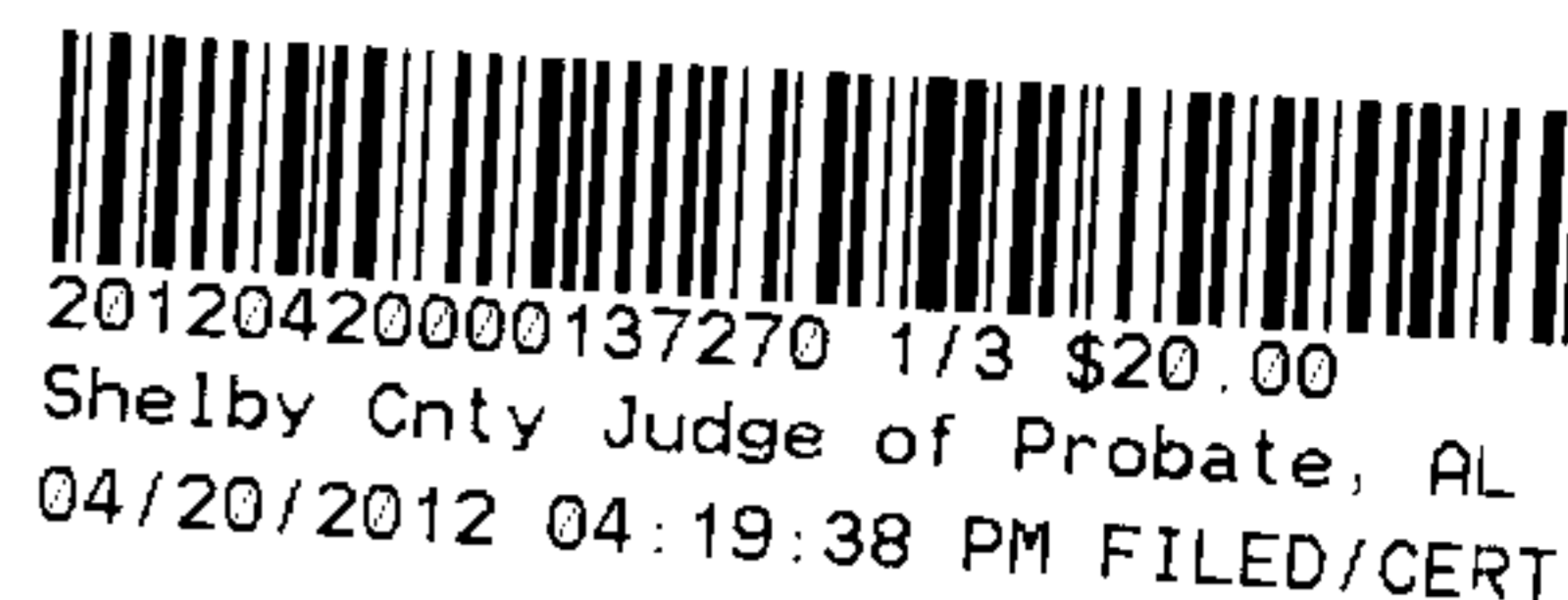


IN THE PROBATE COURT OF SHELBY COUNTY, ALABAMA

IN THE MATTER OF THE ESTATE OF  
JONATHAN D. TURNER  
a/k/a JONATHAN DANIEL TURNER

)  
)  
)

CASE NO. PR-2011-000293



**ORDER ON PETITION FOR INSTRUCTIONS**

This cause came to be heard on October 5, 2011 on personal representative John David Nicholson's petition for instructions. Proper notice was given to all necessary parties. Present in court were: John David Nicholson, personal representative, and his attorney, Terrill W. Sanders, Esq., and Bradley J. McGiboney, Esq., attorney for Verna Laird Estoque, sister of the decedent. The case was called and the court proceeded to take ore tenus testimony and receive exhibits that were properly introduced into evidence.

At the time of his death, the decedent and his sister were beneficiaries of a testamentary trust established in the will of their mother, Ella Louise Laird. The decedent was residing in a rental apartment in Tuscaloosa, Alabama at the time of his death but he had purchased a single family residence in Shelby County, Alabama.<sup>1</sup> It is undisputed that the decedent purchased the real estate with funds distributed from the trust. According to the terms of the trust, it was to partially distribute to the beneficiaries (the decedent and his sister, Vera) upon the sooner of the youngest child achieving a degree from an accredited four year college or university or the youngest child attaining age 25. The balance was to be distributed upon the youngest child reaching age 30.

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<sup>1</sup> The sellers of the purchased real estate were still occupying it at the time of decedent's death.

The decedent was not 25 and had not yet achieved a college degree at the time of his death. Distributions were also authorized for expenses for education, health care or necessities of the beneficiaries.

*Black's Law Dictionary* (7<sup>th</sup> ed.) defines "necessities" as "indispensible things of any kind" and refers to the synonym "necessaries". According to the *Dictionary*, "necessaries" do not include "what the person is already supplied with". In the present case, the decedent was already supplied with housing in Tuscaloosa, Alabama. In fact, he continued to live in Tuscaloosa after purchasing the subject real estate in Shelby County. Therefore, distribution from the trust for purchase of the Shelby County property was not a distribution for a necessity (or for health care or education expenses).

Based on the evidence and the pleadings and papers on file, the Court FINDS, and so holds, that the real property located at 234 Nichols Road, Chelsea, Shelby County, Alabama and more particularly described as:

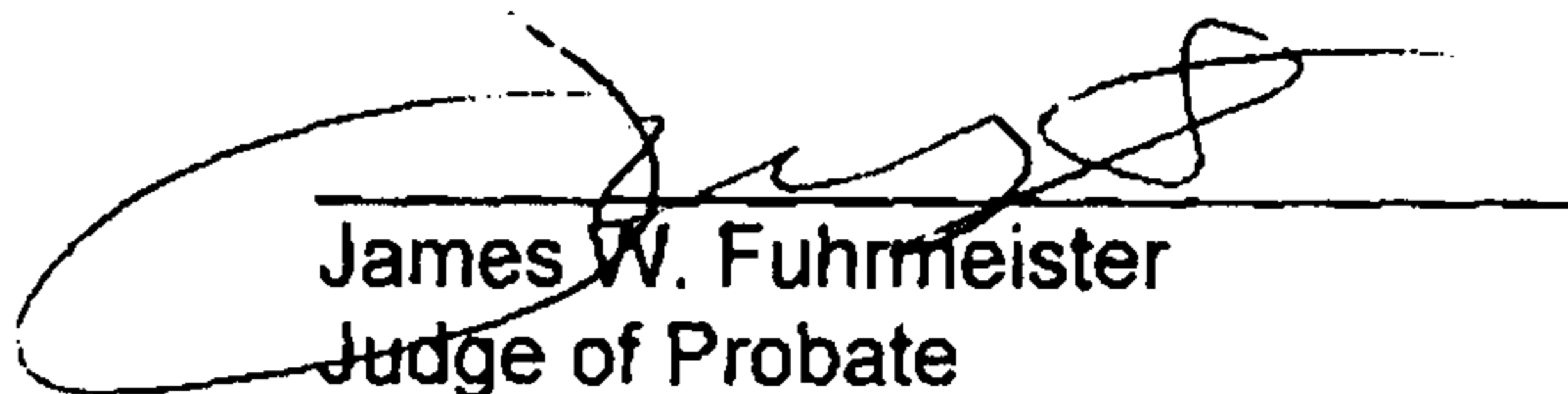
**Situated in Chelsea, Shelby County, State of Alabama and being described as follows: A parcel of land in Shelby County, Alabama, described as follows:**

**Commence at the Southeast corner of the Northeast ¼ of the Southwest ¼ of Section 12, Township 20 South, Range 2 West of the Huntsville Meridian; proceed westerly along the south line of said ¼ - ¼ section for a distance of 70.02 feet to the point of beginning; continue along said line for a distance of 71.92 feet to the centerline of Nichols Road; turn an angle to the right of 49 degrees 24 minutes 42 seconds and proceed along said centerline for a distance of 42.26 feet; turn an angle to the left of 9 degrees 54 minutes 30 seconds and proceed along said center line for a distance of 140.39 feet; turn an angle to the right of 81 degrees 36 minutes 16 seconds and proceed for a distance of 215.08 feet; turn an angle to the right of 57 degrees 15 minutes 18 seconds and proceed for a distance of 131.76 feet; turn an angle to the right of 98 degrees 02 minutes 57 seconds and proceed for a distance of 315.05 feet to the point of beginning.**

is an asset of the testamentary trust created under the last will and testament of Ella Louise Laird and is not an asset of the Jonathan D. Turner's estate.


Court costs are taxed to the Estate of Jonathan D. Turner for which execution may issue.

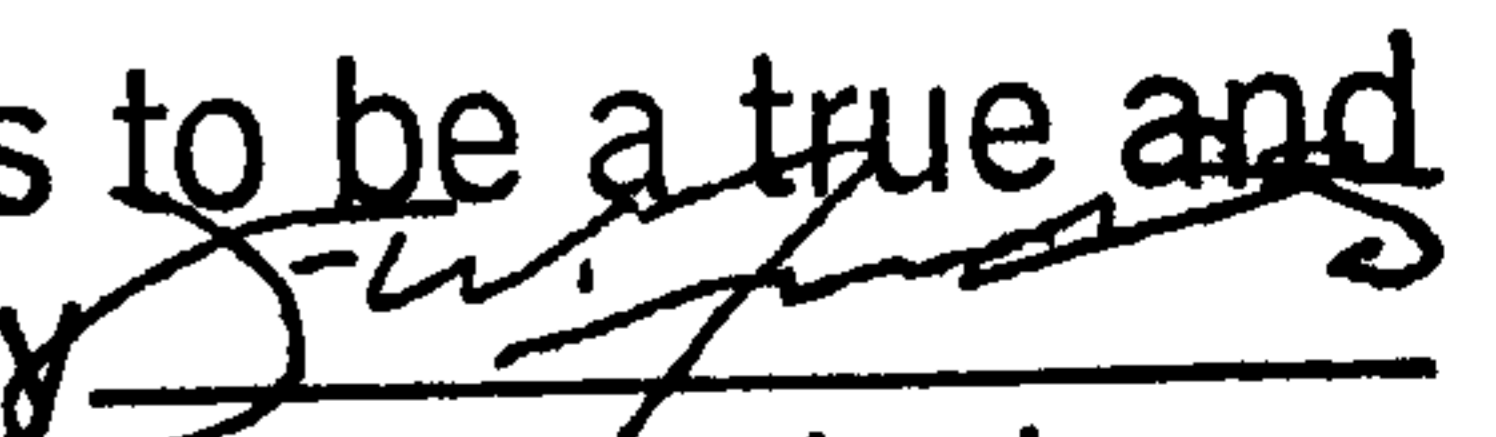
DONE and ORDERED this 4<sup>th</sup> day of November, 2011.

  
James W. Fuhrmeister  
Judge of Probate

cc: Terrill W. Sanders, Esq.  
John R. Elliott, Esq.  
John David Nicholson, Personal Representative  
Verna Laird Estogue  
Ketric Turner  
Arlen Butz  
April Arnold

ENTERED AND FILED  
NOV 04 2011  
KIMBERLY MELTON CHIEF CLERK  
PROBATE COURT  
SHELBY COUNTY ALABAMA

  
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Shelby Cnty Judge of Probate, AL  
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I certify this to be a true and  
correct copy   
Probate Judge  
Shelby County  
(KIM) 4-20-12