



ELECTRONICALLY FILED
8/12/2019 8:47 AM
58-CV-2019-900464.00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE CIRCUIT COURT OF SHELBY COUNTY,

WELLS FARGO BANK, N.A.,
Plaintiff,

V.

DONZE SCOTT B.,
LIBBY TINA,
Defendants.

Case No.: CV-2019-900464.00

Default Judgment as to Defendant Scott B. Donze

IT APPEARING TO THE COURT that on April 30, 2019, Plaintiff filed a Complaint seeking an order reforming the Mortgage recorded at Instrument Number 2009090900345830 of the Shelby County, Alabama probate records to include Louise Donze and Freddie J. Donze, II as grantors thereto.

IT FURTHER APPEARING TO THE COURT that on October 31, 2007, Fred J. Donze, Louise Donze and Freddie J. Donze, II obtained title to the property located at 112 Hayesbury Lane, Pelham, Shelby County, Alabama 35124 (the "Property") by virtue of that certain Warranty Deed recorded on November 8, 2007, at Instrument Number 20071108000515570 of the Shelby County, Alabama probate records (the "Vesting Deed").

IT FURTHER APPEARING TO THE COURT that also on October 31, 2007, in order to secure a Note in the original principal amount of \$134,000.00, Fred J. Donze, Louise Donze and Freddie J. Donze, II executed a Mortgage in favor of MortgageAmerica, Inc., conveying the Property as security (the "First Mortgage"). The First Mortgage was recorded on November 8, 2007, at Instrument Number 20071108000515580 of the Shelby County, Alabama probate records.

IT FURTHER APPEARING TO THE COURT that on August 25, 2009, Fred J. Donze



20191023000390020 1/4 \$36.00
Shelby Cnty Judge of Probate, AL
10/23/2019 11:11:30 AM FILED/CERT

and Louise Donze refinanced the First Mortgage by executing an additional Mortgage in favor of MortgageAmerica, Inc., securing a Note in the original principal amount of \$135,000.00, and conveying the Property as security (the "Refi Mortgage"). The Refi Mortgage was recorded on September 9, 2009, at Instrument Number 20090909000345830 of the Shelby County, Alabama probate records.

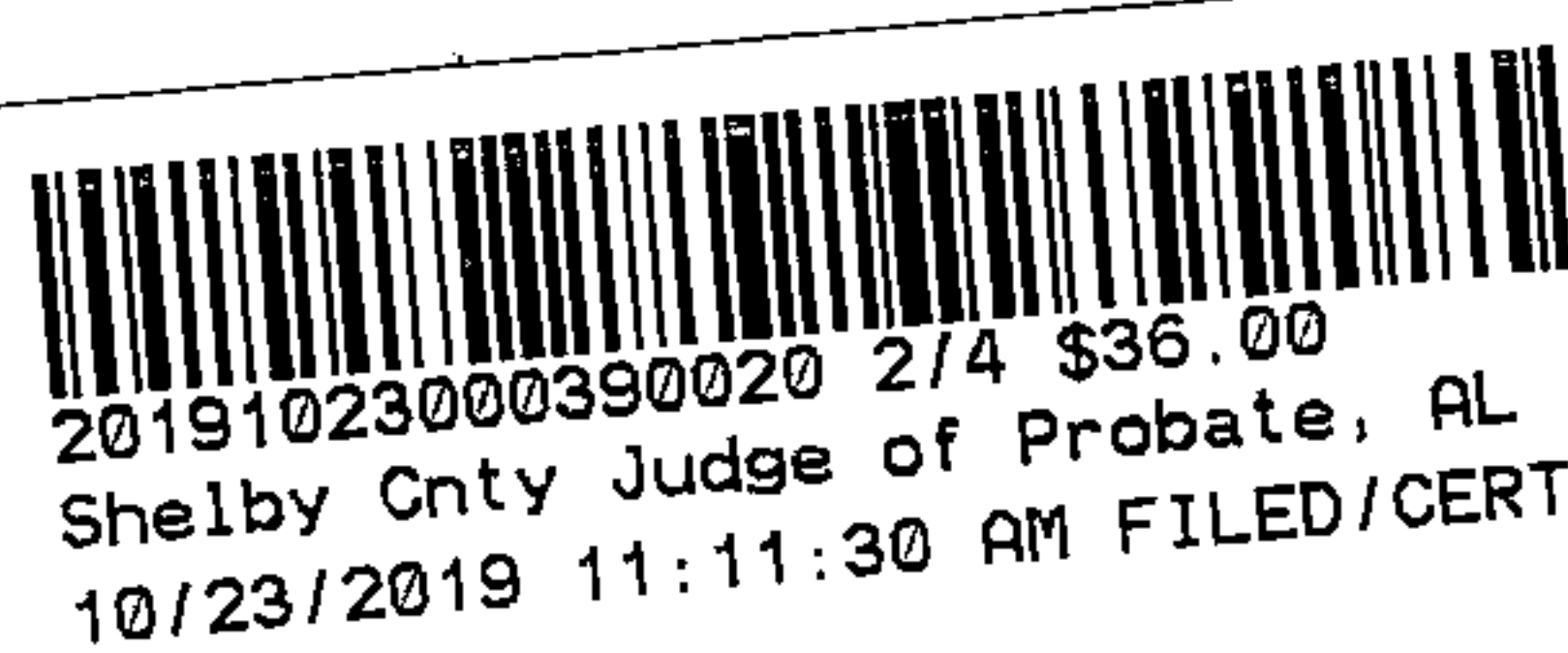
IT FURTHER APPEARING TO THE COURT that on October 5, 2009, a Discharge of Mortgage was recorded for the First Mortgage at Instrument Number 20091005000377350 of the Shelby County, Alabama probate records, evidencing the payoff of the First Mortgage loan through the refinance

IT FURTHER APPEARING TO THE COURT that due to an inadvertent mutual mistake, Louise Donze and Freddie J. Donze, II were not listed as Grantors on the Refi Mortgage and Freddie J. Donze, II did not join in the execution of the Refi Mortgage.

IT FURTHER APPEARING TO THE COURT that upon information and belief, Fred J. Donze passed away on February 4, 2011. At the time of his death, Fred J. Donze's heirs were his wife, Louise Donze, and his three surviving children[1], Freddie J. Donze, II, Scott Donze and Tina Libby a/k/a Tena Libby.

IT FURTHER APPEARING TO THE COURT that upon information and belief, Louise Donze passed away on March 14, 2014.

IT FURTHER APPEARING TO THE COURT that upon information and belief, Freddie J. Donze, II, passed away on January 9, 2018. Pursuant to his obituary, he was survived by his brother, Scott Donze and sister, Tina Libby a/k/a Tena Libby. Scott Donze and Tina Libby a/k/a Tena Libby have been named as Defendants in this action as the only surviving heirs of Fred Donze, Louise Donze and Freddie Donze, II.



IT FURTHER APPEARING TO THE COURT that Plaintiff is the current holder of the Refi Mortgage pursuant to that Corporate Assignment of Mortgage dated March 21, 2018, and recorded on March 23, 2018, at Instrument Number 20180323000096770 of the Shelby County, Alabama, probate records.

IT FURTHER APPEARING TO THE COURT that the Refi Mortgage does not fully encumber the Property as originally intended. The Vesting Deed purports to convey the Property to Fred J. Donze, Louise Donze and Freddie J. Donze, II, but Louise Donze and Freddie J. Donze, II are not listed as Grantors on the Refi Mortgage and Freddie J. Donze, II did not join in the execution of the Refi Mortgage.

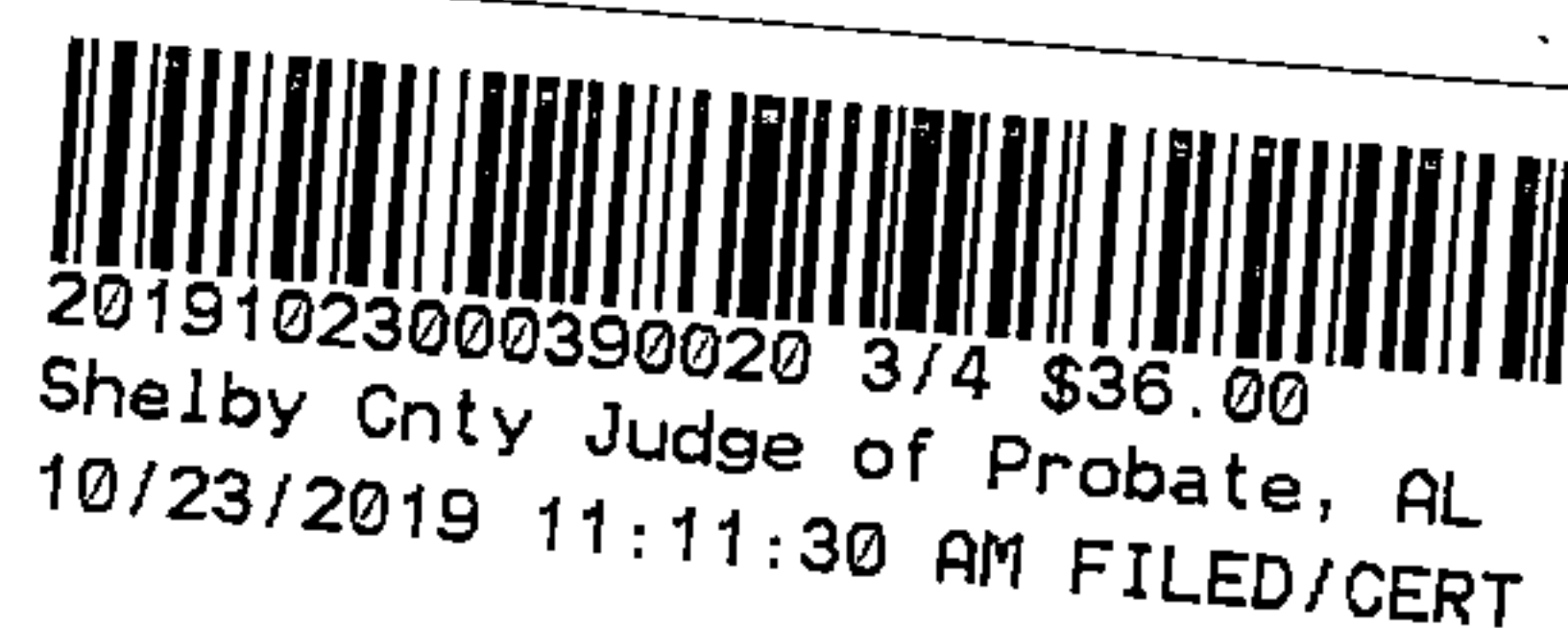
IT FURTHER APPEARING TO THE COURT that pursuant to Rule 55 of the *Alabama Rules of Civil Procedure*, Defendant Scott B. Donze has failed to file an answer or other defensive pleading within the time allowed by law and Defendant is in default. It is therefore,

ORDERED AND ADJUDGED that the Refi Mortgage recorded at Instrument Number 20090909000345830, Shelby County, Alabama probate records is hereby REFORMED to include Louise Donze and Freddie J. Donze, II, as Grantors thereto. It is further;

ORDERED AND ADJUDGED that the Refi Mortgage recorded at Instrument Number 20090909000345830, Shelby County, Alabama probate records is hereby REFORMED to include the signature of Freddie J. Donze, II. It is further;

ORDERED AND ADJUDGED that Plaintiff has a first priority security interest against all the Property by virtue of the Refi Mortgage recorded at Instrument Number 20090909000345830, Shelby County, Alabama probate records. It is further;

ORDERED AND ADJUDGED that that the Property is fully encumbered in its entirety by the Refi Mortgage and declaring that any interests that the Defendants have in the Property



are subordinate and subject to the interests of Plaintiff by virtue of the Refi Mortgage. It is further;

ORDERED AND ADJUDGED that this Court's Order be recorded in the probate records of Shelby County, Alabama, cross referencing the affected recorded instruments.

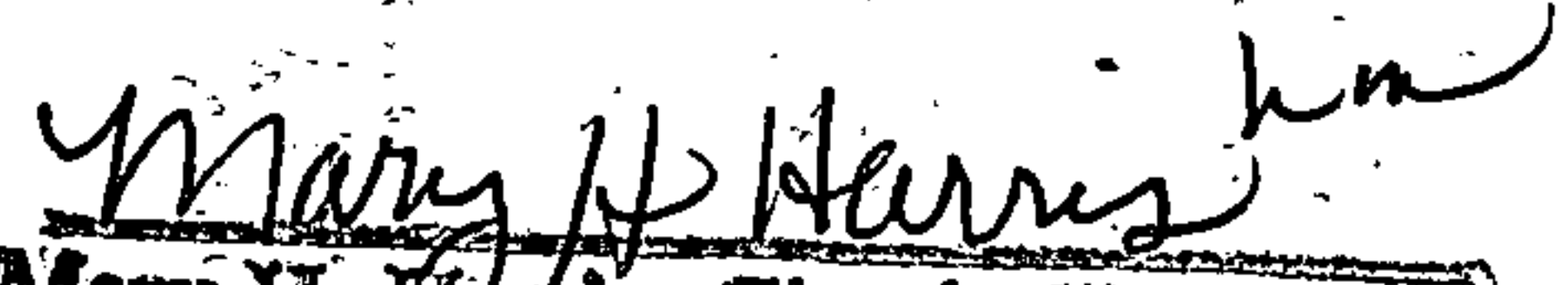
[1] Fred J. Donze was preceded in death by two children, Michael Fred Donze and Frank Donze.


DONE this 12th day of August, 2019.


COREY B. MOORE, CIRCUIT JUDGE

Certified a true and correct copy

Date: 7/8/17/19


Mary H. Harris, Circuit Clerk
Shelby County, Alabama


20191023000390020 4/4 \$36.00
Shelby Cnty Judge of Probate, AL
10/23/201 11:11:30 AM FILED/CERT