

KENNETH COOPER
ATTORNEY AT LAW
109 EAST 1ST STREET
BAY MINETTE, ALABAMA 36507
TELEPHONE 937-7412

November 10, 1970

Mrs. Alice J. Duck
Clerk, Circuit Court
Bay Minette, Alabama 36507

Re: Project S-60-E
Fred Dempsey, Sr., et al,
and Tract No. 41

Dear Mrs. Duck:

This is your authorization to pay to Norborne C. Stone, attorney of record for Fred Dempsey, Sr. and Pearlie Dempsey, the balance of \$8,343.75 on the jury's award of \$12,000.00 which was made on March 9, 1970. Your records will show you paid Mr. Dempsey a draw-down of \$3,656.25 on April 27, 1970.

The Dempsey's are entitled to six per cent (6%) interest on the \$8,343.75 since March 9, 1970. Mr. Stone and I have computed this amount to be \$333.75 as of November 9, 1970. In a day or so, the State will submit to you for your signature the necessary papers to requisition this additional sum, and as soon as received please remit directly to Mr. Stone as attorney of record for the landowners.

Also, please remit to Mr. Stone the aforementioned \$8,343.75 when he calls for it.

Sincerely,


Kenneth Cooper

KC/mmb

cc: Honorable Norborne C. Stone
Mr. C. W. Coleman

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 the10th day of.....
 March, 1970..... Monday in, 19....., in a cer-
 tain cause in said Court whereinState of Alabama.....
 Plaintiff, andFred Dempsey and Pearlle Dempsey.....
 Claimants to Tract No. 41, Project S-60-E)
Defendants a judgement was rendered against said
 State of Alabama

to reverse which Judgment....., the said State of Alabama

applied for and obtained from this office an APPEAL, returnable to thenext.....

Term of ourSupreme..... Court of the State of Alabama, to be held at Montgomery, on the
day of 19..... next, and the necessary bond

having been given by the said ...Kenneth Cooper, Attorney for Petitioner (Condemnor).....
 with sureties,

Now, You Are Hereby Commanded, without delay, to cite the saidFred Dempsey & Pearlle Dempsey
~~Chason, Stone & Chason~~

..... orChason, Stone & Chason.....
, attorney\$ to appear at thenext..... Term of our
 said Supreme Court, to defend against the said Appeal, ifthey..... think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this11th.....
 day ofMay....., A. D., 19.....70

Attest:

Alice J. Duck, Clerk.

Received 13 day of May, 19 70
and on 14 day of May, 19 70
I served a copy of the within Citation
on Fred & Pearl Dempsey
By service on Norborne C. Stone

TAYLOR WILKINS, Sheriff
By W. A. Galloway D. S.

CASE NO. 9114

CIRCUIT COURT
Baldwin County, Alabama

STATE OF ALABAMA

Vs. { Citation in Appeal

FRED DEMPSEY & PEARLIE DEMPSEY

Issued 11th day of May, 19 70

serve: Norborne C. Stone
Atty.

STATE OF ALABAMA,

Petitioner,

VS.

FRED DEMPSEY and
PEARLIE DEMPSEY,
(Claimants to
Tract No. 41,
Project S-60-E)

Respondents.

§
§
§
§
§
§

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 9114

NOTICE OF APPEAL

Comes now the Petitioner, State of Alabama (Condemnor) in the above-styled cause, and appeals to the Supreme Court of Alabama from the Final Judgment rendered in this cause in and by the Circuit Court of Baldwin County, Alabama, Law side, on, to-wit, the 10th day of March, 1970, and in which cause your Petitioner's Motion for New Trial was over-ruled by a judgment of the trial court on to-wit, the 27th day of April, 1970.

STATE OF ALABAMA
MacDonald Gallion
Attorney General
State of Alabama

By: Kenneth Cooper
Special Assistant
Attorney General

Attorney For Respondent:

Chason, Stone and Chason
Attorneys at Law
Bay Minette, Alabama

SECURITY FOR COSTS

I, the undersigned, do hereby acknowledge myself as security for costs of the appeal above taken by the State of Alabama (Condemnor) in this cause.

Kenneth Cooper
Attorney For Petitioner (Condemnor)

Taken and approved on this
11 day of May, 1970.

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

Filed: May 11, 1970

Alice J. Duck
Alice J. Duck, Clerk.

FILED

MAY 11 1970

ALICE J. DUCK CLERK
REGISTER

CHASON, STONE & CHASON

ATTORNEYS AT LAW

P. O. BOX 120

BAY MINETTE, ALABAMA 36507

JOHN CHASON
NORBORNE C. STONE, JR.
JOHN EARLE CHASON

December 5, 1969

TELEPHONE 937-2191

Honorable Harry D'Olive
Judge of Probate
Bay Minette, Alabama

Dear Judge D'Olive:

Re: State of Alabama vs.
Fred Dempsey, et al.

Would you please have Mrs. Stough make a note to let us know who you name as commissioners in the above condemnation proceeding as soon as it is convenient for her to do so?

We will probably want to have a hearing before the commissioners named by you.

With best regards, we are

Sincerely,

CHASON, STONE & CHASON

By: 

NCS:pjb

m
9114

State vs Fred & Frankie Nempsey
JURY LIST - MARCH 9, 1970 - SPRING SESSION

- ~~1. Stevens, Marie J., Merchant, Bay Minette~~
- ~~2. Ziglar, John, Farmer, Robertsdale~~
- ~~3. Minigri, Angelo, Carpenter, Fairhope~~
- ~~4. Bishop, George O., Merchant, Fairhope~~
- ~~5. Duck, Fred, Laborer, Bay Minette~~
- ~~6. Lee, Edward A., Stockton~~
- ~~7. Lewis, William, Salesman, Fairhope~~
- ~~8. Montgomery, Bessie, Bus Woman, Fairhope~~
- ~~9. Norsworthy, John C., Clerk, Bay Minette~~
- ~~10. Ellis, Thomas, Paperwood Fleet, Loxley~~
- ~~11. Harrison, Joseph M., Farmer, Fairhope~~
- ~~12. Brock, I. B., Farmer, Robertsdale~~
- ~~13. Maynard, Harold A., Fairhope~~
- ~~14. Albert, Charles J., Jr., Ins. Agt., Foley~~
- ~~15. Kendrick, Rivers, Farmer, Robertsdale~~
- ~~16. Prince, Julian C., Insurance, Bay Minette~~
- ~~17. Reegg, Jacob, Merchant, Foley~~
- ~~18. Russell, Cecil, Filling Station, Robertsdale~~
- ~~19. Hall, Origen, Club Operator, Bay Minette~~
- ~~20. Gaston, Louise (Mrs. Jim, Jr.) housewife, Fairhope~~
- ~~21. Stuart, Harold, Cleaners, Bay Minette~~
- ~~22. Survant, Ray H., Civil Service, Lillian~~
- ~~23. Urbanek, Steve, Mail Clerk, Fairhope~~
- ~~24. Weston, Herbert R., Bookkeeper, Bay Minette~~
- ~~25. Boone, W. A., Farmer, Little River~~
- ~~26. Brantley, C. C., Contractor, Bay Minette~~
- ~~27. Herman, Vera W., Fairhope~~
- ~~28. Blackman, W. K., Farmer, Foley~~
- ~~29. Brodbeck, Arnold, Jr., Brookley Field, Fairhope~~
- ~~30. White, Randolph P., Navy Yard, Robertsdale~~
- ~~31. Cox, Young Ausphera, Merchant, Stockton~~
- ~~32. Crook, Prince, Laborer, Bay Minette~~
- ~~33. Duck, Davis, Farmer, Bay Minette~~
- ~~34. Davis, Joe C., Self Employed, Bon Secour~~
- ~~35. Day, Fred D., Stockton~~
- ~~36. Sellers, James R., Chemstrand, Robertsdale~~
- ~~37. Slaughter, Dupree, Farmer, Tensaw~~
- ~~38. Smith, Orrie, Sr., Brookley Field, Daphne~~

38
1
37
12
25
12
13

S XXXXX XX
D XXXXX X

DIV. NO. _____

CERTIFICATE OF APPEAL. (Civil Cases.)

No. 9114

THE STATE OF ALABAMA

BALDWIN County.

I, Alice I. 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 State of Alabama

was plaintiff, and Fred Dempsey and Pearlle Dempsey

~~was~~ ^{were} Defendant, as fully and completely as the same appears of record in said Court.

And I further certify that the said State of Alabama did on the 11th day of May, 19 70, 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 Kenneth Cooper, Attorney for Petitioner 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 11th day of May, 19 70

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

(Code 1940, Title 7, Sec. 767)

State
vs
Dempsey

STATE OF ALABAMA,

Petitioner,

VS.

FRED DEMPSEY and
PEARLIE DEMPSEY,

(Claimants to
Tract No. 41,
Project S-60-E)

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 9114

FINAL JUDGMENT

This cause coming on to be heard by the Court on this the 10th day of March, 1970, now come the parties and their respective attorneys of record and it appearing to the Court from the stipulation of the parties made and entered into on this day and filed in this cause, that on the 7th day of November, 1969, an application was filed in the Probate Court of Baldwin County, Alabama, by the State of Alabama, seeking to condemn certain lands therein described for the uses and purposes therein averred, and that subsequent thereto proceedings were had in the Probate Court of Baldwin County, Alabama, and that the necessary action to properly effect the appeal from the Probate Court of Baldwin County, Alabama, in accordance with all the statutes and laws in such cases made and provided, to the Circuit Court of Baldwin County, Alabama, were made, and that said Court did enter an order of condemnation of the lands described in said application and which are hereinafter described, and that on the 21st day of January, 1970, the State of Alabama, appealed from said order of condemnation to this Court and demanded a trial by jury, and the State of Alabama having this day in open Court and in said stipulation amended its application and prayer for relief to acquire an easement for public road purposes as opposed to the fee simple title; and it further appearing to the Court from the stipulation of the parties hereinabove referred to that the only issue is this proceeding

is the damages and compensation, if any, to which the Defendant landowner is entitled and that an order of condemnation should be entered condemning the lands hereinafter described for the uses and purposes set forth in the application as amended, which is now on file in this Court.

And now comes a jury of twelve good and lawful men, to-wit: Origin Hall, and eleven others, and the issue of the amount of damages and compensation, if any, to which the landowners are entitled having been submitted to them, did return a verdict in words and figures as follows:

"We, the Jury, find in favor of the landowners,
and assess the damages at \$12,000.00."

ORIGIN HALL
Foreman

And the Court having considered all of the above is of the opinion and judgment that an order or judgment of condemnation should be here entered conditioned upon the payment by the State of Alabama to the Clerk of this Court for the use and benefit of the Defendant landowner of the sum aforesaid; it is, therefore

ORDERED, ADJUDGED AND DECREED by the Circuit Court of Baldwin County, Alabama, as follows:

1. That the application of the State of Alabama for the condemnation of the lands, rights and construction, hereinafter described be, and the same are hereby granted, and that the property described in Exhibit "A" attached hereto, and by reference made a part thereof as though fully set forth herein, be, and the same is hereby condemned for the use by the State of Alabama as a right of way for a public road purposes, and the rights therein are hereby divested out of the landowner and into the State of Alabama, upon the payment by the State of Alabama of the sum hereinafter ordered and decreed to be paid.

2. That the damages and compensation to which the Defendant landowners in this case, Fred Dempsey and Pearlie Dempsey, are entitled is hereby fixed at the sum of \$12,000.00, which said sum is hereby ordered to be paid by the State of Alabama to said Defendant landowners, and that upon the payment of said amount by the State of Alabama to said landowners the condemnation of the lands hereinabove described shall be and become effective.

3. That the State of Alabama pay the costs of this proceeding.

DATED THIS ^{10th} ~~20th~~ day of March, 1970.

Julius P. Mashburn
CIRCUIT JUDGE

FILED

MAR 10 1970

ALICE J. DUCK CLERK
REGISTER

EXHIBIT "A"

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

PARCEL NO. 1: Commencing at the northeast corner of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 5, Township 2 South, Range 3 East; thence southerly along the east line of said SE $\frac{1}{4}$ of SW $\frac{1}{4}$, the east property line, a distance of 975 feet, more or less, to a point that is 85 feet northeasterly of and at right angles to the construction centerline of Project No. S-60-E and the point of beginning of the property herein to be conveyed; thence continuing southerly along said east property line a distance of 150 feet, more or less, to the south property line, thence westerly along said south property line (crossing the centerline of said project at approximate Station 643+53) a distance of 124 feet, more or less, to a point that is 90 feet southwesterly of and at right angles to the centerline of said project; thence N 23° 44' 30" West, parallel to the centerline of said project, a distance of 55 feet, more or less, to a point that is 90 feet southwesterly of and at right angles to the centerline of said project at Station 644+50.05, said point also being 90 feet southwesterly of and at right angles to the construction centerline of said project at Station 644+50.05; thence northwesterly along a curve to the right (concave easterly) having a radius of 4,018.98 feet, parallel to said construction centerline, a distance of 152 feet, more or less, to a point that is 90 feet southwesterly of and at right angles to said construction centerline at Station 646+00; thence turn an angle of 90° 00' to the right and run a distance of 25 feet; thence northwesterly along a curve to the right (concave northeasterly) having a radius of 3,998.98 feet, parallel to said construction centerline, a distance of 938 feet, more or less, to the north line of said SE $\frac{1}{4}$ of SW $\frac{1}{4}$, the north property line; thence easterly along said north property line (crossing said construction centerline at approximate Station 655+15) a distance of 182 feet, more or less, to a point that is 120 feet northeasterly of and at right angles to said construction centerline; thence southeasterly along a curve to the left (concave easterly) having a radius of 3,808.98 feet, parallel to said construction centerline, a distance of 3 feet, more or less, to a point that is 120 feet northeasterly of and at right angles to said construction centerline at Station 655+00; thence turn an angle of 90° 00' to the right and run a distance of 55 feet, more or less, to a point that is 65 feet northeasterly of and at right angles to said construction centerline at Station 655+00; thence southeasterly along a curve to the left (concave easterly) having a radius of 3,866.98 feet, parallel to said construction centerline, a distance of 890 feet, more or less, to a point that is 65 feet northeasterly of and at right angles to said construction centerline at Station 646+00; thence turn an angle of 90° 00' to the left and run a distance of 20 feet; thence southeasterly along a curve to the left (concave easterly) having a radius of 3,843.98 feet, parallel to said construction centerline, a distance of 118 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 5, Township 2 South, Range 3 East and containing 3.61 acres, more or less.

PARCEL NO. 2: Commencing at the northeast corner of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 5, Township 2 South, Range 3 East; thence southerly along the east line of said SE $\frac{1}{4}$ of SW $\frac{1}{4}$ a distance of 1,125 feet, more or less, to the south property line, thence westerly along said south property line (crossing the centerline of Project NO. S-60-E at approximate Station 643+53) a distance of 210 feet to the east property line; thence southerly along said east property line a distance of 164 feet, more or less, to a point that is 35 feet northerly of and at right angles to the centerline of a County Road and the point of beginning of the property herein to be conveyed; thence westerly, parallel to the Centerline of said County Road, a distance of 89 feet, more or less, to a point that is 35 feet northerly of and at right angles to the centerline of said County Road at Station 6+50; thence turn an angle of 90° 00' to the left and run a distance of 5 feet to the present north right-of-way line of said County Road; thence easterly along said present north right-of-way line a distance of 89 feet, more or less, to the east property line; thence northerly along said east property line a distance of 5 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 5, Township 2 South, Range 3 East and containing 0.01 acres, more or less.

OCT 22 1970

THE STATE OF ALABAMA - - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1970-71

State of Alabama

1 Div. 632

v.

Fred Dempsey, et al.

Appeal from Baldwin Circuit Court

McCALL, JUSTICE.

This is an eminent domain proceeding filed by the appellant, State of Alabama, to acquire a right-of-way across a tract of land owned by the appellees for a public road with free access. The commissioners in the probate court made an

2.

award to the appellees and an order of condemnation was entered. The State appealed to the circuit court and demanded a trial by jury.

In the circuit court, there was a jury verdict and judgment entered thereon in favor of the landowners. The appellant, the State, filed a motion for a new trial which was overruled. Now, it has appealed from the final judgment and the action of the court overruling its motion for a new trial.

The appellant makes 13 assignment of errorson the record, and of these, it has elected not to argue assignments No. 1, 8, 9, 11 and 13. Consequently, we will not consider these assignments in view of Rule 9, Revised Rules of Practice of the Supreme Court, 261 Ala. XIX, XXII, which states that assignment of errors not substantially argued in brief will be deemed waived and will not be considered by the court. Alabama Power Co. v. Scholz, 283 Ala. 232, 215 So. 2d 447; Cook v. Latimer, 279 Ala. 294, 184 So. 2d 807; Smith v. Jackson, 277 Ala. 257, 169 So. 2d 21; Stevens v. Thompson, 279 Ala. 232, 184 So. 2d 140; Hoyt v. Hoyt, 276 Ala. 208, 160 So. 2d 492.

Assignment of errors 2, 3 and 4 are as follows:

"2. For that the verdict of the jury is not sustained by the great preponderance of the evidence.

"3. For that the verdict of the jury in its award of \$12,000.00 is excessive in amount.

3.

"4. For there is error in the verdict of the jury in that it erred in giving too great amount, to-wit, of \$12,000.00, of recovery by the property owner."

While the appellant appeals from the final judgment and the judgment overruling its motion for a new trial, there is no assignment of error that the trial court erred in overruling the appellant's motion for a new trial, or an assignment that otherwise could put the trial court in error because of this adverse ruling to the appellant. Therefore the adverse ruling on the motion for a new trial is not before us. The assignment of errors 2, 3 and 4 above set out are not sufficient to present for review the trial court's action on the motion for a new trial. Such assignment of errors are not adequate in that regard and present nothing for this court to review since they do not allege error for failure to grant the motion for a new trial, nor do they allege error by the trial court in any respect. State v. Young, 281 Ala. 349, 202 So. 2d 714; Doughty v. City of Fayette, 278 Ala. 121, 176 So. 2d 481; King v. Jackson, 264 Ala. 339, 87 So. 2d 623. It should be observed that it is essential for assignment of errors to be predicated on adverse rulings of the trial court, and when they are not so predicated, they will not be considered. Central of Georgia Ry. Co. v. McDaniel, 262 Ala. 227, 78 So. 2d 290, National Ass'n for Advancement of Colored People v. State, 274 Ala. 544, 150 So. 2d 677; Andrews v. May, 277 Ala. 248, 168 So. 2d 619; Thornton v. Tutt, 283 Ala. 72, 214 So. 2d 425; Cotton v. Hearon, 41 Ala. App. 425, 133 So. 2d 677.

4.

None of the above assignments states that the court erred, nor do they show any way in which the court erred.

Roan v. Smith, 272 Ala. 538, 133 So. 2d 224. Assignment 4 charges error in the verdict of the jury in that it erred in giving too great an amount of money. This does not charge any erroneous action on the part of the court. In Mulkin v. McDonough Construction Co. of Georgia, 266 Ala. 281, 282, 95 So. 2d 921, this court said:

" * * * Only adverse rulings of the trial court are subject to an assignment of error and reviewable on appeal. * * * "

Assignment 4 predicates error on the part of the jury, not on any adverse ruling of the court which alone stands to be put in error. Assignments 2, 3 and 4 are therefore ineffectual.

Appellant's assignment of errors 5, 6 and 7 are all addressed to the action of the trial court in withdrawing, after first admitting in evidence over the appellees' objection, a paper writing or memorandum, prepared by the witness Roderick Stevens. This memorandum contained a list of comparables, used by Stevens, and showed how he arrived at his valuation of the subject property. Before its tender, he had testified to the matters set forth in his memorandum. We find no error in the court's action. Admission of such a memorandum has been held to be a matter within the sound discretion of the trial judge. It would not have constituted reversible error to have denied its admission in the first instance, Shelby Co. v. Baker, 269 Ala. 111, 110 So. 2d 896, so if, on reflection,

5.

the trial judge's better judgment prompted him to reverse his former decision on the question of the instrument's admissibility, that too was an exercise of his sound discretion. We think that since the law gives the trial judge judicial discretion to act in the premises in the first instance, it likewise gives him discretion to act in the second instance, so we hold that it was within the sound discretion of the trial judge to withdraw the exhibit.

The appellant's remaining two assignment of errors, being No. 10 and No. 12, concern us with the refusal of the trial court to give to the jury appellant's requested written charges 4 and 6 which undertake to charge on the measure of damages and compensation to which the property owners are entitled, if any, for the taking of their property.

We think the trial judge substantially and fairly covered the law on the subject of these two charges in his general oral charge, to which no exceptions were taken, wherein he charged the jury as follows:

" * * * The general rule is that the property owner is entitled -- or the measurement of his damages is the difference between the fair and reasonable market value of his property just prior to the taking and in this case that was November 7, 1969, and the fair and reasonable market value of that part remaining after the taking, assuming

6.

that the road had been completed as it was projected and planned and shown to you by the evidence here. As I say, the difference between the fair and reasonable market value of the property just immediately before the taking and the fair and reasonable market value of the part left immediately after the taking, giving in effect to any enhancement, if you believe from the evidence there was any enhancement, and damages to the part remaining that is the part the landowner is entitled to receive as fair, just and adequate compensation. * * * "

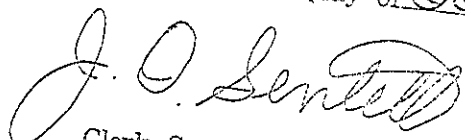
This portion of the court's oral charge is in accordance with the law on the measure of damages as announced in State v. Stoner, 271 Ala. 3, 122 So. 2d 115; St. Clair County v. Bukacek, 272 Ala. 323, 131 So. 2d 683; McClendon v. State, 278 Ala. 678, 180 So. 2d 273; and State v. Walker, 281 Ala. 182, 200 So. 2d 482. Therefore there was no error in refusing to give these requested written charges, the matter having been covered in the court's general oral charge. Tit. 7, § 273, Code of Alabama, 1940, and the numerous cases there cited in annotations to note VII; Ala. Digest 18A, Trial, Key No. 260 (1) et seq. The judgment of the trial court is affirmed.

AFFIRMED.

Merrill, Harwood. Bloodworth and Maddox, JJ., concur.

I, J. O. Sentell, 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 22 day of Oct 19 70

A handwritten signature in cursive script, reading "J. O. Sentell". The signature is written in dark ink and is positioned above the printed name.

Clerk, Supreme Court of Alabama

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 19 70-71

1st Div. No. 632

To the Clerk ~~Register~~ 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
State of Alabama, Appellant,
and
Fred Dempsey and Pearlie Dempsey, Appellees,
wherein by said Court it was considered adversely to said appellant, were brought before the
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

NOW, IT IS HEREBY CERTIFIED, That upon consideration thereof the Supreme Court, on the
22nd day of October, 19 70, affirmed said cause, in all respects, and
ordered that appellant, The State of Alabama,

~~and~~

~~sureties for the costs of appeal~~, pay the costs of appeal in this Court and in the Court below
for which costs let execution issue.

~~It is further certified that in opposing that said parties have waived their rights of exemption
under the laws of Alabama, it was ordered that execution issue accordingly.~~

Witness, J. O. Sentell, Clerk of the Supreme
Court of Alabama, this the 22nd day
of October, 19 70
J. O. Sentell
Clerk of the Supreme Court of Alabama.

THE SUPREME COURT OF ALABAMA

October Term, 19 70-71

1st Div., No. 632

State of Alabama

Appellant,

vs.

Fred Dempsey, et al.

Appellee.s

From Baldwin Circuit *Court.*

No. 9114

**CERTIFICATE OF
AFFIRMANCE**

The State of Alabama,

County.

} *Filed*

this day of 19

OCT 23 1970

ALICE J. BOOK CLERK
BROWN PRINTING CO., MONTGOMERY 1969 REGISTER