

STATE OF ALABAMA,

COUNTY OF MOBILE.

Before me, Julia P. McMillan, a notary public in and for said state and county, personally appeared B.F. McMillan Jr., who is known to me and who being sworn says on oath that the allegations in petition hereto attached are true.

B. F. McMillan Jr.

SWORN TO AND SUBSCRIBED

BEFORE ME THIS MAY 5th,

1934.

Julia P. McMillan

Notary Public, Mobile County

Tina Miller, Complainant. *
 VS
 J.M. Franklin, as * In Circuit Court; Equity No **
 Justice of the *
 Peace etc. Respondent. *

To Hon. F.W.Hare:

Your petitioner, a resident citizen of Baldwin county, over the age of 21 years, shows:

- 1 Petitioner is defendant in cause pending in Justice Court of J.M. Franklin, at Bayminette wherein Lucille Kersh is Plaintiff.
- 2- The respondent is a justice of the peace before whom the cause is pending on contest of claim of exemptions by defendant and is an uncle of the plaintiff and is therefore disqualified to act as Judge in said cause under the laws of Alabama.
- 3- This Court heretofore issued a mandamus directed to the respondent directing him to show cause why he should not be required to certify his incompetency and recuse himself in said cause and the same is set for hearing before your Honor on September ___ 1934.
- 4- The mandate issued by your Honor was not served by the said respondent before he entered judgment for plaintiff and he now claims that having said judgment he can now proceed with the entire disposition of said cause including the disposition of this claim of exemptions.

Petitioner therefore respectfully prays that your Honor will issue is further writ of mandamus directed to the said J.M. Franklin directing him to forthwith certify his incompetency and recuse himself to try any issue in said cause including judgment on the said claim of exemption and any issue growing out of said cause between petitioner and said Lucille Kersh.

Petitioner prays for such other relief as she may be entitled to in the premises and she attaches hereto verification of the facts hereinabove stated.

Tina Miller, Petitioner.
 By R. F. McCormick

Note. Respondent is required to answer each allegation in foregoing petition but oath thereto is waived.

Tina Miller, Complainant
 By R. F. McCormick

ALTERNATIVE WRIT.

To JppM. FRANKLIN, Justice of the Peace:

It being made to appear by the verified petition of Tina Miller that she is defendant in your Court in proceedings commenced against her by Lucille Kersh; That you are related to Plaintiff within the fourth degree on consanguinity of affinity and are disqualified to act as Judge in a proceeding between said parties:

WE THEREFORE COMMAND you that you immediately certify your incompetency as such Judge and recuse yourself from trying any issues in said cause pending before you or growing out of said cause including rendering judgment on any claim of exemption filed in said cause by the defendant, Tina Miller, or appear before the Circuit Court of Baldwin county, Alabama on the 10th day of September 1934 and then and there show Cause if any you have why you should not so certify your incompetency and recuse yourself as such judge. Dated this May 7th 1934.

F. W. Hare
 Judge of Circuit Court.