

STATE OF ALABAMA

IN THE CIRCUIT COURT - LAW SIDE

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Norman Durant to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding same, then and there to answer the Complaint of Robert C. Bell.

Witness my hand this 5th day of November, 1971.

Emmie B. Blackmon
Clerk

ROBERT C. BELL,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
NORMAN DURANT,	X	AT LAW NO. <u>10,105-</u>
Defendant.	X	

COMPLAINT:

The Plaintiff sues to recover possession of the following tract of land:

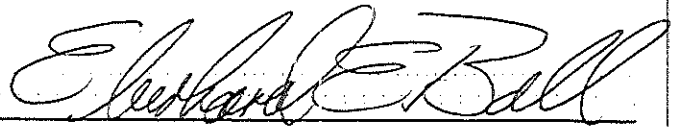
From the Northeast Corner of the NW1/4 of the SE1/4 of Section 29, Township 3 South, Range 2 East, run West 6.00 chains to the West right-of-way line of Alabama Highway 225 for the point of beginning. Thence run West 4.74 chains to a point; thence South 3° 16' East 12.67 chains to a point on the West right-of-way line of Highway 225; thence North-easterly along the West right-of-way line of said Highway 225 to the point of beginning containing 3.0 acres, more or less, and being a part of the NW1/4 of SE1/4 of Section 29, Township 3 South, Range 2 East, Baldwin County, Alabama,

of which he was in possession, and upon which, pending such possession, and before the commencement of this suit, the Defendant

entered and unlawfully withholds, together with One Hundred Dollars (\$100.00) for the detention thereof.

CHASON, STONE & CHASON

BY:




Attorneys for Plaintiff

The Plaintiff respectfully
demands trial of this cause
by jury.

CHASON, STONE & CHASON

BY:



FILED

NOV 5 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

10,105

ROBERT C. BELL,
Plaintiff,
vs.
NORMAN DURANT,
Defendant.

* * * * *

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

* * * * *

SUMMONS AND COMPLAINT

* * * * *

NOV 5 1971

JAIL SHERIFF

CHASON, STONE & CHASON
ATTORNEYS AT LAW
P. O. Box 120
BAY MINETTE, ALABAMA

Received 5 Nov 71
and on 11 day of Nov 71
I served a copy of this writ
on Norman Durant
By service on _____

W. A. Hall
Brenley

Penalty \$100.00
Ten Cents per mile Total \$300.00
JAIL SHERIFF

STATE OF ALABAMA

WRIT OF POSSESSION

BALDWIN COUNTY

To any Sheriff of the State of Alabama:

You are hereby commanded to deliver to Robert C. Bell, possession of the lands and tenements which the said Robert C. Bell recovered of Norman Durant by the judgment of our Circuit Court, held for the County of Baldwin, on the 23rd day of April, 1974, viz:

From the Southeast corner of fractional Section 29, Township 3 South, Range 2 East, Baldwin County, Alabama, run North 1485.0 feet to a point; run thence North 88°30' West 1980 feet to a point; run thence North 03°16' West 309.36 feet to a point in the West margin of Alabama State Highway Number 225, the POINT OF BEGINNING: run thence North 03°16' West 311.7 feet to a point; run thence North 89°57' East 23.3 feet to a point; run thence South 02°08' West 262.76 feet to a point in the West margin of said Alabama State Highway Number 225; run thence South 17°30' West 51.0 feet to the point of beginning, containing .013 acres, more or less.

You are further commanded of the goods and chattels, lands, and tenements of the said Norman Durant, you cause to be made the sum of \$31.25 Dollars, costs of suit; and make return of this writ and the execution thereof according to law.

Witness my hand, this 4th day of Nov., 1974.

Ernest B. Blackmon
Circuit Clerk

WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

November 17, 1971

• Mrs. Eunice B. Blackmon, Clerk
Circuit Court, Baldwin County
Bay Minette, Alabama 36507

Re: Bell v Durant
Law #10,105

• Dear Eunice:

Please file the enclosed demand for
abstract.

With kind regards, I am

Yours very truly,


Wilson Hayes

mm
Enc.

cc w/enc: Mr. E. E. Ball

ROBERT C. BELL, Ø IN THE CIRCUIT COURT OF
Plaintiff, Ø BALDWIN COUNTY, ALABAMA
Vs. Ø AT LAW
NORMAN DURANT, Ø
Defendant. Ø NUMBER: 10,105

DEMAND FOR ABSTRACT

Comes now Defendant in the above styled cause and makes demand of Plaintiff for an abstract, in writing, of the title or titles on which he will rely for recovery or defense, in the trial of the above styled cause.

Attorney for Defendant
Wilson Hayes

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE
I do hereby certify that I have on this 17 day of Nov
1941, delivered to the following named addressee, a copy of the
above entitled proceeding by and in the name of the United States
Mail, properly addressed, with first class postage paid.
W. H. [Signature]

FILED

NOV 19 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

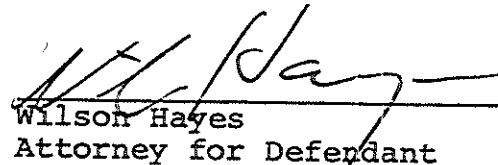
ROBERT C. BELL,	X	IN THE CIRCUIT COURT OF
Plaintiff,	X	BALDWIN COUNTY, ALABAMA
Vs.	X	AT LAW
NORMAN DURANT,	X	
Defendant.	X	NUMBER: 10,105

Comes now Defendant in the above styled cause and shows to the Court that Defendant did more than ten days before the setting of the trial of this cause demand by notice in writing an abstract in writing of the title or titles on which Plaintiff would rely for recovery in this cause.

Defendant further shows unto the Court that Plaintiff has failed to furnish such abstract of title and

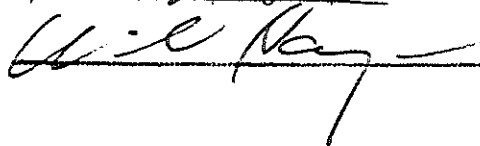
Defendant therefore moves the Court to enter judgment against Plaintiff as provided in Code of Alabama 1940, revised 1958, Title 7, Section 940.

Respectfully moved.


 Wilson Hayes
 Attorney for Defendant

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 10th day of April, 1973, served a copy of the foregoing pleading on counsel for all parties to this proceeding by Hand delivered by United States Mail, properly addressed, with first class postage prepaid, to him.



Filed 4-10-73

Ernie B. Blackmon
Circuit Clerk

- ~~1. St. John, Sewell, Jr.; Mgr. Riv. Util., Box 253, Foley D3~~
- ~~2. Garner, Winnie; Housewife, Route 1, Robertsdale~~
- ~~3. Sherman, James; Bay Slacks, 113 Stanmeyer St., Bay Minette D6~~
- ~~4. Jaye, Andrew, Jr.; Eastwood Nealy, Stockton~~
- ~~5. Nitzeberg, Robert; Carpenter, Route 1, Silverhill~~
- ~~6. Orem, Doris S.; Clk. West Bros., 1701 Day Av., Bay Minette~~
- ~~7. Lowery, Margorie Mrs.; Housewife, Box 584, Foley~~
- ~~8. Head, Mrs. Charlie; Housewife, P. O. Box 111, Stapleton P~~
- ~~9. Lowery, W. T.; Self Emp. Contractor, Box 585, Foley~~
- ~~10. Graham, R. Douglas; Ins. Adjuster, 625 East Laurel, Foley~~
- ~~11. McKay, Mary Frances; Secretary, 305 E. 12th, Bay Minette, County Agent~~
- ~~12. Hesse, Matilda; Housewife, Route 1 Box 120, Foley D4~~
- ~~13. Ruffin, John; Newport, Brady Rd., Bay Minette~~
- ~~14. Griggs, La Mina R.; Housewife, 131 Pineridge Rd., Daphne~~
- ~~15. Rogers, W. A.; Forester Int. Paper Co.; 1101 Bradley Av., Bay Minette D7~~
- ~~16. Garner, Joan Mrs.; Housewife, 204 East Berry, Foley~~
- ~~17. Munson, Everette, Mrs.; Chemstrand, P. O. Box 86, Elberta, Pensacola~~
- ~~18. Holley, Anita M.; Housewife, 606 Spanish Main St., Spanish Fort~~
- ~~19. Givens, Leonard; Scott Paper Emp, Robertsdale, Mobile D5~~
- ~~20. Givens, Louise; Housewife, Route 1, Robertsdale P3~~
- ~~21. Mothershed, George J.; Driver, Gulf Oil; Route 2, Bay Minette P7~~
- ~~22. Frazier, Clay S.; Dist. Supvr St. ABC Bd., 198 Patrician Dr., Spanish Fort P5~~
- ~~23. Boutwell, Louise W.; Clk. St. Dept of Conservation, Route 1 Box 414, Crossroads, Bay Mi~~
- ~~24. Deese, Kenny; Repairman Gulf Tele., P. O. Box 531, Foley~~
- ~~25. Sandt, Sam; Retired, 204 Liberty, Fairhope~~
- ~~26. Osborne, Stanley; Riviera Utilities Emp., 408 W. Berry Ave., Foley P2~~
- ~~27. Whidbee, Ellis; Shipyard Worker, Rt. 1, Perdido~~
- ~~28. Martin, Bobby; Liberty Natl. Ins. Slsmn, 115 W. 15th St., Bay Minette~~
- ~~29. Cranton, Kenneth W.; Emp. U. S. Customs, 615 McAdams Av., Daphne, Mobile~~
- ~~30. Dean, Mary; Housewife, Star Rt. B Box 444A, Bay Minette~~
- ~~31. Rider, Noma E.; Bald. Co. Sav. & Loan, Route 1 Box 431, Bay Minette~~
- ~~32. Weeks, Leonard F.; Packer Woodhaven Dairy, 626 Twin Beach Rd., Fairhope, Robertsdale~~
- ~~33. Irvin, Shirley F.; Housewife, 603 E. 7th St., Bay Minette P6~~
- ~~34. Eason, Jesse M.; Riviera Utilities, P. O. Box 274, Foley~~
- ~~35. Southern, Acie; Lineman, Riv. Util., Box 513, Foley~~
- ~~36. Coldea, Jettie Drough; Saleslady Foley Hardware, Foley~~
- ~~37. Hydon, Homer; Standard Furniture Co., 403 W. Hurricane Rd., Bay Minette P4~~
- ~~38. Gates, B. C.; Bookkeeper L. Irwin, Box 762, Foley~~
- ~~39. Christensen, Georgeette, Mrs.; So. Baldwin Bank, Box 415, Foley~~
- ~~40. Springsteen, Kay Mrs.; Housewife, Route 1 Box 94, Foley D8~~
- ~~41. Denton, Nancy Jean; Housewife, P. O. Box 444, Foley D5~~
- ~~42. Cole, Barbara; Housewife, c/o Gulf Bowl, Foley D1~~
- ~~43. Cooper, Quinten; Merchant, Route 1, Robertsdale~~

10,105
Bell
res
Durant

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ROBERT C. BELL

PLAINTIFF

VS:

CASE # 10,105

NORMAN DURANT

DEFENDANT

We, the jury, find for the Defendant

Douglas Bullock
Foreman

IN THE CIRCUIT COURT FOR BALDWIN COUNTY,
ALABAMA

ROBERT C. BELL,	X	
Plaintiff,	X	
vs.	X	
	X	CIVIL ACTION NO: 10,105
NORMAN DURANT,	X	
Defendant.	X	

JUDGMENT NOTWITHSTANDING THE VERDICT
AND NEW TRIAL IN THE ALTERNATIVE

This cause came on to be heard on Plaintiff's Motion to set aside the verdict and judgment for Defendant and to order judgment for Plaintiff in accordance with the previous Motion for directed verdict, and in the alternative for a new trial, and the Court having considered the same, it is

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

1. That the verdict and judgment be set aside and that judgment be entered herein for Plaintiff.
2. That the Plaintiff have and recover of the Defendant the following described property situated in Baldwin County, Alabama, viz:

From the Southeast corner of fractional Section 29, Township 3 South, Range 2 East, Baldwin County, Alabama, run North 1485.0 feet to a point; run thence North 88°30' West 1980 feet to a point; run thence North 03°16' West 309.36 feet to a point in the West margin of Alabama State Highway Number 225, the POINT OF BEGINNING: run thence North 03°16' West 311.7 feet to a point; run thence North 89°57' East 23.3 feet to a point; run thence South 02°08' West 262.76 feet to a point in the West margin of said Alabama State Highway Number 225; run thence South 17°30' West 51.0 feet to the point of beginning, containing .013 acres, more or less.

3. The Defendant be taxed with the costs.

4. That, in the alternative, if, but only if, the judgment aforesaid be reversed upon appeal therefrom, then and in that event said verdict of the jury and judgment entered thereon should be and is hereby set aside, and a new trial be and is hereby granted in accordance with Plaintiff's alternative motion for a new trial on the ground that the Court erred in its oral charge to the jury.

Done this 23rd day of April, 1974.

J. J. Madigan
Circuit Judge

I, Eunice B. Blackmon, Clerk of the Circuit Court, do hereby certify that I have this day served a copy of the above order on the attorneys of record, by mailing a copy of same, postage prepaid.

Done this 23rd day of April 1974.

Eunice B. Blackmon

Minute Book 13

Page 375

IN THE CIRCUIT COURT FOR BALDWIN COUNTY,
ALABAMA

ROBERT C. BELL,	X	
Plaintiff,	X	
	X	
vs.	X	CIVIL ACTION NO. 10,105
	X	
NORMAN DURANT,	X	
Defendant.	X	

MOTION FOR JUDGMENT NOTWITHSTANDING THE
VERDICT OR, IN THE ALTERNATIVE, FOR A
NEW TRIAL

The Plaintiff moves the Court to set aside the verdict and judgment entered in the above styled cause on January 18, 1974, and to enter a judgment in favor of the Plaintiff in accordance with the Motion for Directed Verdict, or, in the alternative, Plaintiff moves the Court to set aside the verdict and grant the Plaintiff a new trial on the following grounds, separately and severally, to-wit:

1. There was not a scintilla of evidence to warrant a finding that the Defendant has acquired title to the lands sued for by adverse possession of the property and payment of the taxes for ten years.

2. There was not a scintilla of evidence to warrant a finding that the Defendant acquired title to the land sued for by adverse possession for twenty years or more.

3. It was conclusively established that the Plaintiff derived title to the lands sued for from a common grantor with the Defendant.

4. It was conclusively established that the Plaintiff derived title to the property sued for from a grantor in possession and held the legal title at the time suit was commenced down to the time of trial.

5. There was not a scintilla of evidence that the Plaintiff's predecessor in title ever entered into an agreement with the Defendant that a certain fence should constitute the boundary between their respective parcels of land.

6. There was not a scintilla of evidence that the common predecessor in title to the Plaintiff and Defendant ever intended to adversely possess the strip of land sued for against the Plaintiff's predecessors in title.

7. The verdict is contrary to law.

8. The verdict is contrary to the great weight and preponderance of the evidence.

9. This Honorable Court erred during the course of the trial in the following respect:

(a) In permitting Winifred Hoffman, the Defendant and Henry Durant to testify over the Plaintiff's continuous objection as to the existence of the fence line prior to 1952.

10. This Honorable Court erred in its charge to the jury when it stated:

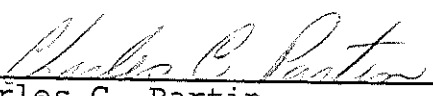
(a) ". . .if that were all of the facts in this case, Mr. Bell would be entitled to a directed verdict from me for you to go out there and find for the property sued for, because the description in the deeds - I mean the description in this complaint described what is in Mr. Bell's deed. But, unfortunately, there is also a rule of law, and I charge you this is the law: That where a party buys land from person in possession and that person in possession carries him out there and points out the line and particularly where there is a fence, if you believe there was a fence there, points out a fence and says: 'this is the land I am selling to you', and it later develops that the land described in the deed doesn't match that that is under fence - - if it is less than the deed, but the fence is there, and he claims it for 10 years, and holds that up to the fence for 10 years, claiming it as his own, even though he doesn't realize that he bought 40 acres and has 42 acres under fence, but he is claiming what is under fence, and does that for 10 years, then the law says if that possession was open, hostile, notorious, and everybody

could see what he was claiming, then he gets the 42 acres whether it was in what was described or not. That is the dispute we have in this case."

(b) ". . .that if Mr. Durant, for a period of 10 years before the filing this suit had a fence on the side of his land next to the land that Mr. Bell bought, and which he is now claiming, and that for 10 years prior to that time he claimed that he owned all of the land up to that fence, that the people on the other side recognized that fence as the common boundary line for more than 10 years prior to the dispute between Bell and Durant, then it would be your duty to find for the defendant - for Mr. Durant in this case."

11. The Court erred in giving the Defendant's written requested charges "1" and "2".

12. For that the verdict of the jury is insufficient to support the judgment.


Charles C. Partin
Attorney for Plaintiff
P. O. Box 120
Bay Minette, Alabama

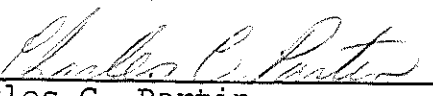
CERTIFICATE OF SERVICE

I, Charles C. Partin, Attorney for Plaintiff in the above styled cause, hereby certify that I have this 31st day of January, 1974, served a copy of the attached Motion for Judgment Notwithstanding the Verdict or, in the alternative, for a new trial, upon Kenneth Cooper, Esquire, Attorney for Defendant, by depositing a copy of the same in the United States Mail, post-paid and addressed to him at Bay Minette, Alabama.

FILED

JAN 31 1974

EUNICE B. BLACKMON CIRCUIT CLERK


Charles C. Partin
Attorney for Plaintiff
P. O. Box 120
Bay Minette, Alabama

IN THE CIRCUIT COURT FOR BALDWIN COUNTY,
ALABAMA

ROBERT C. BELL,

X

Plaintiff,

X

vs.

X

CIVIL ACTION NO: 10,105

X

NORMAN DURANT,

X

Defendant.

X

MOTION FOR DIRECTED VERDICT

The Plaintiff moves the Court to direct a verdict in favor of the Plaintiff in this cause on the following grounds, to-wit:

1. There is not a scintilla of evidence to warrant a finding that the Defendant has acquired title to the lands sued for by adverse possession of the property and payment of the taxes for ten years.

2. There is not a scintilla of evidence to warrant a finding that the Defendant acquired title to the land sued for by adverse possession for twenty years or more.

3. It is conclusively established that the Plaintiff derived title to the lands sued for from a common grantor with the Defendant.

4. It is conclusively established that the Plaintiff derived title to the property sued for from a grantor in possession and held the legal title at the time suit was commenced down to the time of trial.

Filed, January 18, 1974

Jeffrey H. Maskeburn
Judge

Attorney for Plaintiff

1-18-74 Denied.

Jeffrey H. Maskeburn
Judge

ROBERT C. BELL,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
NORMAN DURANT,	X	AT LAW NO. 10,105
Respondent.	X	

DEMAND FOR ABSTRACT

Comes now the Plaintiff in the above styled cause, by and through his attorneys of record, and makes demand of the Defendant for an abstract, in writing, of the title or titles on which he will rely as a basis for his defense in the trial of the above styled case.

CHASON, STONE & CHASON

By: Charles E. Ball
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 19th day of Nov, 1971.

Charles E. Ball

FILED

NOV 19 1971

EUNICE B. BLACKMON CIRCUIT CLERK

WILSON HAYES

LAWYER

P. O. BOX 300

BAY MINETTE, ALABAMA

36507

TELEPHONE 937-5506

November 16, 1971

Mrs. Eunice B. Blackmon, Clerk
Circuit Court, Baldwin County
Bay Minette, Alabama 36507

Re: Bell v Durant
Law #10,105

Dear Eunice:

Please file the enclosed answer.

With kind regards, I am

Yours very truly,


Wilson Hayes

mm
Enc.

cc w/enc: E. E. Ball

ROBERT C. BELL, Ø IN THE CIRCUIT COURT OF
Plaintiff, Ø BALDWIN COUNTY, ALABAMA
Vs. Ø AT LAW
NORMAN DURANT, Ø
Defendant. Ø NUMBER: 10,105

Comes now Defendant in the above styled cause and for answer to the Bill of Complaint says:

1. Defendant disclaims all that portion of the land, the subject of this suit, described in the Bill of Complaint save and except the following described lands:

From the Southeast corner of fractional Section 29, Township 3 South, Range 2 East, Baldwin County, Alabama, run North 1485.0 feet to a point; run thence North 88°30' West 1980 feet to a point; run thence North 03°16' West 309.36 feet to a point in the west margin of Alabama State Highway Number 225, the POINT OF BEGINNING; run thence North 03°16' West 311.7 feet to a point; run thence North 89°57' East 23.3 feet to a point in an old boundary fence line; run thence South 02°08' West and along the old boundary fence line 262.76 feet to a point in the west margin of said Alabama State Highway Number 225; run thence South 17°30' West 51.0 feet to the Point of Beginning, containing .013 acres, more or less.

2. As to the balance of the lands, Defendant pleads not guilty.

3. Defendant suggests upon the record that he has been in possession and adverse possession for more than three years next preceding the filing of the Complaint.

Wilson Hayes
Attorney for Defendant
Wilson Hayes

Defendant demands trial by Jury.

W. L. Hay

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 16 day of Nov 1971, caused a copy of the foregoing to be mailed by first class mail, postage prepaid, to the following address: Mr. J. Edgar Hoover, Director, Federal Bureau of Investigation, Washington, D.C. 20535

W. H. H.

FILED

NOV 17 1971

EUNICE B. BLACKMON CIRCUIT
CLERK

ROBERT C. BELL,	X	
Plaintiff,	X	IN THE CIRCUIT COURT OF
	X	
vs.	X	BALDWIN COUNTY, ALABAMA
	X	
NORMAN DURANT,	X	AT LAW NO. 10,105
Defendant.	X	

DEMURRER TO PLEAS

Comes now the Plaintiff in the above styled caused, by and through his attorneys of record, and demurs to Plea numbered "3" heretofore filed by the Defendant and as grounds therefor, assigns the following, separately and severally:

1. For that said Plea does not constitute a defense to the complaint heretofore filed.
2. For that the said Plea 3 is immaterial.

CHASON, STONE & CHASON

By: Edward E. Ball
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 19th day of Nov 19 71.

Edward E. Ball

FILED

NOV 19 1971

EUNICE B. BLACKMON CIRCUIT CLERK