

451

THE STATE OF ALABAMA, EX-REL;
RALPH L. JONES, SOLICITOR,

Complainant.

Vs.

W. J. PERSKE,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 451

DECREE OF CONFIRMATION.

A decree having heretofore been rendered in this Court on February 1st, 1939, wherein the Sheriff of Baldwin County, Alabama, was ordered to destroy slot machine, namely:

Two pin ball table machines with automatic pay out device;

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CLERK
BALDWIN COUNTY
ALABAMA
MARCH 27 1939

and whereas, the sheriff has this day reported to me that the same has been destroyed in accordance with the terms of said decree.

It is therefore, ordered, adjudged and decreed by the Court that the said report of the said Sheriff be in all things approved and confirmed; and it is hereby ordered that same be and is hereby approved and confirmed.

It is further ordered that the Register of this Court proceed forthwith to carry out the further directions and orders of the decree rendered on the 1st day of February, 1939.

This 27th day of March, 1939.

F. W. Hare
F. W. HARE, Judge of the
Circuit Court.

THE STATE OF ALABAMA, EX-REL:
RALPH L. JONES, SOLICITOR,

Complainant,

Vs.

W. J. PERSKE, Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY. NO. 451.

TO HON. W. R. STUART, SHERIFF OF BALDWIN COUNTY, ALABAMA:

You are hereby commanded in accordance with that certain decree of this Court made and rendered on the 1st day of February, 1939, by Hon. F. W. Hare, Judge of said Court, to destroy in the presence of the Register of said Court, the following named articles:

Two (2) pin-ball table machines, with automatic pay-out devices;

The above named property is to be destroyed within twenty (20) days from the date of said decree.

You are further directed to report to this Court your compliance with the said decree of Condemnation.

WITNESS my hand this 10th day of February, 1939.

R. S. Duck
R. S. DUCK, Register of the
Circuit Court of Baldwin County,
Alabama, in Equity.

By: *Paulie Thompson*
Deputy-Register.

STATE OF ALABAMA, EX-REL:
RALPH L. JONES, SOLICITOR,

Complainant,

-VS-

W. J. PERSKE,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Now comes the Defendant, and files this, his Demurrer to the Bill of Complaint in this cause filed, and as grounds therefor, says:-

1. That the Bill of Complaint does not contain equity.
2. That this is a proceedings in rem and should be made against the articles therein described.
3. That this proceedings should also be against the articles, machines or mechanisms mentioned in the Bill of Complaint.
4. Without proceedings of condemnation against the articles mentioned in the Bill of Complaint this court has no authority to condemn the same.
5. Without the articles mentioned in the Bill of Complaint being proceeded against, this court has no authority to order their destruction.
6. That for aught appearing in the Bill of Complaint said articles, mechanisms or machines in their operation could be influenced by the will or skill of the person operating same.
7. That for aught appearing in the Bill of Complaint the operator could operate the articles, machines or mechanisms therein mentioned so by will or skill as to influence the results of winning or losing.
8. That the allegation in the Bill of Complaint that the articles mentioned therein are gambling devices as defined by the laws of Alabama, is but a conclusion of the pleader.
9. That said device mentioned in the Bill of Complaint is not properly or clearly described by the pleader.
10. That said device being described as a pin table machine with automatic pay-out means nothing, and the statement that such mechanism is a gambling device is nothing more than a conclusion of the pleader.

(page two)

11. That said Complaint fails to define that a pin ball machine is or what a pay-out is, and the allegations that the same is a gambling device is but a conclusion of the pleader.

12. That the said device being described as a Roscoe means nothing, and the statement that such machine is a gambling device is nothing more than a conclusion of the pleader.

Hyatt Chase
Solicitors for Respondent.

The State Of Alabama, } Circuit Court of Baldwin County, In Equity.
Baldwin County

To Any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon

W. J. PERSKE,

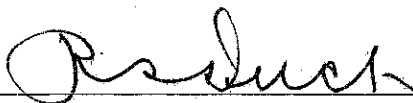
of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

STATE OF ALABAMA, EX REL: ^aalph
L. Jones, Solicitor,

against said W. J. PERSKE,

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, R. S. Duck, Register of said Circuit Court, this 28th day of July, 193 8

 Register

That the possession, ownership and use of said gambling devices were illegal and contrary to law, and such devices are contraband property and forfeited to the State of Alabama, under the terms and provisions of an Act of the Legislature of Alabama, approved July 25th, 1931, and appearing at pages 806-809 of the Acts of said 1931 Legislature of Alabama. That on, to-wit; the 15th day of July, 1938, J. W. McClung, a law enforcement officer for the State of Alabama, did seize the said pin table machines, in Baldwin County, Alabama, while they were in the possession of said Respondent, and did duly report said seizure to the said Ralph L. Jones, as such Solicitor, and said devices are being held as contraband property, subject to the orders of this Court.

PRAYER FOR PROCESS.

The premises considered, Complainant prays that the usual process issue out of this Court, directed to the said W. J. Perske, making him a party respondent to this Bill of Complaint, and that he be required to answer, plead or demur to the same within the time and under the penalties prescribed by law, and show cause, if any he has, why the said described machines should not be declared contraband property, and the same, together with their contents, forfeited to the State of Alabama.

PRAYER FOR RELIEF.

Complainant further prays that, upon a final hearing of this cause, Your Honor will enter a decree declaring said seized pin table machines to be gambling devices, and as such to be contraband property and forfeited with their contents to the State of Alabama, and further directing that the same be destroyed and their contents distributed as provided by law.

And Complainant further prays for such other, further and additional relief, decrees and orders as may be necessary to

accomplish the condemnation and destruction of said machines,
as illegal gambling devices under the laws of Alabama.

Respectfully submitted,

Ralph L. Jones

Solicitor of the 21st Judicial Circuit
of Alabama.

FOOT-NOTE.

Respondent is required to answer each and every allegation contained in paragraphs numbered FIRST and SECOND of this Bill of Complaint, but not under oath, answer under oath being hereby waived.

Ralph L. Jones

Solicitor of the 21st Judicial Circuit
of Alabama.

THE STATE OF ALABAMA,
EX-REL: RALPH L. JONES,
SOLICITOR, COMPLAINANT

VS.

W.J. PERSKE,
RESPONDENT,

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA. IN EQUITY.

DECREE.

This cause coming on to be heard, in Term time, and the Court having overruled respondent's demurrer to the bill of complaint, the respondent refuses to plead further, The Court therefore is of the opinion that the complainant is entitled to the relief prayed for in the bill of complaint, and is entitled to a final decree in said cause condemning the two pin-ball table machines, the subject of this suit, as gambling devices under the laws of the State of Alabama, declaring the same to be contraband property and forfeited, along with their contents, to the State of Alabama, and ordering said machines to be destroyed and the contents seized therein to be distributed as provided by law.

It is, therefore, ordered, adjudged and decreed by the Court that the two pin-ball table machines, with automatic payout devices seized from the possession of the respondent in this suit, as set out in the bill of complaint, be and the same are hereby adjudged and declared to be gambling devices under the laws of Alabama, and the same are hereby declared and adjudged to be contraband property and are hereby condemned and forfeited, along with their contents, to the State of Alabama, as being gambling devices prohibited by law.

It is further ordered, directed and decreed by the Court that one-half of the money seized in said machines, and now held by the Register of this Court, be paid over to the officers making the seizure of said machines, by said Register, and that the remaining one-half of such money be paid by said Register into the general fund of Baldwin County, Alabama, as provided by law.

It is further ordered and directed by the Court that M.H. Wilkins, former Sheriff of said County, who now has custody of said machines, deliver the same to the present Sheriff of said County, and that said present Sheriff, in the presence of the Register of this Court, destroy all of said machines hereinbefore described, within twenty days from the date of this decree.

It is further ordered and decreed by the Court that the costs of this suit be taxed against the respondent, for which let execution issue. If, however, such costs are not collected on or by such execution, then the Register shall tax and collect the costs herein from Baldwin County, to be paid as in criminal cases in which the State fails.

Done, ordered and decreed, in open Court this the 1st day of February, 1939.



Judge of the Circuit Court of Baldwin,
~~Baldwin~~ County, Alabama. In Equity.

(ORIGINAL)

Serve On _____

Circuit Court of Baldwin County
IN EQUITY

No. 451

Summons

STATE OF ALABAMA, EX REL;
Ralph L. Jones, Solicitor,
Complainant.

VS.

W. J. PERSKE,
Respondent.

Ralph L. Jones,
Solicitor for Complainant

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THE STATE OF ALABAMA,
Baldwin County

Received in office this _____

day of _____, 1938

Sheriff.

Executed this 4th day of

August, 1938

by leaving a copy of the Summons with

W. J. Perske

Defendant

W. J. Perske

Sheriff

By

Ralph L. Jones

Deputy Sheriff

THE STATE OF ALABAMA,
EX-RELI, etc.
Complainant,

vs.

W. J. FERBYE,
Respondent.

DECREE.

Filed February 10, 1938

R. S. DUCK

clerk - registrar

BY *W. H. H. Thompson*
Deputy