

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

CIVIL ACTION NO.: CV-96-839

Gerald W. Boothe,

Plaintiff

vs.



Commence at the northeast corner of the SE 1/4 of the SW 1/4 of Section 5, Township 22 south, Range 3 west, Shelby County, Alabama and run thence southerly along the east line of said quarter-quarter section a distance of 238.96' to a point; thence turn 81 deg. 57 min. 58 sec. right and run west-southwesterly a distance of 812.31' to a steel pin corner on the south margin of a public road or easement known as Old Buttermilk Road or Jennifer's Cove Road and the point of beginning of the property being described; Thence continue along last described course and an existing fence line 89.30' to a steel pin corner; Thence turn 24 deg. 40 min. 49 sec. right to chord and run a chord distance of 106.97' to a steel pin corner; Thence turn 20 deg. 07 min. 39 sec. right from chord and continue along south margin of said road or easement and an existing fence a distance of 436.65' to a steel pin corner; Thence turn 5 deg. 55 min. 29 sec. right and continue along said south margin of said road or easement and said fence a distance of 295.92' to a steel pin corner; Thence turn 118 deg. 12 min. 01 sec. left and run southerly along an existing fence line 321.26' to a point in the centerline of an existing branch; Thence turn 59 deg. 10 min. 35 sec. left and run southeasterly along said branch 128.18' to a point; Thence turn 17 deg. 05 min. 08 sec. left and continue along said branch 83.11' to a point; Thence turn 22 deg. 51 min. 44 sec. right and continue along said branch a distance of 375.48' to a point; Thence turn 10 deg. 56 min. 52 sec. right and continue along said branch 117.28' to a point; Thence turn 93 deg. 16 min. 07 sec. left and continue along said branch 33.22' to a point; Thence turn 77 deg. 25 min. 36 sec. right and continue along said branch 54.65' to a point; thence turn 1 deg. 58 min. 55 sec. right and run 67.88' to a steel pin corner; Thence turn 27 deg. 53 min. 33 sec. right and run 58.00' to a point in the centerline of same said branch; Thence turn 42 deg. 19 min. 12 sec. left and continue along said branch 115.00' to a point in the intersection of two branches; Thence turn 149 deg. 35 min. 25 sec. left and run northwesterly along existing branch 100.00' to a point; Thence turn 74 deg. 12 min. 48 sec. right and continue along said branch 139.40' to a point; Thence turn 24 deg. 16 min. 01 sec. right and continue along said branch 70.47' to a point; Thence turn 28 deg. 43 min. 12 sec. left and continue along said branch 60.41' to a point; Thence turn 12 deg. 24 min. 29 sec. right and continue along said branch 66.30' to a point; Thence turn 77 deg. 21 min. 48 sec. left and run northwesterly along an existing fence line 179.77' to a steel pin corner; thence turn 22 deg. 43 min. 00 sec. right and continue along an existing fence line 98.46' to the point of beginning, containing 8.00 acres and subject to any and all agreements, easements, rights of way, restrictions, conditions and/or limitations of probated record and/or applicable law; and BERTHA VERNON, her heirs or devisees, if deceased; J. C. ALLEN, his heirs or devisees, if deceased; O. S. ALLEN, his heirs or devisees, if deceased; OTIS WILLIAMS, his heirs or devisees, if deceased; ELEANOR A. WILLIAMS, her heirs or devisees, if deceased, "A", "B", "C", "D", "E", being those persons and the heirs or devisees of those persons, if deceased,

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who, unknown to the plaintiff, claim or are reputed to claim, any title to or interest in, or lien or encumbrance on said lands or any part thereof, and all claimants, persons, associations, partnerships, or corporations who, unknown to the plaintiff, claim or are reputed to claim an interest in or to the above described real property or any part thereof;

Defendants.

### JUDGMENT AS TO PARCEL I

This cause came on to be heard on the 3<sup>rd</sup> day of March, 1997. Upon consideration of the verified complaint, including facts verified relative to service by publication, prior orders prescribing and directing notice to the Defendants and appointment of guardian ad litem, the lis pendens recorded in the records in the Office of the Judge of Probate of Shelby County, Alabama, proof of publication of notice of pendency of this proceeding, answer of the guardian ad litem appointed by the Court, denying all of the allegations of the complaint, and oral testimony taken in open court, the Court makes the following as findings of fact, among other things:

That Gerald W. Bpothe, at the time of the filing of the complaint in this cause, claimed in his own right the fee simple title to and was in actual peaceable possession of the following described lands:

Commence at the northeast corner of the SE 1/4 of the SW 1/4 of Section 5, Township 22 south, Range 3 west, Shelby County, Alabama and run thence southerly along the east line of said quarter-quarter section a distance of 238.96' to a point; thence turn 81 deg. 57 min. 58 sec. right and run west-southwesterly a distance of 812.31' to a steel pin corner on the south margin of a public road or easement known as Old Buttermilk Road or Jennifer's Cove Road and the point of beginning of the property being described; Thence continue along last described course and an existing fence line 89.30' to a steel

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2. That at the time of the filing of the complaint, no suit was pending to test Plaintiff's title to, interest in, or the right to the possession of said land.

3. That Plaintiff's complaint was duly verified, and was filed against said lands and against any and all persons claiming any title to, interest in, lien or encumbrance on said land or any part thereof, and was to establish the right or title to such lands or interest, and to clear up all doubts or disputes concerning the same, and that said complaint did in all respects comply with the provisions of the Code of Alabama 1975, Sec. 6-6-561.

4. That service of process was had in strict compliance with the provisions of the Code of Alabama, 1975, Sec. 6-6-564 and Rule 4.3 of Alabama Rules of Civil Procedure, and the Court finds as a fact that Plaintiff exercised diligence to ascertain all of the facts in regard to the names of proper parties Defendants.

5. That notice of the pendency of said complaint was issued by the court and published once a week for four consecutive weeks in the Shelby County Reporter a newspaper having general circulation and published in Shelby County, Alabama.

6. That a copy of said notice, certified by the Court as being correct, was recorded as a lis pendens in the Office of the Judge of Probate of said county, said notice being in compliance with the Code of Alabama, 1975, Sec. 35-4-131.

7. That it has been more than thirty days since the last publication of said notice and the filing of a certified copy of said notice in the Office of the Judge of Probate Shelby County.

8. That no person has intervened in this case except that the Honorable Roy Johnson, appointed by the Court herein as guardian ad litem for interest of infant, lunatic, and unknown parties in the proceeding has appeared herein, denied the allegations of the complaint, demanded strict proof thereof, and examined the entire file in this proceeding, including the testimony on behalf of the Plaintiff.

9. That all of the allegations of fact contained in the complaint are true; that there was proper service of process on all of the Defendants named in the complaint.

10. That the Defendants named in the complaint contained all names known to Plaintiff after the exercise of diligence, and that all of the Defendants were represented in this proceeding by guardian ad litem except those that had filed answer and waivers or as to whom default judgment had been entered after proper service of process.

11. That the Plaintiff complied with all of the provisions of law relative to this proceeding in rem to establish title to land. It is, therefore,

ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff is entitled to the relief prayed for in the complaint and that the fee simple title claimed by the Plaintiff in and to the above described lands has been duly proved, and that the Plaintiff is the owner of said lands and has a fee simple title thereto, free of all liens and encumbrances except as hereinabove referred to, and that his title thereto be and is hereby cleared up. It is further

ORDERED, ADJUDGED AND DECREED by the Court that a certified copy of this decree be recorded in the Office of the Judge of Probate of Shelby County, Alabama, and that it be indexed in the name of the Plaintiff herein, in both the direct index and indirect index of the records thereof. It is further

ORDERED, ADJUDGED AND DECREED by the Court that the Honorable Roy Johnson, be and he is hereby awarded a fee of \$ 300.00 for his services as guardian ad litem in this proceeding, to be taxed as a part of the costs herein, to be paid by the Clerk of this Court to him on payment of such costs, It is further

GERALD W. BOOTHE v. A PARCEL OF LAND IN THE SE 1/4 OF THE SW 1/4 OF SECTION 5, TOWNSHIP  
22 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA  
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ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff herein pay  
the costs of the proceedings, for which execution may issue.

Done this 3rd day of March, 1997

D. Al Cowson  
Circuit Judge

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