

COMMON LAW CERTIORARI

|                     |   |                         |
|---------------------|---|-------------------------|
| LARRY LAWAMAN,      | ) |                         |
|                     | ) |                         |
| Petitioner,         | ) | IN THE CIRCUIT COURT OF |
|                     | ) |                         |
| VS.                 | ) | BALDWIN COUNTY, ALABAMA |
|                     | ) |                         |
| CECIL RABUN and JIM | ) | AT LAW                  |
| WHITTAKER,          | ) |                         |
|                     | ) | CASE NO. <u>8407</u>    |
| Defendants.         | ) |                         |

Your Petitioner, Larry Lawaman, respectfully shows unto the Court that the records of the J.P. Court of R. A. Hail, Baldwin County, Alabama, show that a judgment was rendered against Your Petitioner on September 25, 1968, for the sum of ONE HUNDRED DOLLARS (\$100.00) plus the costs thereof. This judgment was rendered in a case styled Cecil Rabun vs. Gail Lawaman.

Your Petitioner avers that he is the owner of an F-100 half ton Ford pick-up truck, Serial Number F10JON14119; that this vehicle was stolen from him by Jim Whittaker in the State of Georgia and was driven by him into Baldwin County, Alabama.

Your Petitioner has been informed and believes and, based on such information and belief, avers that Jim Whittaker was involved in an automobile accident with Cecil Rabun in Baldwin County, Alabama, and damage was done to the vehicle owned by Cecil Rabun. Your Petitioner avers that the said Cecil Rabun caused a writ of attachment to issue against the vehicle belonging to Your Petitioner, and he is informed and believes that a suit was filed against him by Cecil Rabun and that a judgment was issued against him on the date of said

attachment which was the 25th day of September, 1968.

Your Petitioner avers further that the Justice of the Peace before whom this case was brought was fully aware of all these facts prior to and at the time said judgment was rendered.

Your Petitioner says further that no service of any kind has been had on him to date.

Your Petitioner avers further that an execution has been issued on the alleged judgment and is now in the hands of the Sheriff of Baldwin County, Alabama, awaiting execution. Your Petitioner further shows unto the Court that on the 25th day of October, 1968, a verified answer was filed in this cause by his attorney, Tolbert M. Brantley, showing that the vehicle attached to this cause is the property of Your Petitioner and that a forthcoming bond was filed in said suit; that these papers were returned to the Petitioner's attorney by the aforesaid Justice of the Peace together with a letter in which he states that this case was set for trial at 11 a.m., October 25, 1968.

Petitioner avers that the aforesaid judgment is void and that Your Petitioner has no other adequate legal remedy than this writ of certiorari.

Premises considered, Your Petitioner prays that the said Cecil Rabun be made a party Defendant to this cause and that to this end all other needful processes issue to him. That the said R. A. Hail, Justice of the Peace as aforesaid, be required to send up to the Circuit Court of said County all records, papers and proceedings in said cause and he be required and commanded and directed to abstain all further

proceedings herein until further order of the Circuit Court.

Your Petitioner prays further that Taylor Wilkins, Sheriff of Baldwin County, Alabama, be directed to abstain from all other, further proceedings in said cause, until further orders and directions of this Court.

Your Petitioner prays that, upon the hearing of this Petition, the said judgment be vacated, set aside and held for naught, and be declared an absolute null and void. Your Petitioner prays for such other, further or different relief as the facts and equities in the case may require.

WILTERS & BRANTLEY

BY:

Tolbert M. Brantley

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Louise Dusenbury,  
a Notary Public, in and for said County and State, personally appeared Tolbert M. Brantley, known to me, who being duly sworn, deposes and says that he is one of the attorneys for the Petitioner, Larry Lawaman, and that the allegations of the foregoing petition are true to the best of his knowledge, information and belief.

Tolbert M. Brantley  
Sworn to and subscribed before me on this the \_\_\_\_  
day of October, 1968.

Louise Dusenbury  
Notary Public

FILED  
OCT 29 1968

ALICE J. BECK CLERK  
RECORDED

ORDER

The Court, having read and understood the foregoing petition for writ of certiorari, is of the opinion that the Petitioner is entitled to the relief he seeks therein.

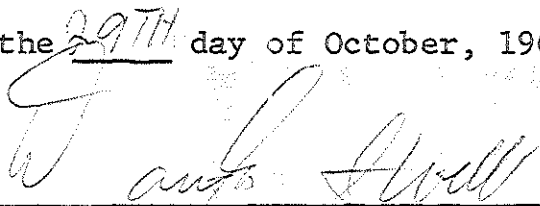
It is therefore ORDERED, ADJUDGED and DECREED that this matter be heard and tried de novo in the Circuit Court of Baldwin County, Alabama.

It is further ORDERED, ADJUDGED and DECREED that the Justice of the Peace, R. A. Hail, be and he is hereby commanded and required to certify and send to this Court a full and complete transcript of the records and proceedings had in this cause in his court. It is further ORDERED, ADJUDGED and DECREED that the said R. A. Hail be and he is hereby directed to abstain from all other proceedings in this cause pending the further orders of this Court.

It is further ORDERED, ADJUDGED and DECREED that the Sheriff of Baldwin County, Alabama, be served with a copy of this petition and he is hereby directed to take no further proceedings in this cause until directed to do so by this Court.

It is further ORDERED, ADJUDGED and DECREED that a copy of this petition be served forthwith upon Cecil Rabun and he shall have thirty days from this date to file such pleadings in this cause as he may deem necessary.

Done this the 29TH day of October, 1968.

  
\_\_\_\_\_  
Telfair J. Mashburn  
Circuit Judge

SPECIAL

OCT 29 1968

CLERK  
REGISTER

24/10/4/68

Case No. 8407

LARRY LAWANAN,

Petitioner,

vs:

CECIL RABUN and JIM WHITTAKER,

Defendants.

serve: Judge R. A. Hall

Cecil Rabun

Jim Whittaker

Walters & Brantley, Attys.

Received 29 day of Oct 1968  
and on 31 day of Oct 1968  
I served a copy of the within Order  
on Cecil Rabun  
By service on Cecil Rabun  
TAYLOR WILKINS, Sheriff  
BY Childress  
DEPUTY SHERIFF

Sheriff claims 100  
Ten Cents per mile Total \$ 10.00  
TAYLOR WILKINS, Sheriff  
BY Childress  
DEPUTY SHERIFF

Received 30 day of Oct 1968  
and on 31 day of Oct 1968  
I served a copy of the within Order  
on Judge R. A. Hall  
Jim Whittaker  
By service on Taylor Wilkins  
TAYLOR WILKINS, Sheriff  
BY Childress  
DEPUTY SHERIFF

ORDER

|                     |   |                         |
|---------------------|---|-------------------------|
| LARRY LAWAMAN,      | ) |                         |
| Petitioner,         | ) | IN THE CIRCUIT COURT OF |
| VS.                 | ) | BALDWIN COUNTY, ALABAMA |
| CECIL RABUN and JIM | ) | AT LAW                  |
| WHITTAKER,          | ) | CASE NO. 8407           |
| Defendants.         | ) |                         |

This being the day heretofore set for the hearing of this Petition for Common Law Writ of Certiorari, the Petitioner appeared personally in Court and the Defendants, Cecil Rabun and Jim Whittaker, failed to appear in this cause. Upon consideration of this matter, the Court is of the opinion that the judgment rendered in the J. P. Court of R. A. Hail, Baldwin County, Alabama, should be set aside and held for naught. The Court finds that the F-100 half ton Ford pick-up truck, Serial Number F10JON14119, to be owned by Larry Lawaman and that he was in no wise connected with, nor responsible for, the accident between Jim Whittaker and Cecil Rabun.

It is therefore ORDERED, ADJUDGED and DECREED that the judgment heretofore issued out of the J. P. Court of R. A. Hail, Baldwin County, Alabama, be and the same is hereby set aside and held for naught. It is further ORDERED, ADJUDGED and DECREED that the execution issued out of his Court, which is now in the hands of the Sheriff of Baldwin County, be and the same is hereby abated.

It is further ORDERED, ADJUDGED and DECREED that the following described vehicle: F-100 half ton Ford pick-up truck, Serial Number F10JON14119, be delivered forthwith to Larry Lawaman by whomever has possession of the same.

Done this the 7th day of February, 1969.

ORDER

|                     |   |                         |
|---------------------|---|-------------------------|
| LARRY LAWAMAN,      | ) |                         |
| Petitioner,         | ) | IN THE CIRCUIT COURT OF |
| VS.                 | ) | BALDWIN COUNTY, ALABAMA |
| CECIL RABUN and JIM | ) | AT LAW                  |
| WHITTAKER,          | ) | CASE NO. 8407           |
| Defendants.         | ) |                         |

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Done this the 7th day of February, 1969.

\_\_\_\_\_  
Circuit Judge

Civil Docket And Fee Book—Justice Court, BALDWIN County, Alabama

BALDWIN

JUSTICE R. A. HALE JR BEAT No. 9 CASE No. 59

BEAT No. 9 CASE No. 59

**JUSTICE**

| ATTORNEYS | CASE                       | WITNESSES  | DATE | DISPOSITION OF CASE                           |
|-----------|----------------------------|--|------|---|
|           | Cecil Rayburn              | FOR PLAINTIFF<br>Deputy Sheriff<br>N. F. Hall attached |      | Executed Oct 25, 1968<br>11:00 AM.            |
|           | VS.                        | Pickup and had<br>in Radio date                        |      | WE Bagman Working Smith                       |
|           | 1960 Ford F-10 1/2 TON     |  |      |   |
|           | Pickup SN# F10JON 14119    | attached   |      | Sept 25, 1968                                 |
|           | GEORGIA TAG # 57-R-369     | (Bond made Sept 24, 1968)                              |      |   |
|           | (GAIL LOWMAN, AUSTELL, GA) | FOR DEFENDANT  |      | Attached papers and<br>Civil Execution mailed |
|           | Bond and affidavit         |  |      | to Sheriff's office at noon                   |
|           | Attachment papers          |  |      | Oct 25, 1968 at<br>closing of my office       |
|           |                            |  |      | R. J. Hall                                    |
|           |                            |  |      | Justified                                     |
|           |                            |  |      | Robert Hall                                   |
|           |                            |  |      | RM  |

[illegible]

| FEES OF THE JUSTICE OF THE PEACE<br>(Title 11 * 38 Justices' Code)   |             | AMOUNT |
|--|-------------|--------|
| Issuing Summons .....  |             |        |
| Subpoena for each Witness .....  | .15         |        |
| Execution and Taxing Cost .....  | .50         |        |
| Attachment Bond and Affidavit .....  | 1.50        |        |
| Docketing each Cause .....   | .10         |        |
| .....  |             |        |
| .....  |             |        |
| .....  |             |        |
| <b>CONSTABLES' FEES</b><br>(Title 11 * 39 Justices' Code)  |             |        |
| Serving .....  | .50         |        |
| Serving .....  | .25         |        |
| Levying Attachment .....   |             |        |
| Levying Execution .....  |             |        |
| Making Money on Execution .....  |             |        |
| .....  |             |        |
| .....  |             |        |
| <b>SHERIFF'S FEES</b><br>(Title 11 * 34 Justices' Code)<br>(Constables' Fees when Amount in Controversy<br>is \$20.00 or More) |             |        |
| Serving .....  | 1.50        |        |
| Serving .....  | .75         |        |
| Collecting Execution for Cost Only .....   | 1.50        |        |
| Collecting Money Under Execution .....   |             |        |
| .....  |             |        |
| .....  |             |        |
| .....  |             |        |
| .....  |             |        |
| <b>WITNESS' FEES</b><br>(Title 13 * 415 Justices' Code)  |             |        |
| .....  | Days at .50 |        |
| .....  | Days at .50 |        |
| .....  | Days at .50 |        |
| <b>Justice of the Peace.</b>   |             |        |
| Constable .....  |             |        |
| Sheriff .....  |             |        |
| Witness .....  |             |        |
| .....  |             |        |
| .....  |             |        |
| .....  |             |        |
| .....  |             |        |



Civil Docket And Fee Book—Justice Court,

County, Alabama

JUSTICE

BEAT No.

CASE No.

ATTORNEYS

CASE

WITNESSES

DATE

DISPOSITION OF CASE

FOR PLAINTIFF

VS.

CAUSE FOR ACTION

FOR DEFENDANT

SUBPOENAS AND WITNESSES

ISSUED

SERVED

NAME

Witness  
Fees

Constable  
Fees

Sheriff  
Fees

RECEIPTS FOR AMOUNTS

FEES OF THE JUSTICE OF THE PEACE  
(Title 11 • 38 Justices' Code)

AMOUNT

Issuing Summons

Subpoena for each Witness

Execution and Taxing Cost

Attachment Bond and Affidavit

Docketing each Cause

CONSTABLES' FEES  
(Title 11 • 39 Justices' Code)

Serving Summons

Serving Summons on each Witness

Levying Attachment

Levying Execution

Making Money on Execution

SHERIFF'S FEES  
(Title 11 • 34 Justices' Code)  
(Constables' Fees when Amount in Controversy  
is \$20.00 or More)

Serving Summons

Serving Summons on each Witness

Collecting Execution for Cost Only

Collecting Money Under Execution

WITNESS' FEES  
(Title 13 • 415 Justices' Code)

Days at .50

Days at .50

Days at .50

Justice of the Peace

Constable

Sheriff

Witness

THE STATE OF ALABAMA  
Baldwin CountyJUSTICE COURT AT ROBERTSDALE ALA.KNOW ALL MEN BY THESE PRESENTS, That we, CECIL RAYBORN andWALTER J RAYBORN

of the County of Baldwin

are held and firmly bound unto GAIL LOWMANin the sum of --- TWO HUNDRED --- Dollars,to be paid to the said GAIL LOWMAN

heirs, executors, administrators, or assigns, for which payment, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly, severally and firmly by these presents.

Sealed with our seals and dated the 24 day of September, 1968

THE CONDITION OF THIS OBLIGATION IS SUCH, That whereas the above bounden

CECIL RAYBORN & WALTER J RAYBORN

has, on the day of the date hereof, prayed an Attachment at the suit of

against the estate of above named GAIL LOWMAN & WALTER J RAYBORNfor the sum of ----- One Hundred ----- Dollars,  
and hath obtained the same returnable to the Justice Court of Baldwin County.

NOW, if the said CECIL RAYBORN  
should prosecute said Attachment to effect, and pay the Defendant all such costs and damages as  
may sustain by the wrongful or vexatious suing out of said Attachment, then the above  
obligation to be void; otherwise to remain in full force and effect.

And we and each of us hereby waive all rights of claim of exemption we or either of us have now,  
or may hereafter have, under the Constitution and Laws of the State of Alabama.

Signed, Sealed and delivered on the date above written.

X Cecil D. Rayborn SealX Walter J. Rayborn Seal\_\_\_\_\_ Seal\_\_\_\_\_ SealApproved this 25 day of September, A. D., 1968Proctor, J. P.

THE STATE OF ALABAMA  
Baldwin County

JUSTICE COURT AT ROBERTSDALE, ALA.

Before me, R. A. HAIL, JR

in and for said County, personally appeared CECIL RAYBORN

who being duly sworn, on oath saith that GAIL LOWMAN

justly indebted to

CECIL RAYBORN

in the sum of ONE HUNDRED Dollars, which said

amount is justly due after allowing all just offsets and discounts and that the said GAIL LOWMAN

1. 1960 Ford 1/2 Ton P/U F 100 Georgia Tag # 57-R-369

SER # F1050N14119

and that this Attachment is not sued out for the purpose of vexing or harassing the Defendant, or other improper motive.

Subscribed and sworn to before me this 24 day of SEPTEMBER, 1968

R. A. Hail, Jr., J. P.

No. 59-1968

THE STATE OF ALABAMA,  
Baldwin County

JUSTICE COURT

At ROBERTSDALE Ala.

CECIL RAYBORN

FAIR HOPE & ROBERTSDALE

TO

GAIL LOWMAN

AUSTELL GA

ATTACHMENT BOND & AFFIDAVIT

Filed this the 24 day  
of SEPTEMBER 1968

R. A. Hail, Jr.  
Robertsdale, Ala 36587 J. P.

Attorney.

P. O. DRAWER A-J

**RICHARD C. LACEY**

TELEPHONE 928-2373

ATTORNEY AT LAW

FAIRHOPE, ALABAMA 36532

November 13, 1968

Mrs. Alice J. Duck  
Circuit Clerk  
Circuit Court  
Bay Minette, Alabama

RE: Larry Lawaman vs. Cecil Raburn and  
Jim Whittaker

Dear Mrs. Duck:

Please find enclosed Petition in subject case.  
Thank you.

sincerely,

*Richard C. Lacey*  
RICHARD C. LACEY

RCL/dt

Encls.

LARRY LAWAMAN, )  
Petitioner, )  
VS. )  
CECIL RABURN and JIM )  
WHITTAKER, )  
Defendants. )  
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
AT LAW  
CASE NO. 8407

Comes the Defendant, CECIL RABURN, in the above styled cause and files this his demurrer to the said cause and each and every count thereof:

I

That said petition is ambiguous, multifarious and vague.

II

That said petition does not allege sufficient facts therein to grant the relief prayed for.

III

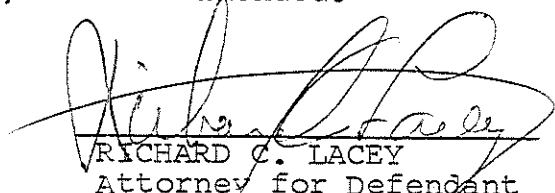
That said petition does not contain sufficient authority for the granting of a Certiorari according to Title 7, Section 1072 Code of Alabama as amended.

IV

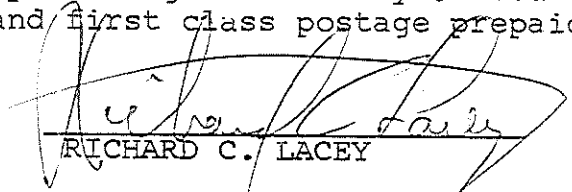
That said Petitioner has sufficient other legal remedies.

V

That said Writ of Certiorari cannot operate as an appeal bringing up the case for a trial DeNova in accordance with Title 7, Section 1072 Code of Alabama, 1940 as amended.

  
RICHARD C. LACEY  
Attorney for Defendant  
Cecil Raburn

I do hereby certify that I have on this 13th day of November, 1968, served a copy of the foregoing pleading on Tolbert M. Brantley in Bay Minette, Alabama by mailing the same by United States mail, properly addressed, and first class postage prepaid.

  
RICHARD C. LACEY

FILED

NOV 15 1968

ALICE J. DUCK CLERK  
REGISTER