

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

JOHN JOSEPH SMITH, JR.

Plaintiff,

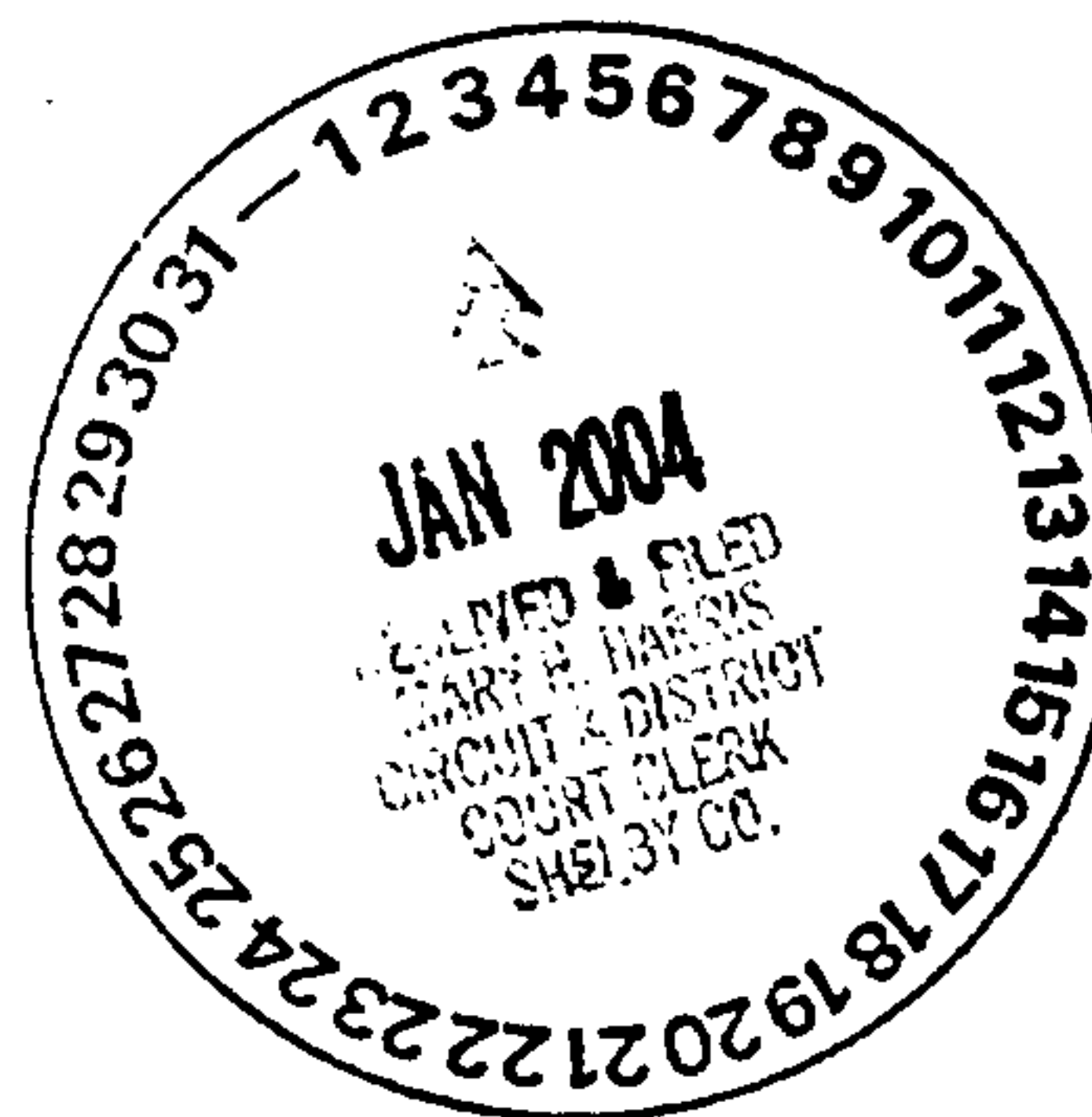
vs.

CIVIL ACTION NUMBER

CV-2003-735

IN PERSONAM, the unknown heirs of Byron B. Barnes, who is deceased, and his heirs or devisees, including, but not limited to, Louise Barnes Gallups, Rebecca Louise Barnes Roof, James Breckenridge Barnes, and, Byron Fenwick Barnes.

IN REM, A parcel in South $\frac{1}{2}$ of the NW $\frac{1}{4}$ described as beginning 762.80' North of Southwest corner, thence North 117.58'; East 2,646.73'; South 105'; West 2,649.09' to point of beginning. Range 1 East, Section 10, Township 21 South, Shelby County, Alabama, containing 6.75 + / - acres.



Defendants.

FINAL JUDGMENT

This matter was called for trial on Monday, December 15, 2003, and the Court, having received testimony and documentary evidence from the parties, makes the following findings of fact:

1. The Plaintiff, John Joseph Smith, Jr., claimed to own, at the time of the filing of his Complaint, the fee simple title to, and was in actual possession of, the following described real property located in Shelby County, Alabama:

IN REM, A parcel in South $\frac{1}{2}$ of the NW $\frac{1}{4}$ described as beginning 762.80' North of Southwest corner, thence North 117.58'; East 2,646.73'; South 105'; West 2,649.09' to point of beginning. Range 1 East, Section 10, Township 21 South, Shelby County, Alabama. Containing 6.75 + / - acres.

Based upon the evidence presented, this property is more accurately described as follows:

Commence at the southwest corner of the SW 1/4 of the NW 1/4, Section 10, Township 21 South, Range 1 East; thence run north along the west line of said quarter section a distance of 762.80 feet to the point of beginning; thence continue along the west line of said quarter section a distance of 117.58 feet to a point which is 459.00 feet south of the northwest corner of the said quarter-quarter section; thence turn an angle of 90 degrees 17 minutes 58 seconds to the right and run a distance of 2,646.73 feet to the west right-of-way line of Highway Number 7; thence turn an angle of 88 degrees 23 minutes 56 seconds to the right and run along said right-of-way a distance of 105.00 feet; thence turn an angle of 91 degrees 19 minutes 41 seconds to the right and run a distance of 2,649.09 feet to point of beginning, being situated in the south half of the northwest quarter of Section 10, Township 21 South, Range 1 East, in Shelby County, Alabama, containing 6.76 acres.

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

3. The Plaintiff's Complaint was filed against said land and against any 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 land or interest, and to clear up all doubts or disputes concerning the same, and that said Complaint, as amended, did in all respects comply with the provisions of *Ala. Code*, Section 6-6-561.

4. Service of process was had in strict compliance with *Ala. Code*, Section 6-6-563 and 6-6-564, and Rule 4 of the *Alabama Rules of Civil Procedure*, and that the Plaintiff and guardian ad litem mentioned hereinafter exercised diligence to ascertain all of the facts in regards to the names of the proper party defendants.

5. Notice of the pendency of the 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. It has been more than thirty (30) days since the last publication of said notice.

7. The *in personam* defendants, Louise Barnes Gallups, Rebecca Louise Barnes, and James Breckenridge Barnes, were duly served with the Summons and Complaint, as amended, and appeared at the trial of this case, either in person or by counsel. The Defendant, Byron Fenwick Barnes, an heir of Byron B. Barnes, could not be located and served personally. However, he was served by publication and his interest was represented by the Honorable Jospeh E. Walden, who was

appointed guardian ad litem to represent all infants, incompetents, or unknown parties. In representing all such persons, the guardian ad litem appeared and denied the allegations of the Complaint, demanded strict proof thereof, and examined the file in these proceedings, including the testimony on behalf of the parties at trial.

8. All of the allegations of fact contained in the Complaint, are true, and that there was proper service of process on all of the Defendants named in the Complaint, as amended.

9. The Defendants named in the Complaint contained all names known to the Plaintiff after the exercise of due diligence, and that all of the Defendants were represented in the proceedings by the guardian ad litem, except those represented by counsel or appearing in person.

10. The Plaintiff has complied with all of the provisions of the law relative to this proceeding in rem and in personam to establish title to the land.

As a result of the above, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

a. Judgment is hereby entered in favor of the Plaintiff and against the Defendants with respect to the allegations of the Complaint.

b. The Plaintiff, John Joseph Smith, Jr., is hereby declared to be the owner of the property made the basis of this action, and title to the following described property located in Shelby County, Alabama is hereby **VESTED** in him:

Commence at the southwest corner of the SW 1/4 of the NW 1/4, Section 10, Township 21 South, Range 1 East; thence run north along the west line of said quarter section a distance of 762.80 feet to the point of beginning; thence continue along the west line of said quarter section a distance of 117.58 feet to a point which is 459.00 feet south of the northwest corner of the said quarter-quarter section; thence turn an angle of 90 degrees 17 minutes 58 seconds to the right and run a distance of 2,646.73 feet to the west right-of-way line of Highway Number 7; thence turn an angle of 88 degrees 23 minutes 56 seconds to the right and run along said right-of-way a distance of 105.00 feet; thence turn an angle of 91 degrees 19 minutes 41 seconds to the right and run a distance of 2,649.09 feet to point of beginning, being situated in the south half of the northwest quarter of Section 10, Township 21 South, Range 1 East, in Shelby County, Alabama, containing 6.76 acres.

c. The Plaintiff, John Joseph Smith, Jr., is hereby awarded **IMMEDIATE POSSESSION** of the property described in the foregoing paragraph, and shall have all remedies available to him through this Court to retain possession.

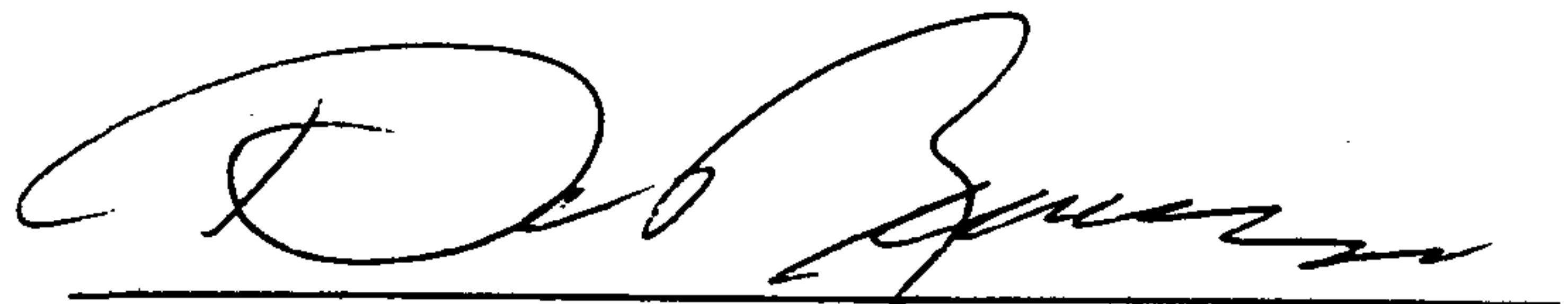
d. The Defendants, Louise Barnes Gallups, Rebecca Louise Barnes Roof, Byron Fenwick Barnes, and James Breckenridge Barnes, are hereby **DIVESTED** of any interest in, and claim and title to the above described property.

e. The guardian ad litem, Joseph E. Waldren, having expended approximately eight (8) hours through the trial of this matter, is hereby awarded a fee of \$1200. The Plaintiff shall pay such amount directly to Mr. Waldren by check within thirty (30) days. Consequently, the clerk shall tax that amount as costs of this proceeding only upon such further petition of the guardian ad litem.

f. A copy of this judgment shall be recorded in the Probate Office of Shelby County, Alabama. The Clerk of the Probate Office is directed to record the judgment in the direct/grantor index under the names of Louise Barnes, Louise Barnes Gallups, Byron B. Barnes, Rebecca Louise Barnes, Rebecca Louise Barnes Roof, Byron Fenwick Barnes, and James Breckenridge Barnes; and, in the reverse/grantee index under the name of John Joseph Smith, Jr.

g. Costs of this action are hereby taxed as paid.

Done and Ordered on this the 31st day of December, 2003.



George Daniel Reeves, Circuit Judge

cc: Braxton Wagnon, Esquire
300 Office Park Drive
Suite 175
Birmingham, AL 35223

Lindsey J. Allison, Esquire
1300 Corporate Drive
Hoover, AL 35242

Certified a true and correct copy

Date: 2/4/04



Mary H. Harris, Circuit Clerk
Shelby County, Alabama

Joseph E. Walden, Esquire
P.O. Box 1610
Alabaster, AL 35007

Hewitt L. Conwill, Esquire
P.O. Box 557
Columbiana, AL 35051