

SUMMONS AND COMPLAINT

STATE OF ALABAMA)
BALDWIN COUNTY)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
NO. _____

_____ TERM, 1965

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Howard Brantley to appear and plead, answer or demur, within thirty days from the service hereof, to the complaint filed in the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against Howard Brantley, Defendant by Eddie Jemison, Minnie Jemison, Mamie Lawson, Susie McCreary, and Laura Washington, Plaintiffs.

Witness my hand this 9 day of Sept. ~~August~~, 1965.

Alice J. Duck CLERK.

* * * * *

EDDIE JEMISON, MINNIE JEMISON,)
MAMIE LAWSON, SUSIE McCREARY, *
and LAURA WASHINGTON,)

Plaintiffs,)

vs)

HOWARD BRANTLEY,)
Defendant.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

At Law
6682

The Plaintiffs sue to recover possession of the following tract of land lying in Baldwin County, Alabama to-wit:

From two iron bolts marking the half section corner on the South line of Section 21, Township 5 South, Range 2 East, Baldwin County, Alabama, run North 660 feet to a corner; thence run East 650 feet to Glover's field fence; thence run South 660 feet along Glover's field fence to the section line; thence West along the Section line 656 feet to the point of beginning, containing 10 acres, more or less, lying in Southeast Quarter of the Southeast Quarter of Section 21, Township 5 South, Range 2 East

of which they were in possession, and upon which, pending such possession, and before the commencement of this suit, the defendant

entered and unlawfully withholds, together with Two Hundred (\$200.00) Dollars for the detention thereof.

FILED

SEP 9 1965

ALICE L. DUCK, CLERK
REGISTER

84-10-8-65

Kenneth Cooper
Attorney for Plaintiffs

CASE NO. 6682

EDDIE JEMISON, MINNIE JEMISON,
MAMIE LAWSON, SUSIE McCREARY,
and LAURA WASHINGTON,

Plaintiff,

vs:

HOWARD BRANTLEY,

DAPHNE

Defendant.

Received 9 day of Sept 1965
and on 9 day of Oct 1965
I served a copy of the within Stc
on Howard Brantley

By service on

Taylor Wilkins

TAYLOR WILKINS, Sheriff

By Ray Randall d.s.

Daphne

Sheriff claims 54 miles at

Ten Cents per mile Total \$ 5.40

TAYLOR WILKINS, Sheriff

BY

Ray Randall
DEPUTY SHERIFF

FILED

SEP 8 1965

ALICE L. DICK, CLERK
REGISTER

Kenneth Cooper, Attorney,

EDDIE JEMISON, MINNIE
JEMISON, MAMIE LAWSON,
SUSIE McCREARY, and
LAURA WASHINGTON,

Plaintiffs,

Vs.

HOWARD BRANTLEY,

Defendant.

X
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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 6682

Comes now the Defendant in the above styled cause and files
the following answer to the Plaintiffs' Bill of Complaint and
each count thereof, separately and severally, says:

1.

That he is not guilty of the matters alleged therein.

WILTERS & BRANTLEY

BY:

Howard M Brantley
Attorney for the Defendant

Defendant demands a trial by jury. Defendant demands an abstract
of the title on which the Plaintiffs' will depend for the proof of
their title.

WILTERS & BRANTLEY

BY:

Howard M Brantley
Attorney for the Defendant

FILED

OCT 19 1965

ALICE L. DICK, CLERK
REGISTER

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
AT LAW

CASE NO. 6682

APPEAL FROM A JUDGMENT OF NON-SUIT

Comes now the Plaintiffs in above-styled cause, and appeal to the Supreme Court of Alabama from the Judgment rendered in the above-styled cause on the 17th day of March, 1966, granting Plaintiffs a non-suit with the right of review by the Supreme Court of Alabama on the record, and dismissing the Plaintiffs said suit at the Plaintiffs cost.

Dated this 13 day of September, 1966.

Kenneth Coyle
Attorney For Plaintiffs

I hereby certify that I have served a copy of the foregoing Appeal From A Judgment Of Non-Suit upon Hon. Tolbert M. Brantley, Attorney At Law, Bay Minette, Alabama, by depositing a copy of same in United States mail, postage prepaid, at Bay Minette, Alabama, on this 13 day of September, 1966.

Kenneth Cooper
Attorney For Plaintiffs

FILED

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Plaintiffs,

Vs.

HOWARD BRANTLEY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 6682

SECURITY FOR COSTS

I, Eddie Jemison, one of the Plaintiffs in above-styled cause,
do hereby acknowledge myself as security for costs of the appeal
taken by Plaintiffs in this cause.

Apple Penrose
Plaintiff

I, Kenneth Cooper, Attorney For Plaintiffs in above-styled cause, do hereby acknowledge myself as security for all costs of the appeal taken by the Plaintiffs in this cause..

Kenneth Cooper
Attorney For Plaintiffs

FILED

SEP 13 1966

CLERK
SECRETARY

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DIV. NO. _____

CERTIFICATE OF APPEAL. (Civil Cases.)

No. 6682

THE STATE OF ALABAMA

BALDWIN County.

I, Alice J. Duck, Clerk of the Circuit Court of Baldwin County, in and for said State and County, hereby certify that the foregoing pages numbered from one to _____, both inclusive, contain a full, true and complete transcript of the record and proceedings of said Court in a certain cause lately therein pending wherein Eddie Jemison, Minnie Jemison, Mamie Lawson, Susie McCreary & Laura Washington was plaintiff, and Howard Brantley

was Defendant, as fully and completely as the same appears of record in said Court.

And I further certify that the said Plaintiffs did on the 13th day of September, 1966, pray for and obtain an appeal from the judgment of said Court to the Supreme Court of Alabama to reverse said judgment of said Court upon entering into bond with Eddie Jemison and Kenneth Cooper, Attorney for Plaintiffs as surety thereon, which said bond has been approved by me.

Witness my hand and the seal of said Circuit Court of Baldwin County is hereto affixed, this the 14th day of September, 1966

Alice J. Duck
Clerk of the Circuit Court of
Baldwin County, Alabama.

(Code 1940, Title 7, Sec. 767)

THE STATE OF ALABAMA
Baldwin County - Circuit Court

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the 17th
day of March, 1966 ~~Monday~~, ~~1966~~, in a cer-
tain cause in said Court wherein Eddie Jemison, Minnie Jemison, Mamie Lawson, Susie McCreary
and Laura Washington Plaintiff, and Howard Brantley
Defendant, a judgement was rendered against said
Plaintiffs
to reverse which Judgment, the said Eddie Jemison, Minnie Jemison, Mamie
Lawson, Susie McCreary and Laura Washington,
applied for and obtained from this office an APPEAL, returnable to the next
Term of our Supreme Court of the State of Alabama, to be held at Montgomery, on
the day of , 196 next, and the necessary bond
having been given by the said Eddie Jemison and Kenneth Cooper, Attorney for Plaintiffs,
with , sureties,

Now, You Are Hereby Commanded, without delay, to cite the said Howard Brantley
 or Tolbert M. Brantley
 , attorney, to appear at the next Term of our
said Supreme Court, to defend against the said Appeal, if they think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 14th
day of September, A. D., 1966.

Attest:

Alice J. Duck, Clerk.

*I hereby accept service of the appeal,
Citation of Appeal.
This 15th day of Sep.
1966 —*

*for
Howard Brantley,
att
Howard Brantley,*

JUN 01 1967

THE STATE OF ALABAMA - - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1966-67

Eddie Jemison, et al.

1 Div. 402

v.

Howard Brantley

Appeal from Baldwin Circuit Court

SIMPSON, JUSTICE.

The appellants filed a suit in the nature of ejectment,
etc. for the recovery of 10 acres of land lying in Baldwin

2.

County. When the trial commenced the appellants offered in evidence the deed from the predecessor in title to Eddie Jemison. No objection was made to the introduction of this deed. Following the introduction of this deed, the appellants sought to put in evidence a deed from Eddie Jemison and Minnie Jemison, his wife, to the other appellants herein who were named as grantees in that deed. The grantees therein are the daughter and two stepdaughters of appellant Eddie Jemison. A motion to exclude this latter deed was made by the defendant below and the deed was excluded. It appears that the following occasioned the final ruling by the court to exclude this deed, and his ruling to that effect causing the plaintiffs below to take a non suit with leave to bring this appeal:

In 1959 Eddie Jemison was arrested and convicted of possessing marijuana contrary to the federal statutes. The Federal Government levied a tax lien against him for \$88,000. Shortly after his arrest Eddie Jemison and his wife Minnie executed the deed in controversy conveying the 10 acres involved to Eddie's daughter and two stepdaughters. Thereafter the United States instituted proceedings in the United States District Court for the Southern District of Alabama, Southern Division to have this deed set aside. This proceeding culminated in a decree whereby the court found that no

3.

consideration was paid by the grantees in the deed, and the same was set aside. The Federal Court ordered the property here involved sold at public auction. At the sale held pursuant to this decree, the appellee here was the purchaser. The entire record of the Federal Court proceedings was put in evidence by the defendant. These documents included an "Objection to the Confirmation of Sale" filed in that proceeding by Eddie and Minnie Jemison. This objection was based upon the contention made by Eddie and Minnie Jemison that the property here involved constituted the homestead of Eddie and Minnie Jemison and was not subject to the federal sale to satisfy taxes. As to the precise parcel here involved, the federal decree overruled the objection, finding that it was not the homestead of these parties. Thereafter these parties filed in the Federal Court a Petition for Rehearing, again asserting that the property was their homestead. This petition was overruled. The appellee here then offered in evidence a Marshall's Deed conveying the property to him and a "Report of Sale" made in the Federal Court. He further put in a motion filed by appellants to Cancel the Order of Sale of this property, again asserting that the property was the homestead. This objection was denied, as the Federal Court records clearly indicate.

After all of this was before the trial court, out of

4.

the presence of the jury, the motion to exclude the deed from Eddie and Minnie Jemison to their children was granted, the trial court commenting that to allow the deed in evidence would constitute a collateral attack on the Federal Court judgment. It is clear from the record that appellants seek to re-argue here the question of the validity of the deed. It is further asserted that the judgment is not binding on the children of Eddie and Minnie Jemison in that the tax lien was personal to Eddie Jemison, and hence it is argued that the validity of the deed sought to be introduced could not have been adjudicated by the Federal Court as to the grantees therein.

In this contention, the appellant ignores the record itself. The Federal Court proceeding involving the setting aside of this deed named as defendants Eddie Jemison, Minnie Jemison, Mamie Lawson, Susal McCreary, and Laura Washington. In that proceeding the court determined that the deed was void and set the same aside. If the court was wrong in so holding, the remedy was an appeal from that judgment. To permit the parties to impeach it in this proceeding would clearly constitute a collateral attack on that judgment. This they have no right to do. The proceeding in the Federal Court is regular on its face, it was competent to adjudicate the matter and having jurisdiction of the subject

5.

matter and the parties (or so it appears on the face of the record, and no evidence to the contrary was offered by appellants) it is presumed to be correct. It is therefore as solemn against such an attack here attempted as is a domestic judgment. - Mason v. Calhoun, 213 Ala. 491, 105 So. 643; A.B.C. Truck Lines v. Kenemer, 247 Ala. 543, 25 So.2d 511.

We think under these principles that the trial court was correct in ruling that the plaintiffs below could not rely upon a deed which had been declared void in the Federal Court, and that to permit them to do so would be to sanction a collateral attack on that judgment.

It is vaguely contended by the appellant that the Federal Court judgment can have no effect against the daughters of Eddie and Minnie Jemison, although they appear as defendants in the federal proceeding. This is of no help to appellants. In an early case, quite similar to the one at bar (Robinson v. Allison, 97 Ala. 596) this court held:

"In the application for rehearing it is urged, that the record of the judgment recorded in the Federal Court, upon which the execution issued, does not affirmatively show service of notice upon the defendant in the execution.

"This court is one of general jurisdiction
[the U. S. District Court for the Northern District

6.

of Alabama]. The judgment is in all respects regular. In collateral proceedings, jurisdiction of the court, must be presumed, unless it affirmatively appears upon the face of the judgment, or until it is affirmatively shown that the court was without jurisdiction."

AFFIRMED.

Livingston, C.J., Merrill and Harwood, J.J., concur.

I, Louise L. Holt, Assistant Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appears of record in said Court.

Witness my hand this 1 day of June 1947

Louise L. Holt
Assistant Clerk Supreme Court of Alabama

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19⁶⁶⁻⁶⁷

To the Clerk of the Circuit Court,

Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court of said county, in a certain cause lately pending in said Court between

Eddie Jemison, et al., AppellantS,

and

Howard Brantley, Appellee,

wherein by said Court it was considered adversely to said appellant S., were brought before our Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant S.:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ordered, and adjudged by our Supreme Court, on the 1st day of June, 19⁶⁷, that said Judgment of said Circuit Court be in all things

affirmed, and that it was further considered, ordered, and adjudged that the appellants ~~XXXX~~ Eddie Jemison, Minnie Jemison, Mamie Lawson, Susie McCreary and Laura Washington, and Eddie Jemison and Kenneth Cooper, sureties on the appeal bond, pay

the costs accruing on said appeal in this Court and in the Court below, for which costs let execution issue.

Louise L. Holt Asst

Witness/~~J. Bender Thomas~~, Clerk of the Supreme

Court of Alabama, at the Judicial Department

Building, this the 1st day of June

19⁶⁷

Louise L. Holt

Assistant Clerk of the Supreme Court of Alabama.

6682

THE SUPREME COURT OF ALABAMA

October Term, 1966-67

MA

1st Div., No. 402

Eddie Jemison, et al.,

Appellant, S

vs.

Howard Brantley

Appellee.

From Baldwin Circuit

Court.

CERTIFICATE OF AFFIRMANCE

The State of Alabama,

FILED

County. } Filed

this day of JUN 2 1967

19

ALFRED R. CLARK
CLERK

EDDIE JEMISON, et al,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
Vs.	X	BALDWIN COUNTY, ALABAMA
HOWARD BRANTLEY,	X	AT LAW
Defendant.	X	

Comes now the Defendant in the above styled cause and amends
his Pleas heretofore filed in this cause by adding the following:

2.

Res judicata.

3.

The Plaintiff should not be allowed to proceed in this matter because the Defendant is a successor in title from the United States of America and it was judicially determined in the case of United States of America vs. Eddie Jemison, et al, in the United States District Court for Southern Division of Alabama, Southern Division, Civil Action #2565, that Eddie Jemison and the other parties to this suit had no homestead right in the property being sued for and the Plaintiff is basing his claim to title solely on a home-
stead exemption.

WILTERS & BRANTLEY

BY:

Howard M. Brantley
Attorney for the Defendant

Filed, 3-17-66.

*Jeffrey H. Marshall
Judge.*

EDDIE JEMISON, MINNIE
JEMISON, MAMIE LAWSON,
SUSIE McCREARY, and
LAURA WASHINGTON,

Plaintiffs,

Vs.

HOWARD BRANTLEY,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 6682

Come now the Plaintiffs in above styled cause, and amend their complaint heretofore filed in this cause, as follows:

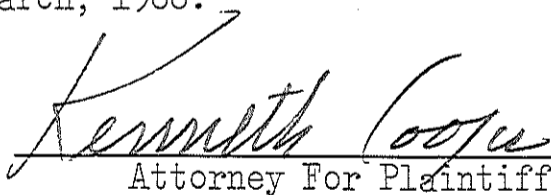
Delete the last phrase thereof which reads: "together with Two Hundred (\$200.00) Dollars for the detention thereof", and substitute the following therefor:

"together with Four Hundred (\$400.00) Dollars for the detention thereof."

In all other respects the complaint remains unchanged.


Attorney For Plaintiffs

I certify that I have served a copy of the foregoing amendment upon Hon. Tolbert M. Brantley by delivering to him a copy thereof personally this 17th day of March, 1966.


Attorney For Plaintiffs

Filed 3-17-66
Alice J. Welch
Clerk