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58-CV-2024-900003.00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE CIRCUIT COURT OF SHELBY COUNTY,

TIMOTHY COLLUM COOKE,)

Plaintiff,)

vs.)

DAVID M. KING, JR., SHARMON D.)
KING,)

Defendants.)

CASE NUMBER 58-CV-2024-900003

ORDER GRANTING DEFAULT JUDGMENT

This matter came before the Court on the Plaintiff's Motion for Default Judgment pursuant to Alabama Rules of Civil Procedure Rule 55 and the Plaintiff's Suggestion of Death. The Court having considered the same finds the Motion due to be GRANTED and hereby enters DEFAULT JUDGMENT in favor of the Plaintiff and awarding the Plaintiff possession of the subject property.

1. This case was filed on January 3, 2024.
2. The Subject Property is located at 206 Butler Street, Columbiana, Shelby County, Alabama 35051, and is legally described as follows:

The land hereinafter referred to is situated in the City of Columbiana, County of Shelby, State of AL, and is described as follows:

Commence at the SE corner of SW 1/4 of SE 1/4, Section 23, Township 21 South, Range 1 West; thence South 88 degrees 30 minutes West 32 feet to point on the West line of Collins Street thence turn an angle of 89 degrees 30 minutes to the right and run 30 feet to the point of beginning; thence continue North along said West line of Collins Street 179 feet thence turn an angle of 89 degrees 30 minutes left and run 322 feet to pipe at NE corner of J. M. Butler's lot; thence turn an angle of 90 degrees 30 minutes left along said Butler's East line 179 feet; thence turn an angle of 89 degrees 30 minutes left and run 322 feet to point of beginning.

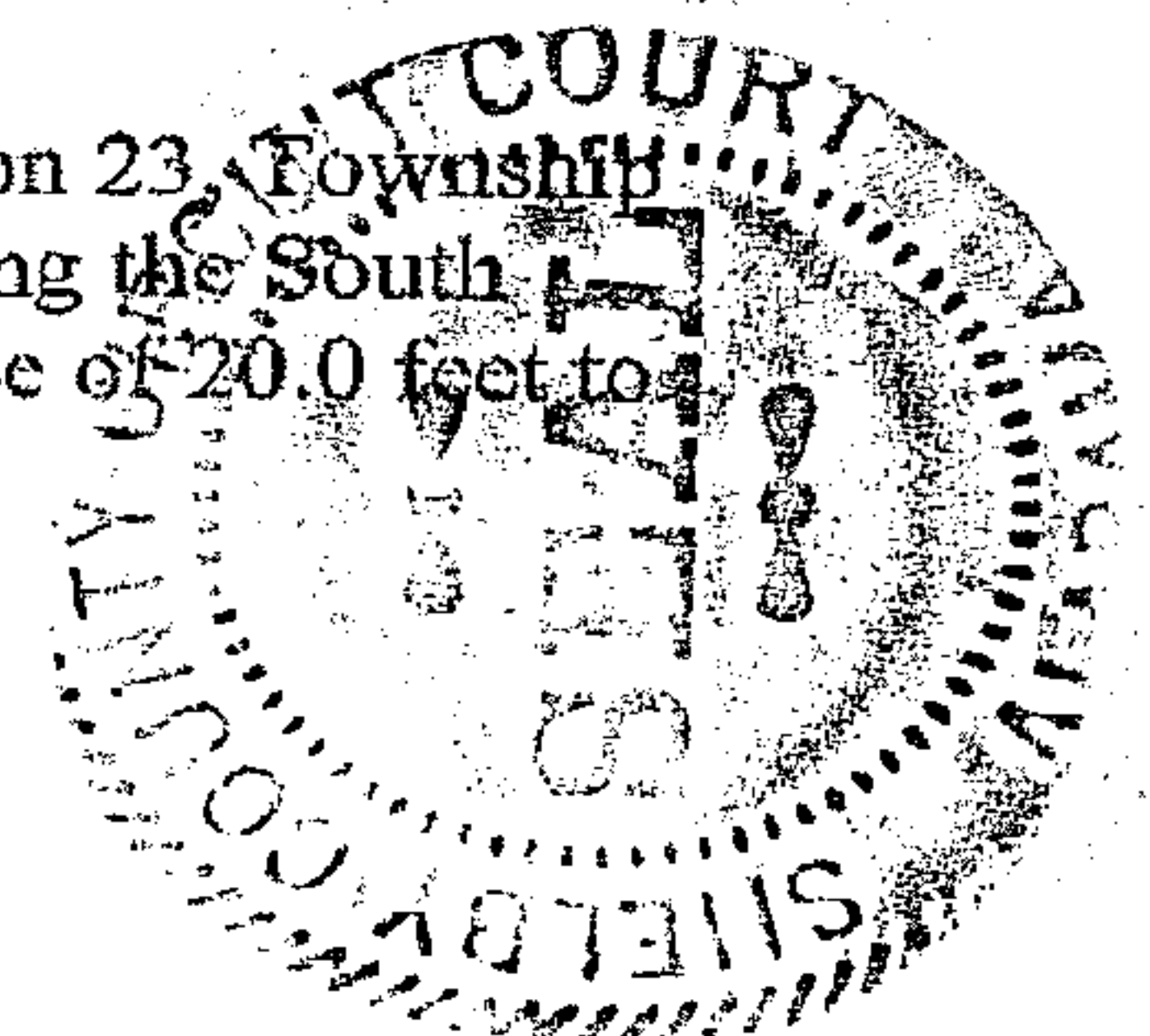
Less and Except the following:

Commence at the Southeast corner of the SW 1/4 of the SE 1/4 of Section 23, Township 21 South, Range 1 West, Shelby County, Alabama; thence run West along the South section line 354.0 feet; thence turn right 89 degrees 30 minutes a distance of 20.0 feet to

Certified a true and correct copy

Date: 11-27-24

Mary H. Harris / AB
Mary H. Harris, Circuit Clerk
Shelby County, Alabama



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the North side of Butler Street and the point of beginning; thence continue last course a distance of 190.0 feet; thence turn right 170 degrees 02 minutes 43 seconds a distance of 193.20 feet to the North side of Butler Street; thence turn right 100 degrees 27 minutes 17 seconds a distance of 33.40 feet along Butler Street to the point of beginning.

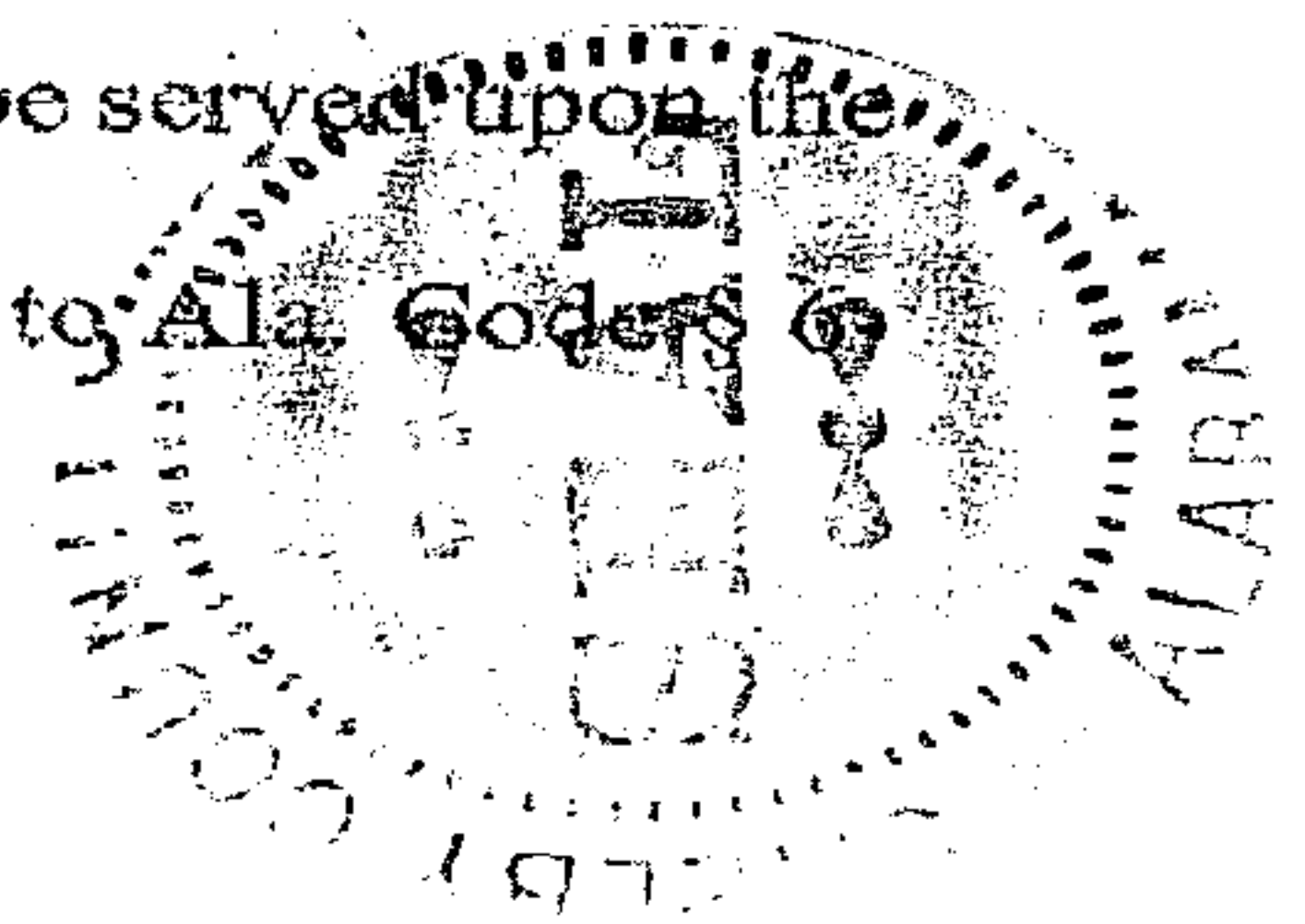
3. The Defendants David M. King, Jr., and Sharmon D. King, husband and wife, executed a Mortgage on the Subject Property, said Mortgage being recorded at Instrument Number 20141113000357640 in the Probate Office of Shelby County, Alabama, and subsequently assigned to U.S. Bank National Association, said Assignment being recorded at Instrument Number 201905240001789 in the Probate Office of Shelby County, Alabama.

4. The Defendant Sharmon King passed away on or about June 2, 2022. See Exhibit 1 attached to Plaintiff's Suggestion of Death previously filed in this matter. The Plaintiff did not find any open estate for the late Ms. King; however, the property that is the subject of this litigation was conveyed to the Defendants as joint tenants with right of survivorship. Therefore, any interest in the subject property owned by Ms. King became vested in her husband the Defendant David King immediately upon her death. See Exhibit 2 attached to the Plaintiff's Suggestion of Death.

5. The Defendants defaulted on said Mortgage, and the Subject Property was sold and conveyed at a foreclosure sale on August 1, 2022, to U.S. Bank National Association by virtue of a Foreclosure Deed recorded at Instrument Number 20220829000336780 in the Probate Office of Shelby County, Alabama. See Exhibit 1 attached to the Complaint.

6. On or about October 27, 2023, the Subject Property was conveyed by U.S. Bank National Association to the Plaintiff Timothy Collum Cooke by virtue of a Special Warranty Deed recorded at Instrument Number 20231205000351520 in the Probate Office of Shelby County, Alabama. See Exhibit 2 attached to the Complaint.

7. On or about December 4, 2023, Plaintiff served or caused to be served upon the Defendant written Demand for Possession of the subject property pursuant to Ala. Code § 6-2-2.



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5-251 (1975). See Exhibit 3 attached to the Complaint.

8. The Plaintiff brought this action in accordance with Ala. Code § 6-6-280(b) (1975). The Plaintiff has legal title superior to that of the Defendant by virtue of his aforementioned deed, and to the extent the Defendant claims to be in possession of the Subject Property, his interest is unlawful and inferior to Plaintiff's status and title. As such, the Plaintiff is entitled to immediate possession of the Subject Property.

9. The Defendant unlawfully withholds and detains the Subject Property from the Plaintiff. The Defendant's statutory right of redemption has expired, and as such, he has lost his right to redeem the Subject Property. The Defendant has failed and refused to vacate the Subject Property despite the Plaintiff's demand to do so, and he is unlawfully withholding the Subject Property from the Plaintiff.

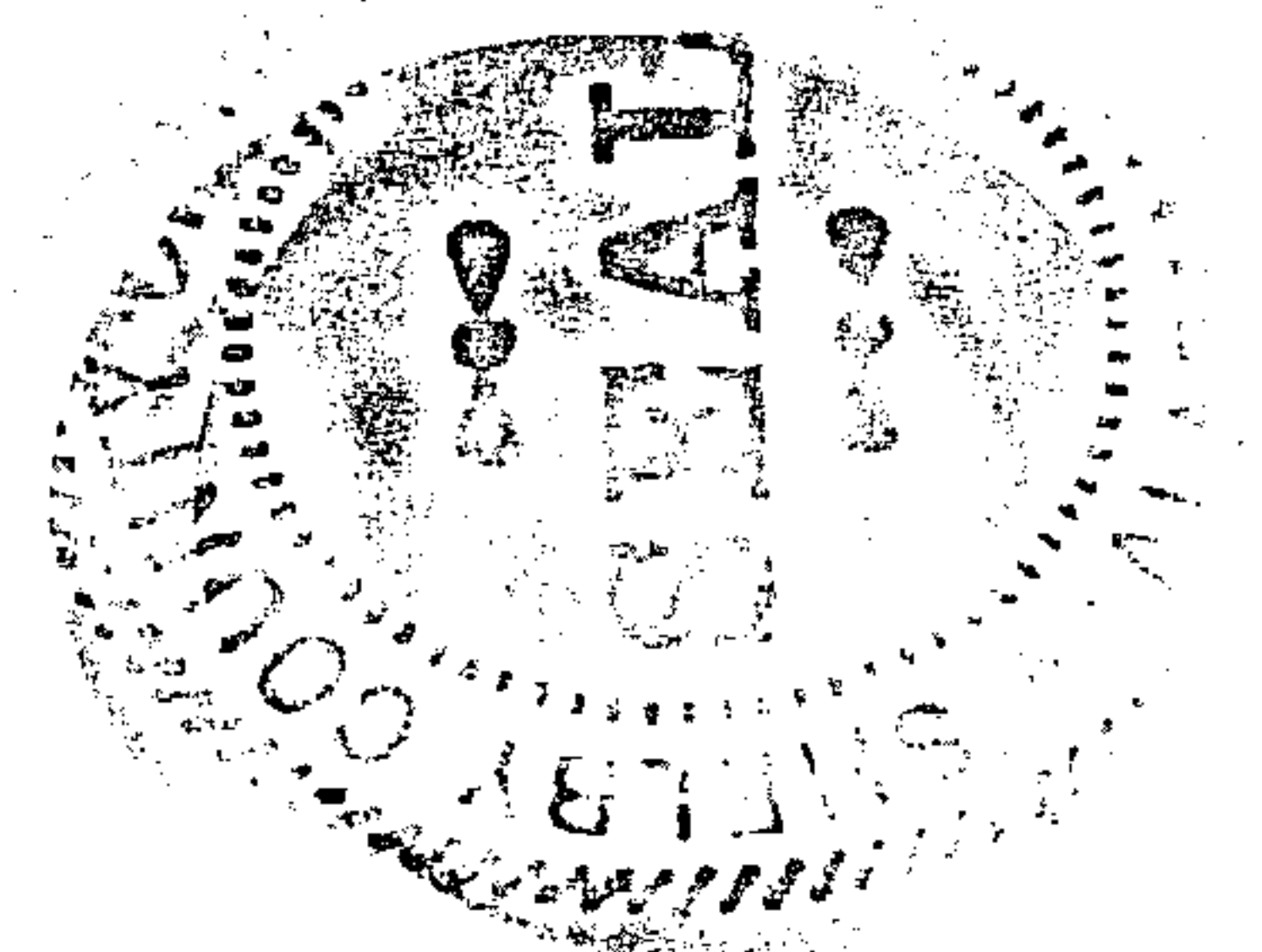
10. The Defendant David M. King, Jr., was served via special process server on January 31, 2024. To date, he has filed no responsive pleadings.

11. This motion is supported by the Plaintiff's affidavit attached to the Motion for Entry of Default Judgment as Exhibit 1.

12. The Defendant is not a member of the armed services (verified 3/4/2024).

WHEREFORE, based on the foregoing, the Plaintiff's Motion for Entry of Default is GRANTED and DEFAULT JUDGMENT is entered in favor of the Plaintiff as follows:

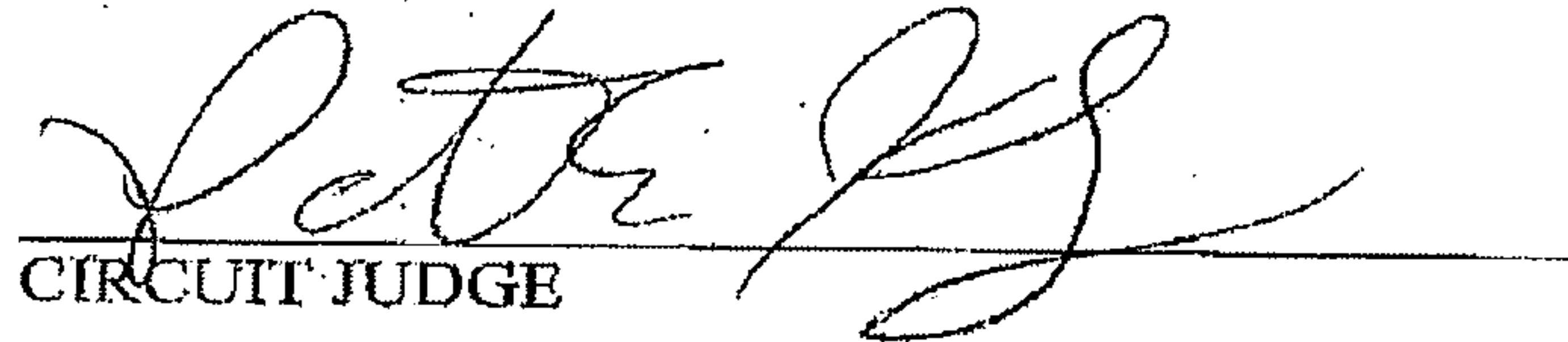
- (a) The Plaintiff is entitled to possession of the Subject Property on June 24, 2024;
- (b) The Defendant's right of redemption is expired;
- (c) Anyone claiming any ownership or possessory interest in the Subject Property, including the Defendant David M. King, Jr., is hereby ejected from the property;



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(d) There being no further relief which the Plaintiff is seeking, this matter is dismissed with costs taxed as paid.

DONE and ENTERED this the 24th day of June, 2024.


CIRCUIT JUDGE



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
07/08/2024 09:37:59 AM
\$31.00 PAYGE
20240708000204040

Alvin S. Bayl

