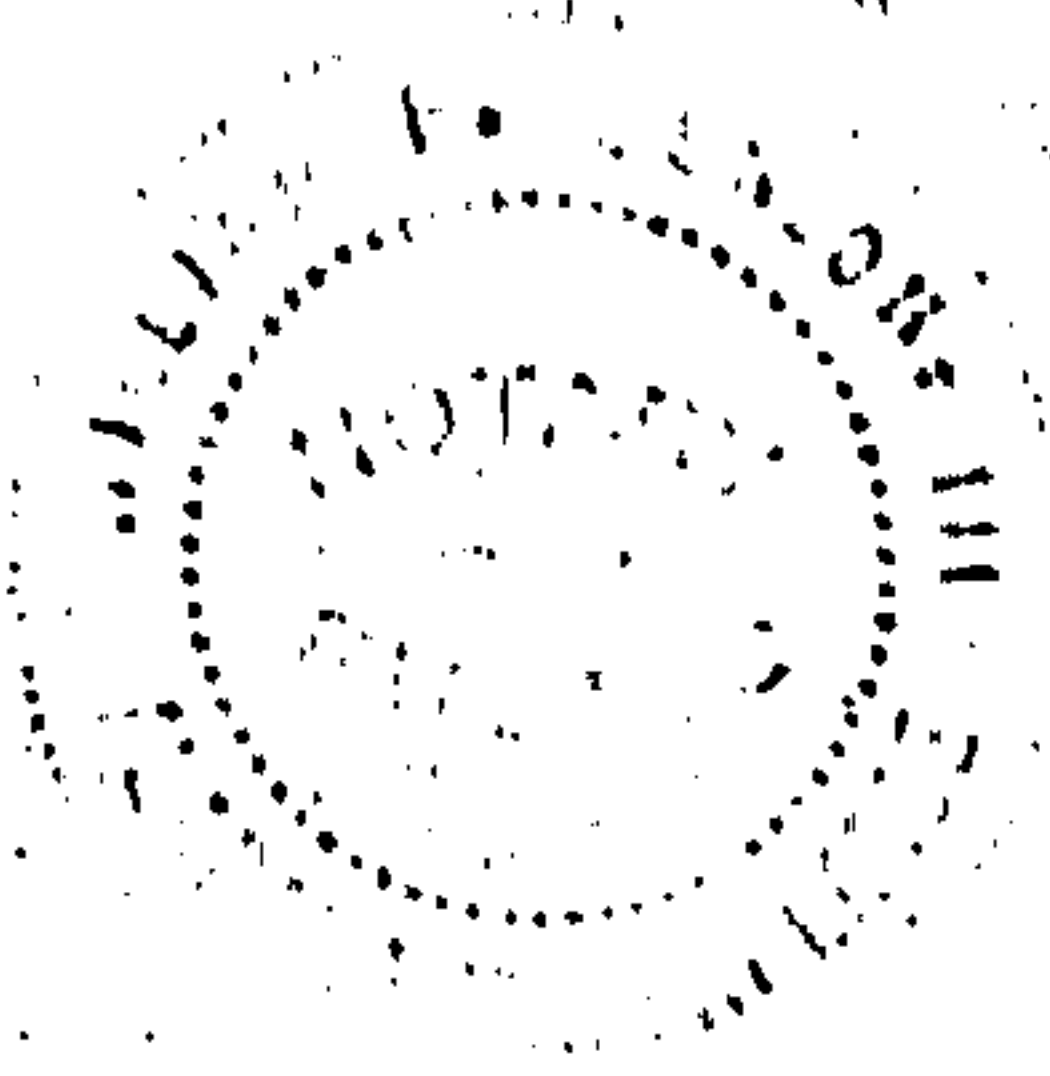
The land described as Parcel 3 was acquired by my father on September 28,
1928 from his brother, Ennis Rutherford; the deed is recorded in Deed Book 83,
Page 277 in the Probate Records of Shelby County, Alabama. Ennis U. Rutherford
and E. U. Rutherford are one and the same as Ennis Rutherford. That certain
deed from Arthur Jones and Cora Jones to Ennis W. Rutherford and wife, Crecia
Rutherford is a conveyance of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 30, Township 19,
Range 2 West to my Uncle Ennis; apparently there was some mistake in stating
his name. I know of my own knowledge that for over 40 years no one has claimed
the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ but the Rutherford families. In 1928 the SW $\frac{1}{2}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$
was sold by Ennis Rutherford to George Rutherford; in 1934 George Rutherford
sold it to the Gilmores. Although that certain deed from Catherine N. Gilmore

and Basil C. Gilmore to E. Frances Gilmore, dated August 15, 1941, and recorded in Deed Book 110, Page 342 of the Probate Records of Shelby County, Alabama, describes the S $\frac{1}{2}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$, I know that the description was incorrect. The grantors owned the SW $\frac{1}{2}$ of SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ which they had acquired from my father. The property is correctly described in Deed Book 83, Page 277 of the Probate records of Shelby County, Alabama. Basil C. Gilmore has been dead for over 10 years and Catherine Gilmore Brown has continued to reside on the property as a tenant of E. Frances Gilmore.


James N. Rutherford

Sworn to and subscribed before me
this 20 day of September, 1968.


Notary Public



STATE OF ALA. SHELBY CO.
NOTARY PUBLIC
INSTRUMENT WAS FILED
1968 SEP 21 PM 5:43
UCC FILE NUMBER OR
REC. BK. & PAGE AS SHOWN ABOVE
Conf by J. Rutherford
JUDGE OF PROBATE