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Shelby Cnty Judge of Probate, AL
05/11/1971 12:00:00 AM FILED/CERT

STATE OF ALABAMA)
SHELBY COUNTY)

AFFIDAVIT

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

My name is James M. Peters, I was born January 22, 1898, I am 73 years of age, and presently reside in the Pea Ridge Community in Shelby County, Alabama, where I have resided for my entire life. During my entire lifetime and at the present time I am personally familiar and acquainted with the ownership, location, use, occupation and possession of the following described property located in Shelby County, Alabama, to-wit:

A certain parcel or tract of land, beginning at the NE corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 2, Township 22, Range 4 West, and running in a southerly direction 345 feet to the north side of old Columbiana and Tuscaloosa public road, thence in a westerly direction running at an angle of 12 degrees south of west, along the north side of said public road 900 feet to southeast corner of William Pickett's four acres, thence running north 440 feet, more or less, to the northern boundary line of said forty, thence east to the point of beginning, containing 12.32 acres.

Also one tract of land described as follows: Beginning at the SW corner of NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 2, Township 22, Range 4 West, thence north 85 yards to point, thence east 440 yards to east boundary line of said forty acres, thence south 85 yards to southeast corner of said NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 2, Township 22, Range 4 West, thence West 440 yards to beginning, containing 7.63 acres. Total number of acres 19.95, more or less, and being that part of SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 2, Township 22, Range 4 West, lying North of said Columbiana and Tuscaloosa public road except four acres in SW corner of said tract belonging to W. M. Pickett, and situated in Shelby County, Alabama. Also being 7.63 acres off the south side of said NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 2, Township 22, Range 4 West, situated in Shelby County, Alabama.

My father was James Martin Peters, also known as James M. Peters, who died intestate in Shelby County, Alabama, on August 5, 1930. My mother was Fannie Virginia Peters, who died intestate in Shelby County, Alabama, on January 14, 1926. During their lifetime my father and mother had nine children born to them, being seven boys and two girls, namely: Cleo Peters, George Peters, H. B. Peters, Fannie Peters, Cleveland Peters, Leslie Peters, James Peters (myself), Mary Peters, and Geneva Peters. As previously stated, my mother predeceased my father, and all of my mother's and father's said nine children were living at the time of my father's death on August 5, 1930, with the exception of Cleo Peters, who died intestate in Shelby County, Alabama, on August 21, 1921, as a result of an accident in the Aldridge Mines. Cleo Peters was single at the time of his death and had never been married and had no children. Also, myself, James M. Peters, and my brother, George Peters, have never been married and have no children.

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At the time Cleo Peters departed this life intestate in Shelby County, Alabama, on August 21, 1921, he owned all of the above described land in fee simple, except the mineral and mining rights. I will discuss how my deceased brother, Cleo Peters, acquired fee simple title to all of the above described property in the following paragraphs of this affidavit. As stated above, at the time of Cleo Peters death, his only heirs and next of kin consisted of my mother and father, namely James Martin Peters, also known as James M. Peters, and Fannie Virginia Peters, and each inherited an undivided one-half interest in the above described property. When my mother, Fannie Virginia Peters, died intestate in Shelby County, Alabama, on January 14, 1926, her only heirs and next of kin consisted of my father, and her eight children, namely, George Peters, H. B. Peters, Fannie Peters, Cleveland Peters, Leslie Peters, James Peters (myself), Mary Peters, and Geneva Peters, who inherited her undivided one-half interest in the above described property. During his lifetime, my father, James Martin Peters, also known as James M. Peters, conveyed his undivided one-half interest in the above described property to my brother, George Peters, by Warranty Deed dated February 12, 1927, and recorded on February 16, 1927, in Deed Book 79, at page 336, in the Office of Judge of Probate of Shelby County, Alabama. After my father's death, myself and my six brothers and sisters, namely, H. B. Peters, Fannie Peters, Cleveland Peters, Leslie Peters, Mary Peters, and Geneva Peters, and their spouses, conveyed our undivided one-half interest in the above described property to our brother, George Peters, by Warranty Deed dated November 17, 1930, and recorded on December 11, 1930, in Deed Book 92, at page 41, in said Probate Records.

The foregoing paragraphs show how George Peters acquired fee simple title to the above described property, which was owned by Cleo Peters at the time of his death on August 21, 1921. The said Cleo Peters acquired his title to the above described property in several ways. First and foremost by Warranty Deed from Thomas H. Powell, dated June 17, 1914, and recorded on August 17, 1914, in Deed Book 56, at page 129. It is known to me that this deed from Thomas H. Powell to Cleo Peters excepts six acres in the southwest corner of that part of the Southwest Quarter of the Northeast Quarter of Section 2, Township 22, Range 4 West, on the North side of the old Columbiana and Tuscaloosa Road, and recites that the six acres excepted belong to "Martin Lawley and A. Thompson". Actually, A. Thompson never claimed more than four



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August 11, 1944, in Room 3001 30, at New York, in plain clothing. In company

West half of the Northeast quarter of Section 2, but with that exception said Deed was assigned the value of \$450.00 as claimed by A. Thompson and was assigned to the A. Thompson property. The land referred to in the above deed is one acre square fronting on the old Columbiana-Tuscaloosa Public Road, which adjoined the A. Thompson property on the west side.

I know of my own personal knowledge that Martin Lawley had a house located on that one acre and sold that one acre to my brother Cleo Peters around 1915 for \$100.00, which deed has been lost and is unrecorded. After the sale, Martin Lawley moved off this one acre and the house was torn down.

After W. M. Pickett, also known as William Pickett, acquired the four acres, more or less, from Leslie Peters, as above described, which four acres, more or less, was intended to be described in the above described deed from A. Thompson to Leslie Peters recorded in Deed Book 56, at page 132, the said W. M. Pickett, also known as William Pickett, put a fence around this four acres. This fence was erected several years prior to 1920 and I know of my own personal knowledge that this fence did not go North of the quarter-quarter section line between the Northwest quarter of the Northeast quarter and the Southwest quarter of the Northeast quarter of said section 2, nor did the West side of said fence row get any closer to the West line of the Southwest quarter of the Northeast quarter of said section 2 than 900 feet. I know of my own personal knowledge that from around 1916 to the time of his death in 1921 my brother, Cleo Peters, was in actual, exclusive, open, notorious, hostile and continuous possession of all of the land described in this Affidavit and that there were no boundary line disputes and during all of said time Cleo Peters was assessing and paying taxes on all of said land. After Cleo Peters' death, his heirs, and the grantee of his heirs, George Peters, remained in actual, exclusive, open, notorious, hostile and continuous possession of all of the land described in this Affidavit and assessed and paid taxes thereon. From approximately 1916 to 1943 all of the land described in this Affidavit was known and recognized throughout the

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...the land described in this Affidavit and ...
actual, exclusive, open, notorious, hostile and continuous possession thereof up to
... to the present.
our very truly

I understand that on June 15, 1970, Myrtle Smitherman conveyed this above described property to her son, Archie Roland Smitherman.

Further deposing, affiant says that at the present time Archie Roland Smitherman owns the land described in this Affidavit in fee simple, less mineral and mining rights, and since the time that he first knew and became acquainted with this land it has been owned by the present owners, and their predecessors in title and has been occupied by them actually, exclusively, openly, notoriously, hostilely and continuously and he has never heard the title of the present owners or their predecessors in title questioned in any way.

James M. Peters
James M. Peters

Sworn and subscribed to before me this
30 day of April, 1971.

Vivian D. Eady
Notary Public

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1971 MAY 11 AM 11:59
U.C.C. FILE NUMBER OR
REC. BK. & PAGE AS SHOWN ABOVE
Clerk of Probate
JUDGE OF PROBATE

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