

IN THE CHANCERY COURT FOR LAWRENCE COUNTY, TENNESSEE
AT LAWRENCEBURG

WILLIAM A ROBERTSON, ELAINE ROBERTSON,
MIKE ROBERTSON and JANE LEE ROBERTSON
Plaintiffs

Vs.

THE KNOWN AND UNKNOWN INTERESTED PERSONS
AS DEFINED BY TCA §46-4-102 OF THE SMITH BURIAL
PLOT OR DAVIS CEMETERY, WILLIAM SMITH (1813),
WILLIAM DAVIS (BORN 11-13-1797) ALLEGED TO BE
LOCATED AT 1117 NORTH LOCUST AVENUE,
LAWRENCEBURG, TN, MAP 78KB, PARCELS 8.00
Defendants

No. 23-20719

2023 SEP -1 AM 11:25

COMPLAINT FOR TERMINATION OF USE OF LAND AS A CEMETERY
PURSUANT TO TCA 46-4-101 et seq.

COMES NOW, WILLIAM A. ROBERTSON, ELAINE ROBERTSON, MIKE ROBERTSON and JANE LEE ROBERTSON, and for a cause of action, would state and show unto this Honorable Court as follows:

1. This is an action pursuant to Tennessee Code Annotated Section 46-4-101, et seq., for the termination of use of land as a cemetery, which cemetery is known as the Smith Burial Plot or Davis Cemetery and is alleged to be located at 1117 N Locust Avenue, Lawrenceburg TN 38464, Map 78KB, Parcel 8.00.
2. Plaintiffs are the owners of real estate located at 1117 N. Locust Avenue, Lawrenceburg, TN, Map 78KB, Parcel 8.00.
3. The Defendants herein, all known and unknown persons having an interest in the former alleged Davis Cemetery or Smith Burial Plot which may or may not have been located on Plaintiffs' property, 1117 N. Locust Avenue, Lawrenceburg TN. By deed of record in Deed Book 297, Page 617, Deed Book 297, Page 619, Record Book 669, Page 38-41 and Record Book 669, Page 42-44, all of ROLCo., Tennessee, conveyed to Plaintiffs certain realty situated in the 8th Civil District of Lawrence County, TN.
4. Based upon unsubstantiated rumor, according to historical bulletin #5 dated September 15, 1953, and the At Rest Cemetery Record of Lawrence County, Mrs. Swen Ellingson was alleged to have a grave on her place in Lawrenceburg with the inscription of burial for William Smith November 1813. Another stone was allegedly found on the property under several inches of dirt with the inscription William Davis born November 13, 1797 and died March 12th or May 12th

as the date of death could not be read. Swen Ellingson was in the chain of title of the Plaintiffs' property. To Plaintiffs' knowledge, these two persons are the only persons alleged to have been buried on Plaintiffs' property.

5. Plaintiff's father, William H. Robertson, operated a monument business on the property beginning in 1958 as a lease hold from landlords Bennett and Maria Ellingson, and purchasing the majority of the property in 1976 from Ellingson in WD Book 177, Page 447-448, ROLCo., Tennessee. William H. Robertson obtained a 100x100 plot adjoining the north boundary of the property in 1995 of record in Deed Book 282, Page 731, ROLCo., Tennessee. Plaintiffs William A or Mike Robertson worked at the location continuously from the 1970's until their recent retirement from the monument business.

6. That Plaintiffs allege and aver that said burial ground, if it in fact ever existed, has been abandoned and/or the burial ground is in the neglected or abandoned condition.

7. Since the Plaintiffs or William H. Robertson have been the occupants of the property herein described in 1958, no person has interred or attempted to inter any bodies in such burying grounds.

8. Plaintiffs aver that the legal description of Tract 1 of the subject property has a call "to a stake in the north edge of the graveyard". Plaintiffs further aver that during their ownership and occupation of the subject property that there was no evidence of a graveyard, and no grave markers are visible currently nor have they been to Plaintiffs' personal knowledge. To the knowledge of the Plaintiffs, the graveyard does not exist, its location on the property is unknown, and there is no physical evidence to indicate that a graveyard exists on Plaintiffs' property.

9. Plaintiffs further allege that, based upon rumor, there may have been two people, William Smith and William Davis, buried in the property, both burials of which are rumored to have taken place in the 1800's. Evidence of those graves does not currently exist and their whereabouts on the property are unknown, if and when they may have been buried on the property.

10. Plaintiffs further aver that because said alleged burial ground has been neglected for many years, it is currently impossible to determine exactly how many grave sites, if any, are located on said alleged burial ground.

11. That Plaintiffs believe and accordingly aver that the best interest of the public, as well as the descendants, heirs and interest of the persons alleged to have been interred in the burial ground, require that the Court hold that the property be declared to be free of use as a cemetery, that requiring the removal of the alleged remains is futile since the whereabouts of those alleged remains are unknown and impossible to locate or ascertain, thus enabling Plaintiffs to make use of the Plaintiffs' property in a manner consistent with present economic conditions as exists in the

area in which the burial ground is alleged to be located.

12. The Plaintiffs have made a diligent search for any interested person or persons and have published the notice required by TCA §46-4-103, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; however, no interested person has come forward regarding the cemetery.

WHEREFORE, THE PLAINTIFFS PRAY FOR RELIEF AS FOLLOWS:

1. That they be allowed to file this Petition.
2. That service of process be had by publication as provided for by TCA §21-1-204.

3. That at a hearing of this cause the Court find that the ground is unsuitable for use as a burial ground and as a resting place for the dead, whose remains may or may not be buried therein, and that the further use thereof for those purposes is inconsistent with due or proper reverence or respect for the memory of the dead, and that therefore, the use of the property as a burial ground be terminated. Further, that since the whereabouts of the remains are unknown and impossible to ascertain that it would be futile to require Plaintiffs to relocate the remains of the persons alleged to be buried on the property.

4. For such other and further relief as the Court finds the Plaintiffs entitled.



ALAN C. BETZ (TN REG# 10372)

Attorney for Plaintiffs

22 Public Square - P.O. Box 488

Lawrenceburg, Tennessee 38464

(931) 762-9767

Email: al@alanbetz.com

STATE OF TENNESSEE
COUNTY OF LAWRENCE

I, William A. Robertson, Elaine Robertson, Mike Robertson and Jane Lee Robertson, after being duly sworn, make oath that the statements contained in my foregoing Complaint are true and correct to the best of our knowledge, information and belief.



WILLIAM A. ROBERTSON



ELAINE ROBERTSON



MIKE ROBERTSON



JANE LEE ROBERTSON

Sworn to and subscribed before me this 31st day of August, 2023.



Kendel Johnson
Notary Public My commission expires: 7/30/25

COST BOND

I, Alan C. Betz, Attorney at Law, hereby acknowledge myself as surety for the costs of this cause of action, but not to exceed One Thousand and 00/100---(\$1,000.00)---DOLLARS as provided by Section 20-12-120 of the Tennessee Code Annotated.

This 31st day of August, 2023.

ALAN C. BETZ, ATTORNEY AT LAW

BY: Alan C. Betz

IN THE CHANCERY COURT FOR LAWRENCE COUNTY, TENNESSEE
AT LAWRENCEBURG

WILLIAM A ROBERTSON, ELAINE ROBERTSON,
MIKE ROBERTSON and JANE LEE ROBERTSON
Plaintiffs

Vs.

THE KNOWN AND UNKNOWN INTERESTED PERSONS
AS DEFINED BY TCA §46-4-102 OF THE SMITH BURIAL
PLOT OR DAVIS CEMETERY, WILLIAM SMITH (1813),
WILLIAM DAVIS (BORN 11-13-1797) ALLEGED TO BE
LOCATED AT 1117 NORTH LOCUST AVENUE,
LAWRENCEBURG, TN, MAP 78KB, PARCELS 8.00
Defendants

23 - 20719
No. _____

2023 SEP -5 AM 10:45

FILED IN CHANCERY

ORDER FOR PUBLICATION

It appearing by Affidavit that the names and residences of The Known and Unknown Interested Persons as defined by TCA §46-4-102 of the Smith Burial or Davis Cemetery, William Smith (1813) and William Davis (born November 13, 1797) at 1117 North Locust Avenue, Lawrenceburg, TN, are unknown and cannot be ascertained upon diligent inquiry and that personal service of process on said persons cannot be had; services of process by publication having been ORDERED, said Defendants are hereby required to appear and answer or otherwise defend against the Complaint of William A. Robertson, Elaine Robertson, Mike Robertson and Jane Lee Robertson, whose attorney is Alan C. Betz, PO Box 488, Lawrenceburg, TN 38464, within thirty (30) days after the date of the last publication of this Notice; otherwise, Default Judgment may be entered against such Defendants for the relief demanded in the Complaint. It is further ORDERED that this Notice shall be published in the Lawrence County Advocate, a newspaper of general circulation, once weekly for four (4) consecutive weeks beginning _____, 2023.

This is 5th day of Oct, 2023.


JUDGE J. RUSSELL PARKES

APPROVED FOR ENTRY:


ALAN C. BETZ, ATTORNEY (#10372)

22 Public Square - P.O. Box 488
Lawrenceburg, Tennessee 38464
(931) 762-9767

ENTERED

212 PAGE 11

CLERK & MASTER

