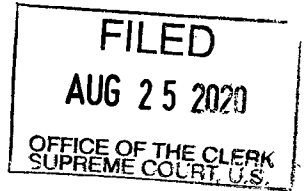


20-5594

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

William N. Lucy — PETITIONER
(Your Name)

vs.

GRETCHEN ELAINE WALKER — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

"NO COURT HAS RULED ON THE MERITS OF THIS CASE"
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RE: MATTER OF THE ESTATE
OF ANNIE D. FOX (DECEASED)

William N. Lucy
(Your Name)
EASTERLING CORR. FAC.
200 WALLACE DR.
(Address)

CLID, AL 36017
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- I.) DID THE MOBILE COUNTY PROBATE COURT ABUSE IT'S DISCRETION BY IGNORING ALABAMA LAW AT STATUTE §43-2-42 A(2) CODE OF ALA. 1975 AND REFUSED TO APPOINT MR. RICHARD L. LUCY SR., NEXT-OF-KIN, BROTHER TO THE DECEDENT, WHO IS WILLING TO SERVE AND SATISFACTORY TO SERVE AS ADMINISTRATOR OF THE ESTATE OF THE DECEDENT AND INSTEAD APPOINT COUNTY GEN. ADMINISTRATOR FRANK KRUSE ESQ., ON REQUEST OF A(W) ATTORNEY WITH A CLIENT WITH A QUESTIONABLE, UNSTANTIATED CLAIM AND NO LEGAL STANDING IN THIS INSTANT CASE?
- II.) DID THE ALABAMA COURT OF CIVIL APPEALS ABUSE IT'S DISCRETION BY REFUSING TO GRANT PETITIONER INFORMA PAUPERIS STATUS IN THIS INSTANT CASE, DISMISSING IT EVEN THOUGH PETITIONER IN THIS CASE WAS GRANTED INFORMA PAUPERIS STATUS BY THE ALABAMA SUPREME COURT BEFORE DEFLECTING IT TO THE ALA. COURT OF CIVIL APPEALS?
- III.) DID THE CHIEF CLERK OF THE MOBILE COUNTY PROBATE COURT ABUSE HIS DISCRETION BY REFUSING TO TRANSFER THE PROBATE COURT'S RECORDS ON APPEAL TO THE ALABAMA COURT OF CIVIL APPEALS, CUSING PETITIONER HAD NOT PAID THE ALABAMA SUPREME COURT'S FILING FEES EVEN THOUGH THE ALABAMA SUPREME COURT GRANTED THIS PETITIONER INFORMA PAUPERIS STATUS?
- IV.) DID THE ALABAMA SUPREME COURT CLERK ABUSE THEIR DISCRETION BY GIVING PETITIONER'S CASE ON APPEAL A NEW CASE NUMBER SO THE CASE COULD NOT USE

QUESTION(6) PRESENTED CONT.

THE APPROVED INFORMA PAUPERIS REQUEST, CHANGING THE CASE NUMBER OF THIS INSTANT CASE FROM APPROVED NUMBER 1190130 (NOV. 20, 2019) TO CASE NUMBER 1190475, THEN DENYING REQUEST TO PROCEED ON APPEAL INFORMA PAUPERIS?

VI.) DID THE MOBILE COUNTY PROBATE COURT ABUSE ITS DISCRETION WHEN IT FAILED TO AND/OR REFUSED TO ACKNOWLEDGE THE INTESTATE SUCCESSION OF THE NOTORIZED STATEMENTS SUBMITTED BY THE HEIRS OF THE DECEDENT CONCERNING DECEDENT'S ESTATE?

VII.) DID THE MOBILE COUNTY PROBATE COURT ABUSE ITS DISCRETION BY REFUSING TO OR FAILING TO CONSULT THE HEIRS OF THE DECEDENT OVER THE PAST TWO (2) YEARS, THIS INSTANT CASE HAS BEEN IN PROBATE COURT TO ESTABLISH DISTRIBUTION OF THE ASSETS OF DECEDENT'S ESTATE?

VIII.) DID THE PROBATE COURT AND THE MOBILE COUNTY GEN. ADMINISTRATOR ABUSE THEIR DISCRETION BY SPENDING THE PAST YEAR AND A HALF TRY TO JUSTIFY A(N) UNSTANTIATED CLAIM BY THE LAWYER AND HIS CLIENT (GRESCHEN WALKER), THAT RECOMMENDED FRANK KRUSE ESQ (MOBILE CO. GEN. ADMINISTRATOR) AS ADMINISTRATOR OF DECEDENT'S ESTATE, RATHER THAN FOLLOWING ALABAMA LAW AND APPOINTING A NEXT-OF-KIN AS ADMINISTRATOR AND WORKING TO DISTRIBUTE DECEDENT'S ESTATE?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

ALA. SUPREME COURT NO: 1190130 (2190176)
ALA. COURT OF CIVIL APPEALS NO: 219076
MOBILE COUNTY PROBATE COURT NO: 2018-1703

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TABLE OF AUTHORITIES CITED

CASES

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JOHNSON V. PERSON, 229 ALA, 85, 155, 50, 695, 1934 -
ALA. LEXIS 272 (ALA, 1934)

BURNETT V. GARRISON, 261 ALA. 622, 75 SO. 144 1954 -
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STATUTES AND RULES

§ 43-2-42 A(2) CODE OF ALABAMA 1975

OTHER

5TH AMENDMENT TO U.S. CONSTITUTION (DUE PROCESS OF LAW)
14TH AMENDMENT TO U.S. CONSTITUTION (EQUAL PROTECTION OF THE LAW),

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

* ~~NO COURT REVIEWED MERITS~~

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the ALABAMA SUPREME COURT court appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was Nov. 20, 2019. A copy of that decision appears at Appendix A_____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

AMENDMENT 5- CONSTITUTION OF THE UNITED STATES
(DUE PROCESS)

AMENDMENT 14- CONSTITUTION OF THE UNITED STATES
(EQUAL PROTECTION OF THE LAW)

§ 43-2-42 (A)(2) CODE OF ALA. 1975
(PROBATE COURT MUST APPOINT NEXT-OF-KIN AS
ADMINISTRATOR IF WILLING TO SERVE AND IS
QUALIFIED TO SERVE)

§ 12-2-7 (6) CODE OF ALABAMA 1975

STATEMENT OF THE CASE

THIS CASE IS ABOUT A DECEDENT WHO DIED INTERSTATE; SHE DID NOT HAVE ANY CHILDREN OF HER OWN; HOWEVER SHE TOOK HER YOUNGER BROTHER INTO HER HOME WHEN HE WAS ABOUT TEN YEARS OLD. AFTER THEIR FATHER DIED AND RAISED HIM AS AND TOLD EVERY BODY "HE WAS HER SON."

AFTER HER DEATH, THE DECEDENT'S HEIRS SIGNED STATEMENTS INDICATING THIS BROTHER (WILLIAM N. LUCY) WERE HIS THE DECEDENT'S SON AND ENTITLED TO SUCCESSION OF HER ESTATE, AND FILED THIS IN THE MOBILE COUNTY PROBATE COURT. THE MOBILE COUNTY PROBATE COURT HAS REFUSED TO ACKNOWLEDGE THE WISHES OF THE DECEDENT'S HEIRS AND ALABAMA LAW, BUT HAS CONSISTANTLY MADE RULINGS AND GIVEN ORDERS CENTERED AROUND UNSUBSTANTIATED CLAIM IN FAVOR OF ITS CLAIMANT; TWO YEARS HAS PASTED AND THE DECEDENT'S ESTATE HAS NOT BEEN SETTLED NOR HAVE THE MOBILE COUNTY PROBATE COURT ATTEMPTED TO ADDRESS THE DESIRES OF THE DECEDENT'S HEIRS AND FAMILY.

D. PETITIONER / APPELLANT FILED PETITION TO APPOINT MR. RICHARD L. LUCY SR. AND/OR MR. LEONARD HOLMES AS ADMINISTRATOR OF THE ESTATE OF DECEDENT ANNIE D. FOX, IN THE MOBILE COUNTY PROBATE COURT ON OR ABOUT OCTOBER 21, 2019, PURSUANT TO § 43-2-42 (4) (2) CODE OF ALA. 1975

STATEMENT OF THE CASE CONT.

- 2). ON OCTOBER 24, 2019, THE MOBILE COUNTY PROBATE COURT GRANTED MOTION BY GRETCHEN ELAIN WALKER TO APPOINT MOBILE COUNTY GEN. ADMINISTRATOR FRANK KRUSE ESQ. AS ADMINISTRATOR OF ESTATE OF ANNIE D. FOX (DECEASED), CONTRARY TO ALABAMA LAW AT § 43-2-42(A)(2) CODE OF ALABAMA 1975, AND ON THE MOTION OF GRETCHEN ELAINE WALKER, WHO LACKED LEGAL STANDING.
- 3). ON NOVEMBER 6, 2019 PETITIONER / APPELLANT FILED "NOTICE OF APPEAL" OF THE MOBILE COUNTY PROBATE COURT'S ORDER DATED OCT. 24, 2019; GRANTING MOTION OF GRETCHEN ELAINE WALKER, TO APPOINT FRANK KRUSE ESQ. AS ADMINISTRATOR OF ESTATE OF DECEDENT ANNIE D. FOX, IN THE ALABAMA SUPREME COURT.
- 4). ON NOVEMBER 7, 2019 MOBILE COUNTY PROBATE COURT ACKNOWLEDGED RECEIVING NOTICE OF APPEAL FROM PETITIONER TO THE SUPREME COURT OF ALABAMA AND FORWARDING A COPY OF SAID NOTICE TO CLERK OF ALABAMA SUPREME COURT, FRANK KRUSE ESQ. AND JIM H. FERNANDEZ ESQ., (ATTORNEY FOR GRETCHEN ELAINE WALKER) ALSO INDICATING DOCKET/FILING FEES IS DUE AND PAYABLE TO THE ALABAMA SUPREME COURT.
- 5). ON NOVEMBER 13, 2019 APPEAL FROM OCT. 24, 2019 ORDER OF MOBILE PROBATE COURT APPOINTING FRANK KRUSE AS ADMINISTRATOR OF DECEDENT'S, ANNIE D. FOX'S ESTATE WAS DOCKETED IN THE ALABAMA SUPREME COURT.

STATEMENT OF THE CASE CONT.

- 6). ON NOVEMBER 20, 2019, THE SUPREME COURT OF ALABAMA GRANTED MOTION BY PETITIONER/APPELLANT WILLIAM N. LUCY PERMISSION TO PROCEED ON APPEAL IN CIVIL ACTION 1190130 (MOBILE PROBATE COURT 2018-1703) ON APPEAL FROM MOBILE PROBATE COURT INFORMAL PAUPERIS (WITHOUT PRE-PAYING FEES OR COST OR GIVING SECURITY THEREFORE).
- 7). ON NOVEMBER 25, 2019 THE SUPREME COURT OF ALABAMA ISSUED ORDER THAT THIS CAUSE (CASE 2018-1703) FROM MOBILE PROBATE COURT IS DEFLECTED TO THE COURT OF CIVIL APPEALS PURSUANT TO THE RULES OF PROCEDURE APPLICABLE TO THAT COURT OF CIVIL APPEALS AND PURSUANT TO § 12-2-7(6) CODE OF ALABAMA 1975.
- 8). IN CASE NO: 2190176 OF THE ALABAMA COURT OF CIVIL APPEALS IN NOTICE DATED NOVEMBER 25, 2019, THE COURT OF CIVIL APPEALS GAVE NOTICE TO THE PROBATE COURT THAT APPEAL FROM MOBILE PROBATE COURT CASE NO: 2018-1703 HAD BEEN DEFLECTED FROM THE ALABAMA SUPREME COURT CASE NO: 1190130.
- 9). ON DECEMBER 10, 2019 NOTICE FROM THE ALABAMA COURT OF CIVIL APPEALS INDICATED THAT RECORDS ON APPEAL OF CASE NO: 2018-1703 FROM THE MOBILE PROBATE COURT HAD NOT BEEN TRANSMITTED TO THE COURT OF CIVIL APPEALS FROM THE MOBILE PROBATE COURT.
- 10). ON DECEMBER 20, 2019 PETITIONER FILED MOTION TO COMPEL PRODUCTION OF RECORDS ON APPEAL FROM CLERK OF MOBILE

STATEMENT OF THE CASE CONT.

PROBATE COURT AND MOTION FOR SANCTIONS AGAINST PROBATE COURT CLERK FOR HOLDING RECORDS ON APPEALS CITING FEES TO SUPREME COURT HAD NOT BEEN PAID.

- 11). ON JANUARY 7, 2020 THE CLERK OF MOBILE PROBATE COURT SENT BAIL TO PETITIONER INDICATING RECORDS ON APPEAL IS BEING HELD BECAUSE PETITIONER HAD NOT PAID FEES TO THE SUPREME COURT EVEN THOUGH PETITIONER WERE GRANTED PERMISSION TO PROCEED IN FORMA PAUPERIS BY THE ALABAMA SUPREME COURT ON NOV. 20, 2019.
- 12). ON JANUARY 8, 2020 PETITIONER/APPELLANT FILED "MOTION TO CEASE AND DESIST" DIRECTED TO FRANK KRAUSE ESQ. (MOBILE COUNTY GENERAL ADMINISTRATOR) AND MOBILE COUNTY PROBATE COURT FROM ANY AND ALL ACTIONS CONCERNING THE ESTATE OF PETITIONER/APPELLANT AND THIS CASE AT BAR.
- 13). ON JANUARY 14, 2020 ALA. COURT OF CIVIL APPEALS DENIED PETITIONER'S "MOTION FOR SANCTIONS" AGAINST MOBILE PROBATE COURT CLERK FOR HOLDING "RECORDS ON APPEAL" STATING PETITIONER/APPELLANT HAD NOT PAID FEE TO SUPREME COURT EVEN THOUGH PETITIONER/APPELLANT WERE GRANTED IN FORMA PAUPERIS STATUS BY THE ALABAMA SUPREME COURT ON NOVEMBER 20, 2019 IN THIS INSTANT CASE; AND THE COURT OF APPEALS ERRED BY NOT RECOGNIZING PETITIONER/APPELLANT'S IN FORMA PAUPERIS STATUS GRANTED BY THE ALABAMA SUPREME COURT, WHEN THAT COURT (COURT OF APPEALS) STATED PETITIONER HAD 14 DAYS TO PAY FEES OR RISK HAVING HAVING APPEAL DISMISSED; CONTRARY TO ALABAMA LAW.

STATEMENT OF THE CASE CONT.

- 14). ON JANUARY 16, 2020 PETITIONER/APPELLANT FILED "NOTICE OF APPEAL" OF COURT OF APPEALS ORDER DATED JANUARY 14, 2020 DENYING PETITIONER'S MOTION FOR SANCTIONS BY PETITIONER/APPELLANT ON THE CHIEF CLERK OF MOBILE PROBATE COURT FOR REFUSING TO TRANSMIT CLERK'S RECORDS AND RECORDS ON APPEAL TO COURT OF CIVIL APPEALS.
- 15). ALABAMA SUPREME COURT RESPONDED ON JAN. 16, 2020 "NOTICE OF APPEAL" BY RETURNING BOTH NOTICES OF APPEAL, ONE TO ALABAMA SUPREME COURT AND ONE TO ALABAMA COURT OF CIVIL APPEALS IN THE SAME ENVELOPE ALONG WITH THE ENVELOPES THEY WERE MAILED IN, AND A LETTER STATING "ENCLOSED HERewith, WE ARE RETURNING TO YOU THE DOCUMENTS WE RECEIVED; THERE IS NO FURTHER ACTION THAT CAN BE TAKEN ON YOUR FILING." THE LETTER STATED IT WAS RECEIVED ON JANUARY 16, 2020 BUT THE ENVELOPES THE NOTICES OF APPEAL WERE DELIVERED IN, WAS POST MARKED JAN. 17, 2020. HOW CAN THAT BE "RECEIVED BEFORE THEY WERE MAILED?" I RECEIVED THESE NOTICES OF APPEAL BACK ON JAN. 24, 2020.
- 16). ON JANUARY 22, 2020 THE COURT OF APPEALS STATED IT STILL HAD NOT RECEIVED PROBATE COURT (TRIAL COURT'S) CLERK'S RECORDS ON APPEAL.
- 17). ON JANUARY 23, 2020 PETITIONER/APPELLANT FILED "NOTICE OF APPEAL" OF COURT OF APPEALS ORDER DATED JAN. 14, 2020 STATING FAILURE TO PAY MOBILE PROBATE COURT THE FEES FOR THE ALABAMA SUPREME COURT EVEN THOUGH THE SUPREME COURT OF ALABAMA GRANTED PETITIONER/APPELLANT INFORMA PAUPERIS STATUS IN THIS INSTANT CASE.

STATEMENT OF THE CASE CONT.

18). THE MOBILE COUNTY PROBATE COURT ON OCTOBER 24, 2019 ERRED BY APPOINTING FRANK KRUSE ESQ., ADMINISTRATOR OF THE ESTATE OF DECEDENT ANNIE D. FOX, IN OPPOSITION OF THE HEIRS OF THE DECEDENT; MR. RICHARD L. LUCY SR., BROTHER OF THE DECEDENT AND MR. LEONARD HOLMES, BROTHER IN LAW OF THE DECEDENT; BOTH NEXT-OF-KIN, BOTH IS QUALIFIED AND BOTH WILLING TO SERVE AS ADMINISTRATOR.

19). MR. RICHARD L. LUCY SR. AND MR. LEONARD HOLMES ARE NOT DISQUALIFIED UNDER § 43-2-22. THEY ARE ENTITLED TO THE APPOINTMENT OF ADMINISTRATOR WHICH THE PROBATE COURT HAS NO DISCRETION BUT TO ENFORCE.
... SEE JOHNSON V. PERSON, 229 ALA. 85, 155 SO. 695 1934 ALA. LEXIS 272 (ALA. 1934)

20). MR. RICHARD L. LUCY SR. AND MR. LEONARD HOLMES HAS A STATUTORY PREFERENCE AS ADMINISTRATOR OF THIS ESTATE OVER FRANK KRUSE ESQ.
... SEE § 43-2-42 A(2) CODE OF ALA. 1975

21). THE MOBILE COUNTY PROBATE COURT MAY NOT WEIGH THE RESPECTIVE QUALIFICATIONS OF TWO APPLICANTS AND CHOOSE BETWEEN THEM IF ONE OF THEM HAS A STATUTORY PREFERENCE.
... SEE § 43-2-42 A(2) CODE OF ALA. 1975
... ALSO BURNETT V. GARRISON, 261 ALA 622 75 SO. 144, 1954 ALA LEXIS 514 (ALA. 1954)

STATEMENT OF THE CASE CONT.

22). THE MOBILE PROBATE COURT HAS NO DISCRETION IN RESPECT TO ENFORCING THE PREFERENTIAL RIGHT OF ONE TO SERVE AS ADMINISTRATOR IF HE IS A FIT PERSON; THE COURT MAY NOT WEIGH THE RESPECTIVE QUALIFICATION OF TWO APPLICANTS AND CHOOSE BETWEEN THEM IF ONE OF THEM HAS A STATUTORY PREFERENCE.

... SEE BURNETT V. GARRISON, 251 ALA. 622, 75 SO. 2D 144, 1954 ALA. LEXIS 514 (ALA. 1954)

23). RICHARD L. LUCY SR. AND/OR LEONARD HOLMES IS NOT DISQUALIFIED UNDER § 43-2-2; THEY IS ENTITLED TO THE APPOINTMENT TO ADMINISTRATOR WHICH THE PROBATE COURT HAS NO DISCRETION BUT TO GRANT IT.

SEE 000 JOHNSON V. PIERSON, 229 ALA. 85, 155 SO. 695 1934, ALA. LEXIS 272 (ALA. 1934)

24). THE MOBILE PROBATE COURT DO NOT HAVE JURISDICTION NOR DO FRANK KRUSE ESQ. TO DO ANYTHING CONCERNING THE DISPOSITION AND/OR ADMINISTRATION OF THE ESTATE OF DECEDENT ANNIE D. FOX, FOR LACK OF SUBJECT MATTER JURISDICTION.

REASONS FOR GRANTING THE PETITION

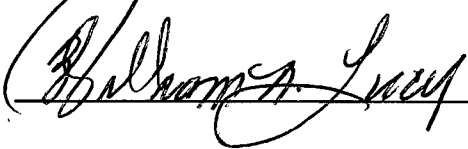
THE PROBATE COURT IS A(N) ESSENTIAL FACILITY, WHICH IS RESPONSIBLE FOR HANDLING THE PROPERTY OWNERSHIP RECORDS OF EVERY REAL PROPERTY OWNER IN THIS COUNTRY, BOTH DEAD AND ALIVE. IT IS IMPERATIVE THAT CORRECT RECORDS NOT ONLY BE MAINTAINED AND THE LAWS CONCERNING THE TRANSFER OF REAL PROPERTY BE STRICTLY ENFORCED, BUT THE PROBATE COURT MUST AVOID AT ALL COST THE APPEARANCE OF IMPROPRIETY AND/OR CONFLICT OF INTEREST; ESPECIALLY WHEN A REAL PROPERTY OWNER DIES, BE IT WITH A WILL OR INTESATE. DURING THIS CORONAVIRUS PANDEMIC WITH OVER 170,000 CITIZENS HAVING DIED, MOST WITHOUT WARNING AND A GREAT NUMBER OF THEM WITHOUT WILLS, THE IMPACT OF THIS HONORABLE COURT'S RULING ON THIS INSTANT CASE MAY AFFECT A(N) UNTOLD NUMBER OF AMERICANS DUE TO THE LARGE NUMBER OF UNTIMELY DEATHS; AND THIS NUMBER OF DEATHS CONTINUE TO GROW. THIS COURT IS THE HIGHEST COURT IN THE LAND, WITH THE AWESOME RESPONSIBILITY OF OVERSIGHT TO ENSURE ALL OF THE LOWER COURTS, ESPECIALLY THE PROBATE COURTS IN THIS DARK TIME, FOLLOW THE LAWS PUT INTO PLACE TO GUIDE THOSE COURTS AND PROTECT THE CITIZENS.

THIS IS WHY THIS COURT HAS A(N) OBLIGATION AND DUTY TO MAKE SURE THE MOBILE COUNTY PROBATE COURT AND ALL OTHER PROBATE COURTS ABIDE BY THE LAWS. THIS PETITION IS DUE TO BE AND SHOULD BE GRANTED.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: AUGUST 7, 2020