

SUPREME COURT OF GEORGIA
Case No. S24O0938

May 14, 2024

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**LIONEL BAILEY v. BROOKS COUNTY DIVISION OF FAMILY
AND CHILDREN SERVICES et al.**

The petitioner filed in this Court an original petition for a writ of mandamus to compel the Superior Court of Brooks County or, alternatively, the Georgia Department of Human Services Division of Family and Children Services (DFCS) to grant his petition for legitimization with regard to his alleged biological minor child, who he claims is in DFCS's custody.

Although this Court has the authority to grant original relief in the nature of mandamus, see Ga. Const. of 1983, Art. VI, Sec. I, Par. IV, it "has chosen to maintain its general status as an appellate court" and to exercise its original jurisdiction only in extremely rare situations where need has been shown. See *Graham v. Cavender*, 252 Ga. 123, 124 (311 SE2d 832) (1984). Thus, a petitioner cannot invoke this Court's original jurisdiction simply as a way to circumvent the proper channels for obtaining the relief he seeks without making some showing that he is being prevented fair access to those channels. See *Gay v. Owens*, 292 Ga. 480, 482-483 (738 SE2d 614) (2013) (original jurisdiction exercised only in extremely rare cases); *Brown v. Johnson*, 251 Ga. 436 (306 SE2d 655) (1983) (same); *Kitchens v. State*, 228 Ga. 624 (187 SE2d 268) (1972) (Supreme Court is a court for the correction of errors of law

committed in the trial court). Here, the petitioner has not shown that this is one of the extremely rare instances where an exercise of this Court's original jurisdiction is warranted, or that he has been denied fair access to the proper channels for obtaining his requested relief. Therefore, this petition is dismissed.

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

 , Clerk

IN THE SUPERIOR COURT OF Brooks COUNTY
STATE OF GEORGIA

PETITION FOR LEGITIMATION, CUSTODY, AND/OR VISITATION

Plaintiff files this Petition and shows the following:

1.

Plaintiff's Residence

Plaintiff is a resident of NEW ORLEANS Parish, LOUISIANA
County, Georgia

2.

Information about child(ren)

Plaintiff is the father of the following child(ren):

Name <u>A.M.</u>	Date of Birth <u>08-19-2021</u>	Place of Birth <u>GEORGIA</u>
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3.

Jurisdiction and Venue (Choose only one: a, b, c, or d)

a) The mother of said child(ren) is SHONTESE MILLER, who now resides in VALDOSTA, LOWNDES County, Georgia, and is subject to the jurisdiction of this Court.

b) The child(ren)'s DFCS (relationship), whose name is DFCS has custody/

4.

Service of Process (Choose a, b or c)

- a) The mother or other legal custodian or guardian has signed an Acknowledgment of Service form.
- b) The mother or other legal custodian or guardian has signed the Defendant's Acknowledgment of Service, Affidavit of Waiver of Venue and Personal Jurisdiction.
- c) The mother or other legal custodian or guardian may be personally served at his/her work/residence address of
BRIARDWOOD HOTEL, BRIARDWOOD, VALDOSTA, GA 31601
- d) While the mother or other legal custodian or guardian resides in Georgia, his or whereabouts of the mother are unknown and s/he must be served by publication as provided by O.C.G.A. § 9-11-4(f)(1)(A).
- e) The mother or other legal custodian or guardian reside outside the state of Georgia. However, his or her whereabouts are unknown and s/he must be served by publication as provided by O.C.G.A. § 9-11-4(f)(1)(A).

5

Mother's Consent (Choose a, b, c, d, or e)

a) The mother of said child(ren) has consented in writing to the legitimation of said child (ren) and to the legal and/or physical custody being awarded to the Plaintiff. Her consent is attached hereto as Exhibit "_____".

b) The mother of said child(ren) has consented in writing to the legitimation of said child(ren) and to visitation by the Plaintiff

c) The mother of said child(ren) is deceased, having died on _____. A copy of her death certificate is attached hereto as Exhibit "_____".

d) There is no other legal parent of the child(ren), and the child(ren) have no legal guardian.

e) The mother of said child(ren) is opposing the legitimation of said child(ren).

6.

Plaintiff's desire to legitimate child(ren) and change surname(s)

This Petition is brought pursuant to O.C.G.A. § 19-7-22 to legitimate said child(ren) and to change his/her/their surname(s) from A. M. to A. BAILY

7.

Current Custody Arrangement (Choose a or b)

a) The Defendant, _____, presently has legal custody of the minor child(ren). They have lived with him/her since _____ (date).

b) The legal custodian/ legal guardian of the minor child(ren) is BROOKS COUNTY DFCS (name), who is related to the children as follows: N/A

The legal custodian, BROOKS COUNTY DFCS, has the following type of legal custody or guardianship:

PERMANENT CUSTODY

(temporary guardianship, permanent guardianship, permanent custody, etc.). S/he has had this legal custody or guardianship since 21 FEBRUARY 2022 (date).

8.

Future Custody Arrangement

It is in the best interest(s) of the child(ren) for the custody to be as follows:

PERMANENT CUSTODY TO THE PLAINTIFF

9.

Visitation (Choose a or b)

a) It is in the best interest(s) of the child(ren) that the following visitation schedule be established:

"NONE"

b) It is in the best interest(s) of the child(ren) that the visitation schedule in the forms packet on page thirty (30) be adopted.

WHEREFORE, Plaintiff demands the following:

(a) That the name of said child be changed from MILLER to BATLEY ;
(b) That said child be legitimized by (his) (her) new name as the legitimate (son)
(daughter) of petitioner; LIONEL BATLEY
(c) That the petitioner be granted visitation rights;
(d) That the petitioner be awarded custody as follows: PERMANENT CUSTODY

(c) If necessary, rule nisi issue directing the said DEFENDANT to appear before the Court to show cause why the relief demanded by this petition should not be granted.

LIONEL BATLEY

Plaintiff *pro se*

Address: 3024 ST. PHILIP ST. / 10.0. LA 70119

Telephone: (504) 228-4308

IN THE SUPERIOR COURT OF BROOKS COUNTY
STATE OF GEORGIA

v.
LIDOWEL BATLEY,)
Plaintiff,)
)
)
)
)
SHANTESE MILLER,) Civil Action File No. _____
Defendant)
)
)
)

VERIFICATION

Personally appeared before the undersigned officer, duly authorized to administer oaths in the state of Georgia, LIDOWEL BATLEY, who after being duly sworn, deposes and states that s/he is the Plaintiff in the above-styled action and verifies that the facts contained in the within and foregoing Petition for Legitimization are true and correct to the best of her information, knowledge, and belief.

This 5th day of July, 2023.



Plaintiff pro se

Sworn and subscribed before me

This _____ day of _____, 20 _____.
Brian Woods

Notary Public, State of Georgia LOUISIANA

My Commission Expires Upon death.

IN THE SUPERIOR COURT OF BROOKS COUNTY
STATE OF GEORGIA

LIONEL BATLEY,)
Plaintiff,)
v.)
SHANTESE MILLER,)
Defendant.)
Civil Action No. _____

PLAINTIFF'S AFFIDAVIT REQUIRED BY O.C.G.A. § 19-7-43(d)

State of Georgia
County of BROOKS

Personally before the undersigned officer authorized to administer oaths appeared
LIONEL BATLEY, who, being duly sworn, does state on
oath the following:

1.

That affiant is the plaintiff named in the above- styled action to legitimate the
following child(ren) who were born to the affiant and to SHANTESE MILLER :

Name	Date of Birth	Place of Birth
<u>A. M.</u>	<u>08-19-2021</u>	<u>GEORGIA</u>

2.

The present address of the Plaintiff is 3027 ST. PHILIP ST., N. O. LA 70119

3.

The present address of the Defendant is 2000 W. 11TH ST., VALDOSTA, GEORGIA
1934 BRIARDWOOD RD.

4.

I attest that the defendant and I had sexual intercourse at or about the time of the child(ren)'s conception, which would have been approximately the following dates:
12-17-2020 ; 12-18-2020 ; 12-19-2020 ; 12-20-2020 ..

5.

I attest that I was the sole sexual partner of the Defendant at the time her child(ren),
A. M , was/were conceived.

6.

I attest that based upon my knowledge and belief, as well as the defendant's statements to me that I was the defendant's sole sexual partner.

7.

I attest that the Defendant has admitted to me that her child(ren),
A. M , is /are my biological child(ren), and the product of our sexual intercourse during our relationship.

8.

I attest that our child(ren),
A. M , currently reside(s) at
IN FOSTER CARE (address).

9.

I attest that the minor child(ren),
A. M , is/are my biological child(ren).

Affiant/Plaintiff/Father

Sworn to and subscribed before me this 5th day of July, 2023.

Brian Woods
Notary Public

IN THE SUPERIOR COURT OF Books COUNTY
STATE OF GEORGIA

v.
Plaintiff,)
)
)
)
)
) Civil Action File No. _____
Defendant)
)
)
)
)

ACKNOWLEDGMENT OF SERVICE AND CONSENT TO LEGITIMATION

1.

Acknowledgement of Service

_____, the natural mother of _____, hereby acknowledges that she has received a copy of the foregoing Petition to Legitimate the said _____ and to change his/her name from _____ to _____, and she hereby waives any and all further service or notice of any nature in this proceeding.

2.

Consent to legitimation and change of name

The mother hereby consents to the judicial legitimization of _____

and the change of his/her/their surname(s) from _____

to _____

Non-interference with affection toward either parent

3.

The parties agree that the welfare of the child(ren) is of paramount importance and each agrees to foster and encourage a feeling of affection between themselves and the child(ren). Neither party shall do anything to hamper the natural development of the children's love and respect for the other party.

4.

Custody (Check a, b, or c)

a) The Father/ Mother shall have the temporary and permanent legal and physical custody of the minor child (ren).

b) The Father and Mother shall share joint legal custody of the minor child(ren). The parties shall share decision-making concerning the children; however, the Father/ Mother shall have the right to make the final decision in the event the parties cannot agree.

Primary physical custody of the minor child (ren) shall be with the Father/ Mother as follows:

Secondary physical custody shall be with the Father/ Mother as follows:

c) The Father and Mother shall share joint legal custody and joint physical custody of the minor child (ren).

Physical custody shall be shared by the parties as follows:

The parties shall share decision making concerning the child (ren); however, in the event the parties cannot decide, the Father/ Mother shall have the final decision concerning

5.

Visitation (Choose a or b)

a) The Father/ Mother shall have the right of visitation with the minor children as follows:

[OR]

b) The visitation schedule is attached hereto and incorporated herein.

Child Support

Go to <https://csconlinecalc.georgiacourts.gov/frontend/web/index.php> and complete the Child Support Worksheet.

6.

The Father/ Mother shall pay to the Father/ Mother, as support of the minor child(ren), the sum of \$ _____ * per week/ bi-weekly/ month, starting on _____, and continuing per week/ bi-weekly/ month thereafter until each respective child reaches the age of eighteen (18), or so long as the child is enrolled in and attending secondary school (not to exceed age twenty (20)), marries, dies, or becomes otherwise emancipated. The child support obligation shall be reduced as follows as each child becomes emancipated:

*This amount was derived from line 13 of the Child Support Worksheet, which is attached hereto as Exhibit 1.

7

Manner of Payment of Child Support (Check a or b)

a) All payments of child support shall be paid directly to the Father/ Mother at the following address:

No Income Deduction Order will be entered into at this time. However, when ever, in violation of the terms of this Agreement, there shall have been a failure to make the support payments due hereunder so that the amount unpaid is equal to or greater than the amount payable for one (1) month, the payments required to be made may be collected by

the process of continuing garnishment for support. In the event Father/ Mother fails to pay any child support obligation in this Agreement on a timely fashion on any three (3) occasions in any twelve (12) month period, the parties agree that an income deduction order shall then be entered.

b) All payments of child support shall be paid to Georgia Child Support Enforcement pursuant to an Income Deduction Order.

8.

Health Insurance

The Father/ Mother shall maintain a policy of medical, dental, and hospitalization insurance for the benefit of the minor child(ren) for so long as the child support obligation set forth herein exists. Costs not covered under the insurance policy shall be divided between Father and Mother as follows:

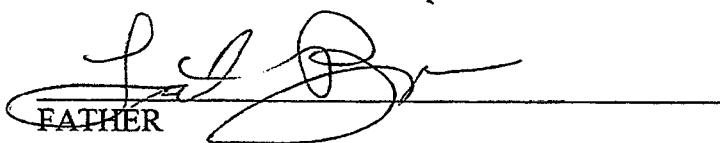
The Father/ Mother shall provide the Husband/ Wife with an insurance identification card or such other acceptable proof of insurance coverage and shall cooperate with the Husband/ Wife in submitting claims under the policy.

This 5th day of July, 2023.

MOTHER

Notary Public

My commission expires: _____



Brian W. Babb
FATHER

Brian W. Babb
Notary Public

My commission expires: Upon death

IN THE SUPERIOR COURT OF Brooks COUNTY
STATE OF GEORGIA

LIONEL BATLEY,)
Plaintiff,)
v.) Civil Action No. _____
SHONTESE MILLER,)
Defendant.)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **Petition for Legitimation** upon the following counsel for [party] [or party if no counsel of record] by delivering [or causing to be delivered] by hand a copy of same as follows:

[Name and address of counsel of record, or of parties if no counsel of record.]

SHONTESE MILLER @ 1934 BREAKWOOD RD., VALDOSTA, GA 31601

This 5th day of July, 2023.

LIONEL BATLEY
Plaintiff *pro se*

Address 3024 ST. PHILIP ST., N.O. LA 70119

Telephone Number (504) 228-4508

IN THE JUVENILE / DFCS COURT OF BROOKS COUNTY, GEORGIA

IN RE:

CASE # 014-22J-00024

A.M.

APPLICATION FOR COURT APPOINTED ATTORNEY

NAME LIONEL BAILEY PHONE # (504) 228-4308

ADDRESS 3024 ST. PHILIP ST., N.O. LA 70119

SS# 433-15-3456 DATE OF BIRTH 10-04-1967

EMPLOYED YES HOW LONG 10-07-2022

EMPLOYER MR.CHRIS PHONE # (504)338-1753

TAKE HOME PAY \$ 600.00 WEEKLY/BI-WEEKLY (CIRCLE ONE)

MARRIED YES/NO SPOUSE EMPLOYED YES/NO CHILDREN YES/NO (CIRCLE)

SPOUSE INCOME N/A NUMBER OF CHILDREN 6

I AM A PARTY IN THE ABOVE-STYLED ACTION. I CANNOT AFFORD AN ATTORNEY. I REQUEST THE COURT TO PROVIDE ME WITH AN ATTORNEY. I UNDERSTAND THAT I AM PROVIDING THIS INFORMATION IN THE DECLARATION IN ORDER FOR THE COURT TO DETERMINE MY ELIGIBILITY FOR A COURT-APPOINTED ATTORNEY, PAID BY BROOKS COUNTY, TO REPRESENT ME. I HAVE READ (OR HAD READ TO ME) THE ABOVE QUESTIONS AND ANSWERS, AND ARE TRUE AND CORRECT. THE UNDERSIGNED SWEARS THE INFORMATION GIVEN IS TRUE AND CORRECT. ANY FALSE ANSWERS TO ANY QUESTION WILL RESULT IN PERJURY.

Susan W. Bergeron
NOTARY PUBLIC

10-15-2022
COMMISSION EXPIRES

Lionel Bailey
APPLICANT SIGNATURE

ATTORNEY APPOINTED

JUDGE/CLERK

DATE 10-15-2022

Susan W. Bergeron
Statewide Notary Public # 85448
State of Louisiana, Parish of Jefferson
My Commission Is For Life