

**IN THE CHANCERY COURT FOR MONTGOMERY COUNTY
IN THE STATE OF TENNESSEE**

**ANTHONY DALEY, and
DEVIN DALEY, Petitioners**

versus

**ALL UNKNOWN INTERESTED PERSONS
HAVING AN INTEREST IN A CEMETERY
LOCATED AT 1003 LAFAYETTE ROAD,
CLARKSVILLE, TENNESSEE, Defendant**

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CASE NO. MCCHCVRE24-^{M6}19

A TRUE COPY ATTEST

FILED 8/28 2024
HEATHER L. MOORE, C&M

**PETITION FOR TERMINATION OF USE OF LAND
AS A CEMETERY AND REMOVAL OF REMAINS**

Come now **ANTHONY DALEY** and **DEVIN DALEY** and file this Petition for Termination of Use of Land as a Cemetery pursuant to Tennessee Code Annotated §46-4-101 et seq. The Petitioners would respectfully show unto the Court as follows:

1. **ANTHONY DALEY** is an adult resident of Montgomery County, Tennessee, residing at 3891 Vernon Creek Road, Cunningham, TN 37052.
2. **DEVIN DALEY** is an adult resident of Montgomery County, Tennessee, residing at 3945 Vernon Creek Road, Cunningham, TN 37052.
3. There are no specific unknown defendants having an interest in this cause of action.
4. Jurisdiction and venue are appropriate in Montgomery County, Tennessee, as all parties reside in said county, and the Complaint requests relief concerning real property located in said county.
5. The Petitioners purchased a parcel of real estate having an address of 1003 Lafayette Road, Clarksville, Tennessee, by deed recorded in ORBV 2360, Page 2153, Register's

Office for Montgomery County, Tennessee ("Property"). The parcel is identified as Parcel 044 02600 by the Tax Assessor for Montgomery County, Tennessee. The parcel is more particularly described as:

TRACT ONE (937 LAFAYETTE RD., CLARKSVILLE, TN 37042)

PARCEL ONE:

BEGINNING AT AN IRON PIN ON THE NORTH MARGIN OF THE LAFAYETTE ROAD, AT A POINT .25 MILES, MORE OR LESS, FROM THE INTERSECTION OF LAFAYETTE ROAD AND LIBERTY CHURCH ROAD, WAYNE TAYLOR'S SOUTHWEST CORNER, AND RUNS THENCE ALONG THE NORTH MARGIN OF SAID ROAD NORTH 85 DEGREES 00 MINUTES WEST 125.00 FEET TO AN IRON PIN; THENCE NORTH 6 DEGREES 26 MINUTES WEST 442.81 FEET TO AN IRON PIN; THENCE ALONG A LINE MARKED BY A FENCE NORTH 89 DEGREES 02 MINUTES EAST 79.00 FEET TO AN IRON PIN; THENCE ALONG THE SAME FENCE NORTH 77 DEGREES 57 MINUTES EAST 45.95 FEET TO AN IRON PIN; THENCE ALONG WAYNE TAYLOR'S WEST LINE SOUTH 6 DEGREES 04 MINUTES EAST 464.73 FEET TO THE BEGINNING, CONTAINING 1.3 ACRES, MORE OR LESS, BY SURVEY OF KING ENGINEERS ON JUNE 5, 1968.

THIS BEING THE SAME PROPERTY WHICH WAS CONVEYED UNTO BOBBY L. CLARDY AND WIFE, SANDRA L. CLARDY, BY DEED FROM ALBERT L. CLARDY AND WIFE, AVANELL H. CLARDY, DATED DECEMBER 10, 1970, OF RECORD IN VOLUME 108, PAGE 887, REGISTERS OFFICE FOR MONTGOMERY COUNTY, TENNESSEE. SANDRA L. CLARDY CONVEYED HER INTREST IN THE PROPERTY UNTO BOBBY CLARDY BY QUIT-CLAIM DEED DATED NOVEMBER 10, 1997, OF RECORD IN VOLUME 642, PAGE 2480, OF SAID REGISTERS OFFICE.

INCLUDED IN THE ABOVE DESCRIBED PROPERTY BUT EXPRESSLY EXCLUDED THEREFROM IS A 1524.6 SQUARE FEET TRACT OF LAND WHICH WAS CONVEYED UNTO THE CITY OF CLARKSVILLE BY WARRANTY DEED FORM BOBBY L. CLARDY AND WIFE, SANDRA L. CLARDY, DATED MARCH 11, 1997, OF RECORD IN VOLUME 617, PAGE 2323, REGISTERS OFFICE FOR MONTGOMERY COUNTY, TENNESSEE.

PARCEL TWO:

BEGINNING AT AN IRON PIN, SAID IRON PIN BEING LOCATED AT THE NORTHWESTERN CORNER OF THE PROPERTY CONVEYED TO GRANTORS, BY DEED OF RECORD IN ORBV 523, PAGE 1681, ROMCT, THENCE NORTH 87 DEGREES 31 MINUTES 8 SECONDS EAST 27.12 FEET TO AN IRON PIN IN 8" MAPLE TREE; THENCE SOUTH 4 DEGREES 20 MINUTES 49 SECONDS WEST 317.27 FEET TO AN IRON PIN IN GRANTORS WEST LINE; THENCE NORTH 0 DEGREES 33 MINUTES 14 SECONDS WEST 315.20 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.10 ACRES, MORE OR LESS, ACCORDING TO A SURVEY OF BEN ROBERT WEAKLEY, TRLS NO. 1437, OF WEAKLY BROTHERS SURVEYING P.O. BOX 3409, CLARKSVILLE, TN 37043, DATED JUNE 7, 2000, AND REVISED OCTOBER 26, 2000.

THIS BEING THE SAME PROPERTY WHICH WAS CONVEYED UNTO BOBBY L. CLARDY BY CASH WARRANTY DEED FROM DOUGLAS A. FOURMAN AND WIFE, TERESA G. FOURMAN, DATED NOVEMBER 17, 2000 OF RECORD IN VOLUME 762, PAGE 2235, REGISTER'S OFFICE FOR MONTGOMERY COUNTY, TENNESSEE.

TRACT TWO (1003 LAFAYETTE RD., CLARKSVILLE, TN 37042):

BEGINNING AT A CONCRETE MONUMENT LOCATED IN THE INTERSECTION OF THE NORTHERN RIGHT-OF-WAY OF LAFAYETTE ROAD AND EASTERN RIGHT-OF-WAY OF LAYFAYETTE ROAD AND THE EASTERN RIGHT-OF-WAY OF STATE ROUTE 374- PURPLE HEART PARKWAY, SAID CONCRETE MONUMENT BEING LOCATED 80.7 FEET NORTH OF THE CENTERLINE OF LAYFAYETTE ROAD AND 134.9 FEET EAST OF THE CENTERLINE OF STATE ROUTE 374, THENCE WITH THE EASTERN RIGHT-OF-WAY MARGIN OF STATE ROUTE 374, AND WITH A FENCE, NORTH 13 DEGREES 3 MINUTES 11 SECONDS EAST 266.63 FEET TO A CONCRETE MONUMENT, THENCE NORTH 9 DEGREES 12 MINUTES 51 SECONDS EAST 337.96 FEET TO A CONCRETE MONUMENT, THENCE LEAVING SAID RIGHT-OF-WAY AND WITH THE SOUTHERN LINE OF CLARDY PROPERTY SOUTH 49 DEGREES 50 MINUTES 4 SECONDS EAST 101.20 FEET TO AN IRON PIN, THENCE WITH THE SOUTHERN LINE OF KINZER PROPERTY, ORBV 668, PAGE 937, ROMCT, SOUTH 56 DEGREES 14 MINUTES 38 SECONDS EAST, 458.11 FEET TO AN IRON ROD, THENCE SOUTH 81 DEGREES 3 MINUTES 57 SECONDS EAST 49.86 FEET TO AN IRON PIN, THENCE WITH THE SOUTHERN LINE OF THE MUSE PROPERTY ORBV 53, PAGE 428, ROMCT, SOUTH 86 DEGREES 9 MINUTES EAST 26.37 FEET TO AN IRON PIN, THENCE WITH THE WESTERN LINE OF THE CLARDY PROPERTY SOUTH 0 DEGREES 58 MINUTES 36 SECONDS EAST 422.94 TO AN IRON PIN LOCATED IN THE NORTHERN RIGHT-OF-WAY MARGIN OF LAFAYETTE ROAD, THENCE WITH THE NORTH RIGHT-OF-WAY MARGIN OF LAFAYETTE ROAD NORTH 76 DEGREES 22 MINUTES 19 SECONDS WEST 674.31 FEET TO THE POINT OF BEGINNING AND CONTAINING 6.88 ACRES, MORE OR LESS, ACCORDING TO A SURVEY OF BEN ROBERT WEAKLEY, TENNESSEE REGISTERED LAND SURVEYOR NUMBER 1457 OF WEAKLEY BROTHERS, P.O. BOX 3409, 2121 OLD ASHLAND CITY ROAD, CLARKSVILLE, TENNESSEE 37043, DATED APRIL 8TH, 2003.

THIS BEING PORTION OF THE SAME PROPERTY WHICH WAY CONVEYED UNTO EMMITT HUGHES CLARDY AND WIFE, BARBARA LOUISE CLARDY, AS TENANTS BY THE ENTIRETY, BY DEED OF RECORD IN DEED BOOK 88, PAGE 196, REIGSTER'S OFFICE FOR MONTGOMERY COUNTY, TENNESSEE. EMMITT HUGHES CLARDY DIED MARCH 9, 1994, LEAVING BARBARA LOUISE CLARDY AS THE SURVIVING TENANT BY THE ENTIRETY. BARBARA LOUISE CLARDY DIED TESTATE FEBUARY 5, 2003, AND PURSUANT TO HER WILL OF RECORD IN FILE NO. MC-CH-CV-PB-03-65 IN THE CLERK & MASTER'S OFFICE FOR MONTOGOMERY COUNTY, TENNESSEE, SHE DEVISED THE SUBJECT PORPERTY UNTO HARRY HUGHES CLARDY, BOBBY LEE CLARDY, BARBARA ANN CLARDY TAYLOR AND ALBERT LEONARD CLARDY, BEING HER SOLE HEIRS AT LAW. HARRY HUGHES CLARDY, BARBARA ANN CLARDY TAYLOR AND ALBERT LEONARD CLARDY CONVEYED THEIR INTREST IN THE SUBJECT PROPERTY UNTO BOBBY LEE CLARDY BY CASH WARRANTY DEED

DATED JULY 30, 2003, OF RECORD IN VOLUME 912, PAGE 1453, OF SAID REIGSTER'S OFFICE.

6. At the time that the Petitioners purchased the Property, it was unknown that there was one grave marker and possibly two graves located on the site. Upon the clearing of brush and debris, a grave marker was discovered and a footstone. The name on the marker is illegible and appears to read "Gillum" with the dates of May 15, 1846 – July 23, 1934. The Petitioners have contacted persons who were knowledgeable of the area, but no one has identified the name of the person(s) buried therein nor do they have any information of possible family members of the person(s) interred. There has never been a dedicated cemetery established on the Property, and there is no listing among the cemeteries of Montgomery County, Tennessee, containing a grave on the Property. There is no reference in the Petitioners' deed to any cemetery on the Property.

7. The Petitioners allege that the land is unsuitable for continued use as a cemetery. The graves were abandoned prior to their purchase of the Property and were left in an abandoned and neglected condition. The Petitioners, at their own expense, have arranged for the graves to be removed to a dedicated cemetery along with the grave marker and footstone.

8. In accordance with Tennessee §46-4-103(c)(1), notice is being sent to the Tennessee Historical Commission by mailing a copy of this Complaint to the Tennessee Historical Commission, 2941 Lebanon Pike, Nashville, TN 37214, by certified mail. The Petitioners have no knowledge of the remains being of Native American heritage.

Wherefore, Petitioners request the following relief:

1. That the Court enter an Order allowing service of process by publication;
2. That at a hearing of this case the Court find that the ground is unsuitable for use as

a burial ground and that the Petitioners be allowed to remove the remains and inter them in a dedicated cemetery; and

3. For all such further relief to which the Petitioners may show themselves entitled.

This the 28 day of August, 2024.

**MITCHELL, ROSS, ROCCONI &
McMILLAN, PLLC**

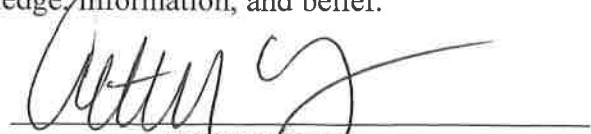


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STATE OF TENNESSEE

COUNTY OF MONTGOMERY

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **ANTHONY DALEY**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who made oath that the statements set forth in the foregoing Petition are true and correct to the best of his knowledge, information, and belief.


ANTHONY DALEY

Subscribed and sworn to before me, this the 28 day of August, 2024.


NOTARY PUBLIC SEAL

My Commission Expires: 1/14/2026




STATE OF TENNESSEE

COUNTY OF MONTGOMERY

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **DEVIN DALEY**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who made oath that the statements set forth in the foregoing Petition are true and correct to the best of his knowledge, information, and belief.


DEVIN DALEY

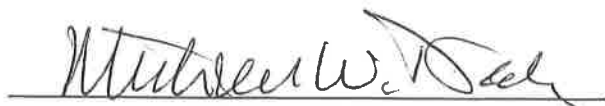
Subscribed and sworn to before me, this the 28 day of August, 2024.


NOTARY PUBLIC SEAL

My Commission Expires: 1/14/2024.



I am surety for the costs in this cause not to exceed \$500.00


Michael W. Dale