

IN THE CHANCERY COURT PERRY COUNTY
AT LINDEN, TENNESSEE

DAVID C. TALLEY
PETITIONER

IN RE: REMAINS OF JOHN TALLEY

NO. 5426

FILED
AT 12:35 P. M.

MAY 05 2023
Charlene Duplessis
CHARLENE DUPLESSIS, CLERK & MASTER
BY _____ D.C.&M.

PETITION FOR TERMINATING USE
OF LAND AS A BURIAL GROUND AND FOR REMOVAL AND REINTERMENT OF REMAINS OF
DECEDENTS

Comes now the Petitioner, by and through Counsel, and verifies the following for the relief he seeks:

I.

PARTIES, JURISDICTION and OWNERSHIP OF LAND

COMES the Petitioner, David C. Talley, and would state unto the Court as follows:

1. The Petitioner is a citizen and resident of Williamson County, Tennessee, residing in Franklin, Tennessee.
2. This is a proceeding pursuant to Tennessee Code Annotated 46-4-101, et seq., to request the Court allow the relocation of four certain grave sites on property owned by Phillip Tatum and reinterment in a recognized cemetery as set forth herein.
3. Said land is part of Parcel 27.11 on Tax Map 65 in the Tax Assessor's Office for Perry County, Tennessee, referred to herein as "the property" owned by Phillip Tatum, hereafter referred to as "land owner."
4. A copy of the most recent deed of the property, as recorded at Record Book D1, Page 640, Register's Office for said County, is attached hereto as Exhibit "A".
5. This Court has jurisdiction and venue to rule on this matter under Tenn. Code Ann. 46-4-102 as graves are located in Perry County, Tennessee.
6. Public Notice will be published in accordance with applicable law.
7. Additionally, unknown descendants will be served by publication.
8. Beyond Phillip Tatum, the following are interested parties as descendants of John Talley:
 - A. Don Rex Talley
6268 Hwy 128

Linden, TN 37096-4841

- B. Gerald Shane Talley
126 Shelton St.
Linden, TN 37096
Relationship: Nephew of Don Rex
- C. Pamela Talley
119 Old Cedar Creek Rd
Linden, TN 37096
Relationship: Daughter of Shane Talley
- D. Kayla Talley
119 Old Cedar Creek Rd
Linden, TN 37096
Relationship: Daughter of Shane Talley
- E. Nikki Talley
12 Bunting Ln
Lobelville, TN 37097
Relationship: Daughter of Shane Talley
- F. Loretta Talley Holder
Relationship: Sister of Don Rex
- G. Sylvia Talley Hensley
Relationship: Sister of Don Rex
- H. Chasey Talley
119 Old Cedar Rd
Linden, TN 37096
Relationship: Shane Talley
- I. Judy Talley
6268 Hwy 128
Linden, TN 37096-4841
Relationship: Niece of Don Rex
- J. Patsy Talley
75 Coleman Rd.
Linden, TN 37096
Relationship: Niece of Don Rex
- K. Kay Talley Wynes
211 Web Ave.
Linden, TN 37096
Relationship: Cousin of David Talley

L. Kevin Floyd
4771 Hwy 412 E
Linden, TN 37096
Relationship: 1st Cousin of David Talley

II.

FACTS

9. In 2021, the Petitioner learned the gravesite of his 6th Generation grandfather, a veteran of the American Revolutionary War who lived in Perry County, was unknown. He began searching for it. He eventually found four graves (collectively referred to herein as the “graves”) on the owner’s property, a project detailed in The Perry County Historical Society Quarterly (Issue 28-4, December 2022). Exhibit “B”.
10. Tenn. Code Ann 46-4-101, applies to:
Any burial ground in the State of Tennessee...which the court to which jurisdiction is given by this chapter finds, for any of the reasons hereinafter stated, is unsuitable for its use as such and as a resting place for the dead whose remains are buried therein, or the further use of which for such purposes the court finds, for any such reasons, is inconsistent with due and proper reverence or respect for the memory of the dead or otherwise unsuitable for such purposes, the reason being:
 - (1) The burial ground having been abandoned; or
 - (2) The burial ground being in a neglected or abandoned position; or
 - (3) The existence of any conditions or activities about or near the burial ground which the court finds render the further use of same for the purposes aforementioned inconsistent with due and proper reverence or respect for the memory of the dead, or for any other reason unsuitable for such purposes.
11. From the Petitioner’s research, the burial site is abandoned, the last probable burial there being in the late 1840s. Any visible signs of the site’s existence disappeared sometime before 1990 during extensive land clearing in the area.
12. Pursuant to Tenn. Code Ann. 46-8-103, if the real deed were to reflect the presence of human remains on the property, an implied ten foot perimeter would surround the historic cemetery. This is shown on a pending Ingress – Egress Easement revision to the property deed (Exhibit C). The current conditions and activities near the perimeter are inconsistent with due and proper reverence or respect for the memory of the dead:
 - a) A house, septic tank and leach field abuts the western boundary.

- b) An active chicken coop stands 25 feet from the southern boundary.
 - c) A ten-foot pole atop of which hang bird nest gourds stands eight feet from one grave and within the ten foot perimeter.
13. Owner stated a concern for any disturbance of his property, which inhibits descendants access to the site and the addition of markers on the graves; such action creates an environment that impedes efforts by the descendants to commemorate their family heritage.
14. The Tennessee Historical Commission advises "family members concerned about protecting an ancestral burial ground...should consider obtaining a survey by a professional surveyor and recording it on the deed...(to) help establish the cemetery's existence in the public record". Owner rebuffed Petitioner's attempts to discuss this and other important matters related to the grave's future existence, creating an environment inconsistent with the proper respect of those buried there.
15. Petitioner would, in accordance with all applicable laws and regulations, remove and relocate the graves to a site consistent with proper respect of the memory of those buried there.

III.

CAUSE OF ACTION: DISINTERMENT AND RELOCATION UNDER T.C.A. 46-4-103

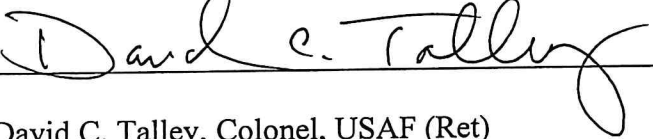
16. Tenn. Code Ann. 46-4-103(a)(1), provides that only "interested persons" may bring an action for disinterment and relocation in the court "of the county in which such burial ground is situated...to have the remains of all deceased persons buried in such ground removed therefrom and reburied in a suitable repository to be obtained for that purpose before their removal from such burial ground."
17. Tenn. Code Ann. 46-4-102 defines "interested persons" as "any and all persons who have any right or easement or other right in, or incident or appurtenant to, a burial ground as such, including the surviving spouse and children, or if no surviving spouse or children, the nearest relative or relatives by consanguinity of one (1) or more deceased persons whose remains are buried in any burial ground."
18. Based upon all information that the Petitioner has found, those buried at the site are:
- a. John Talley, a Revolutionary War soldier who lived in Perry County from 1820-1843. He died on November 28, 1843.
 - b. Jane Crowder Talley, his wife, who lived in Perry County from 1820 to circa 1830.
 - c. Two unknowns.
19. The Petitioner is a lineal descendent of John Talley as determined by staff genealogists at The National Society of the Sons of the American Revolution (Exhibit C). As such, the Petitioner qualifies as an interested person under Tenn. Code Ann. 46-4-102, and files this Petition in that capacity.
20. Tenn. Code Ann. 46-4-103(b) provides "(I)n any such suit, all interested persons who are not complainants shall be made defendants..." Petitioner has notified known descendants of John Talley by

mail of his proposed plan to relocate the Graves. He also ran a public notice of this action in the Buffalo River News, Lewis County Herald, and Hickman County Times for four weeks.

21. Petitioner, upon obtaining the necessary authorization from this Court, intends to relocate the graves of John and Jane Talley along with two unknowns to the Bett Bastin Cemetery in Lewis County, Tennessee, where many of the descendants of John and Jane Talley are buried. This site is protected and easy to access should living descendants either wish to visit or host events to commemorate the family heritage.
22. The Petitioner has contacted McMahan Consulting (MC) to oversee the disinterment of the graves should the Court approve this Petition. MC has conducted removals of historic graves in Tennessee, Wisconsin, Alaska, and on Saipan and is well versed in the required methods of such.
23. The Petitioner has contacted McDonald Funeral Home of Hohenwald, Tennessee, and procured estimated costs and will make all appropriate arrangements under Tenn. Code Ann. 46-4-104 prior to any disinterment or relocation taking place.
24. Petitioner will follow all public health rules and regulations set forth under Tenn. Code Ann. 64-4-110 regarding the disinterment.
25. The Petitioner would state that pursuant to Tenn. Code Ann. 46-4-103(c), he has already given notice of this gravesite to the Tennessee Historical Commission, attention Mr. Graham Perry. Further, the Petitioner has advised Mr. Perry of this Petition for removal of the graves.
26. Petitioner will cover any and all costs related to disinterment, removal, and relocation, to include repair of the disturbed property afterwards.

BASED ON THE FOREGOING, the Petitioner respectfully requests that this Honorable Court grant the following relief:

1. That this court find disinterment and relocation of the graves appropriate under Tenn. Code Ann. 46-4-101 and 104 due to the uses and activities on and near the Property that render the graves unsuitable for the site and inconsistent with due and proper reverence for the memory of the dead.
2. This Court approve disinterment, removal, and relocation of the graves pursuant to Tenn. Code Ann. 46-4-104 and authorize Petitioner to take all necessary actions to do so.
3. For such further and general relief as may be appropriate.



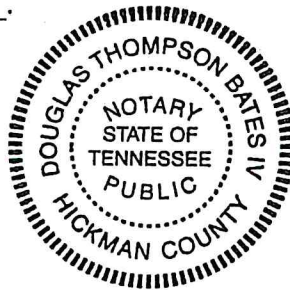
David C. Talley, Colonel, USAF (Ret)

STATE OF TENNESSEE
COUNTY OF HICKMAN

Before me, a notary public in and for said county and state, personally appeared David C. Talley, resident of Williamson County, Tennessee, who executed the foregoing PETITION FOR TERMINATING USE OF LAND AS BURIAL GROUND AND FOR DISINTERMENT AND REINTERMENT OF DECEDENTS on this 20 day of APRIL, 2023.

DCTB

Notary Public



My commission expires: 11/30/25

RESPECTFULLY SUBMITTED:

DCTB

DOUGLAS THOMPSON BATES, IV (#027089)
ATTORNEY FOR PETITIONER DAVID TALLEY
BATES & BATES LAW OFFICE
105 WEST END AVENUE
P.O. BOX 1
CENTERVILLE, TN 37033
TEL: 931-729-4085
EMAIL: dtbates4@bates.law

FAX: 931-729-9888

I AM SURETY FOR COSTS NOT TO EXCEED \$500.

DCTB

DOUGLAS THOMPSON BATES, IV (#02708)

This instrument prepared by:
Debera Bell-Beam, Attorney at Law
113 North Walnut Street
PO Box 431
Linden, Tennessee 37096
931-589-3642
931-589-3853 (fax)
By using information furnished by
Phillip Tatum

BK/PG:D1/640-641

06025317

2 PGS : AL - WARRANTY DEED	
PATRICIA BATES: 2266	
04/05/2006 - 03:25 PM	
VALUE	28000.00
MORTGAGE TAX	0.00
TRANSFER TAX	103.60
RECORDING FEE	10.00
DP FEE	2.00
REGISTER'S FEE	1.00
TOTAL AMOUNT	116.60
STATE OF TENNESSEE, PERRY COUNTY	
PATRICIA W. BELL	
REGISTER OF DEEDS	

APPROVED BY PROPERTY ASSESSOR
65 Parcel 2711
Sam Johnson, Assessor

WARRANTY DEED

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable considerations, the receipt of all which is hereby expressly acknowledged, I, Jacqueline B. Paschall, Grantor, have this day sold, and by these presents do hereby bargain, sell, transfer and convey unto Phillip Tatum, Grantee; his heirs and assigns, in fee simple forever, all the right, title, claim and interest I have in and unto the following-described real property situated in the Third (3rd) Civil District of Perry County, Tennessee, and more particularly described as follows:

BEING Lots No. 10 and 11 of Buffalo Heights Subdivision, according to a plat of record in Plat Book C, Page 130, ROPCT, which is incorporated herein by reference for a complete property description of same.

This property described herein is subject to restrictions as set out in Miscellaneous Book 10, Page 1, ROPCT, which are incorporated herein by reference for their contents.

This property is subject to the following health department restrictions as set out on the plat of record in Plat Book C, Page 130, ROPCT: A) Lots are restricted to no more than three bedroom residences; and B) Before the initiation of construction, the location of improvements and plans for the subsurface sewage disposal system must be approved by the local health department.

Pursuant to TENNESSEE CODE ANNOTATED, 66-24-110, the character of the last preceding registered instrument and the book and page wherein it is recorded is: Being the same property conveyed to JACQUELINE B. PASCHALL, by Warranty Deed of MARGARET A. DILL, dated March 28, 2005, and of record in Deed Book Z-29 at Page 428, Map No. 65, Parcel No. 27.11 in the Register's Office of Perry County, Tennessee.

TO HAVE AND TO HOLD the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging, unto the said Phillip Tatum, his heirs and assigns, in fee simple forever.

I DO COVENANT with the said Phillip Tatum, his heirs and assigns, that I am lawfully seized and possessed of the said realty in fee simple, that the same is unencumbered, and I (we) have a good and perfect right to convey the same.

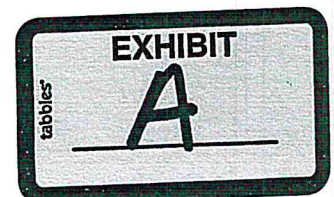
I DO FURTHER COVENANT and bind myself, my heirs and my legal representatives, to forever warrant and defend the title to the above-described

FILED

AT 12:35 P M.

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Charlene Duplessis
CHARLENE DUPLESSIS, CLERK & MASTER
BY D.C.&M.



property unto the said Phillip Tatum, his heirs and assigns, against the lawful claims of all persons whomsoever.

Taxes for the year 2006 on the afore-described property shall be prorated. This document was prepared from information supplied by the parties.

Preparer is not the closing agent pursuant to Section 6045 of the Internal Revenue Code, as amended by the Tax Reform Act of 1986.

WITNESS my hand on this the 5th day of April, 2006.

Jacqueline B. Paschall
JACQUELINE B. PASCHALL

STATE OF TENNESSEE
COUNTY OF PERRY

Personally appeared before me, the undersigned authority, a Notary Public in and for the state and county aforesaid, the within-named JACQUELINE B. PASCHALL, with whom I am personally acquainted, or proven to be upon the basis of satisfactory information, and who acknowledged upon oath that she executed the foregoing and within instrument for the purposes therein expressed and contained.

WITNESS my hand and official seal at Linden, Tennessee, on this the 5th day of April, 2006.

Glenda Potts
NOTARY PUBLIC

My Commission Expires: 9-29-09

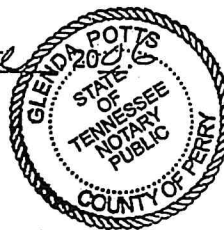
AFFIDAVIT

I hereby swear or affirm that the actual consideration for this transfer of value of the property or interest in property transferred, which is \$ 28,000.00, which amount is equal to or greater than the amount which the property or interest in property transferred would command at a fair and voluntary sale.

Phillip B. Tatum
AFFIANT

Subscribed and sworn to before me this the 5th day of April, 2006.

Glenda Potts
NOTARY PUBLIC OR REGISTER
Comm Exp - 9-29-09



Send tax statements to:

Phillip Tatum
121 Sunshine Dr.
Linden, TN 37096

Continued from page 2

the chip manure & the soil then dropped potatoes from 8 to 12 inches apart. Then covered these to make ground level, row # 2 I opened with a hoe about 5 or 6 inches deep & about same width, then dropped (sic) potatoes then covered about 3 inches with chip manure the soil to make level. R. J. Howard"

From the same ledger, page 10, the heading "Old Orchard Spring's Perry Cty Tenn" with the date now showing March, 1868. Entries in the ledgers were very confusing, with dates not consistent, nor were the locations of the business. On the above listed page, purchases and credits were listed to Byrd Shelton, with an entry "Jany 21, 1869 By Hlf Soling Boots for R.J. H .75 (shown as Credit)

By 1 1/2 Days work Killing & Salting Park 0 5.2023
(Credit) Following this was a short paragraph reading "This amount entered as a credit on B. Shelton's note due to RJH as Extr of J. W. H. Decd. \$11.37"

All information on the East Perryville, Tennessee ledgers was obtained from a privately owned collection, and we deeply appreciate being allowed to use this for the Historical Society Quarterly. This gives in-depth insight into the early days of the people who formed Perry County, and perhaps made us more aware of the hardships of those early days. They were tough, determined people!!

As a side note, more on the early "Supermarkets" will be forthcoming. TOW

REVOLUTIONARY WAR PATRIOT GRAVE RE-DISCOVERED

The long-lost remains of an American Revolutionary War Patriot were recently found, thanks to the combined efforts of some members of the Perry County Historical Society.

The Patriot, John Talley, was a member of the 3rd Continental Light Dragoons. He served from 1781 through 1783. He fought in the Southern Campaign and at the Battle of Yorktown, the last major land battle between the American and British forces.

In the 1840 U. S. Census, Talley was one of ten Revolutionary Patriots living in Perry County. He died there on November 28, 1843.

According to local lore, his grave was on private land. However, where was uncertain. That changed several years ago when Perry County Historian, Jessie Ruth Tiller, accompanied by the late James Tucker, a member of the Historical Society, sought to account for Revolutionary War Patriots buried in Perry County. Of the known Patriots, the grave of Talley was not found.

As a young boy in 1941, Tucker accompanied his grandfather on a fishing trip on the Buffalo River. They stopped below a bluff called Graveyard Bluff, due to the graves on the top of the bluff. The graves had markers then. One was for John Talley. Years later, Tucker and Tiller returned to the site, now known as Buffalo Heights Subdivision, searching for the graves. They found none,

In April, 2021, David Talley, a lineal descendant of John Talley, and a member of the Historical Soci-

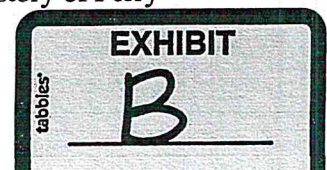
ety, continued the search as a part of a project with the Sons of the American Revolution. Using information from the county archives, land deeds, satellite imagery, and Tucker's boyhood memory of the site, he narrowed the location.

That led him to privately owned property. When shown evidence of the possible location of the graves, the owner agreed to a scan of the area in question using ground penetrating radar (GPR).

GPR is a geophysical method that uses radar pulses to image the subsurface. The non-destructive electromagnetic radiation waves detect reflected signals from subsurface structures. The waves can reach as deep as ten feet, depending on the type of soil. The scan was conducted by UnderGround Detective, Inc. The GPR scan revealed four graves. "They were very much where Jim Tucker told me they would be," Talley said. "I can hear him saying, 'I told you so.'"

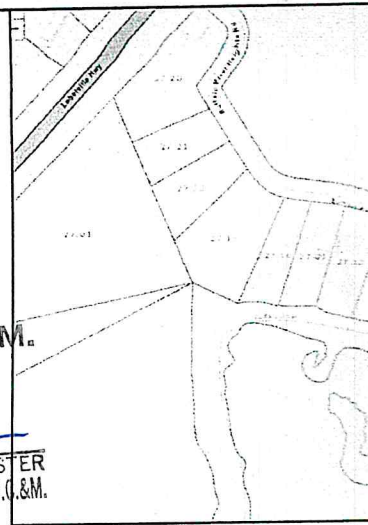
Finding the graves solves a long-standing mystery. As for the future deposition of the graves, that remains to be determined. For now, according to Talley, knowing the graves exist and are properly noted on the public record is an important first step to ensuring they are never lost again.

The information above is from David Talley, a descendant of the Revolutionary War Patriot, John Talley. The Historical Society appreciates Mr. Talley sharing the finding of the grave site, as this is certainly of much value in documenting history of Perry County.



CARROLL LAND SURVEYING
 495 EAST MAIN STREET, SUITE 1
 HOHENWALD, TN 38462
 PHONE: (931)796-1654
 FAX: (931)796-1651
 EMAIL: csurvey@bellsouth.net

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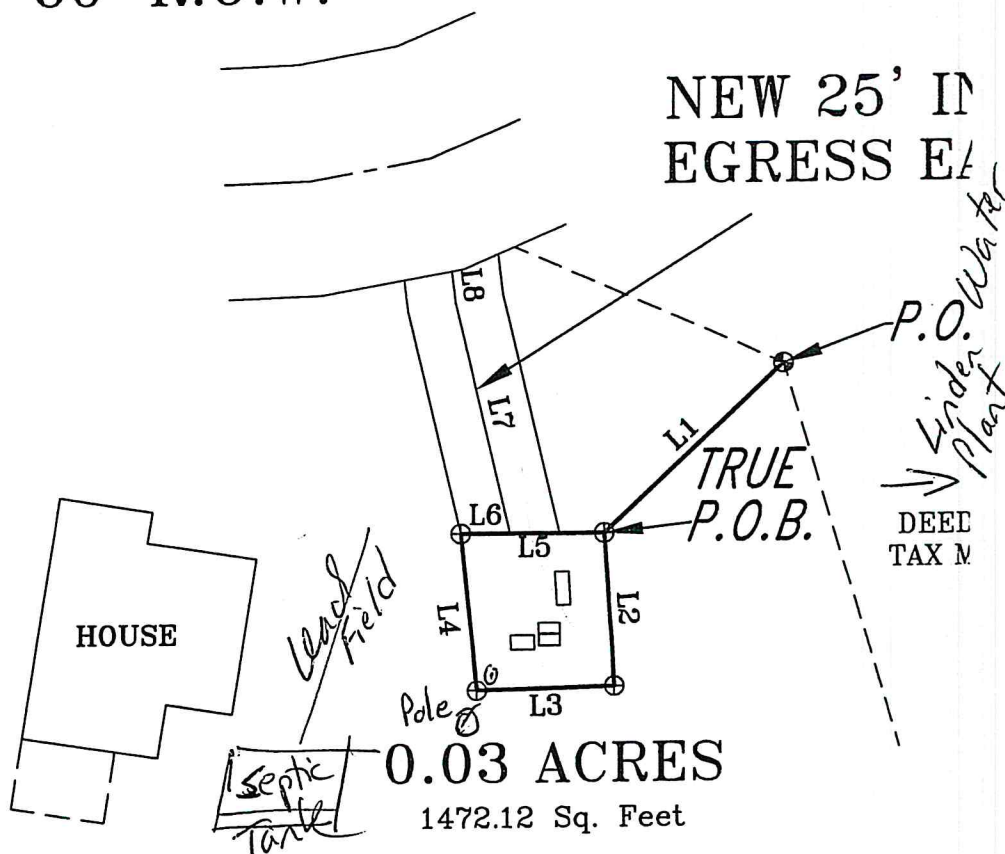


VIC
 (NO)

BUFFALO HEIGHTS ROAD 60' R.O.W.



NEW 25' IN
 EGRESS E



0.03 ACRES

1472.12 Sq. Feet

Chicken
 Coop

CEMETERY

LINE	BEARING	DISTANCE
L1	N 46°59'45" E	63.3
L2	S 03°41'19" E	39.9
L3	S 88°24'44" W	35.6
L4	N 05°53'44" W	41.0
L5	N 89°58'55" E	37.2

EASEMENT

LINE	BEARING	DISTANCE
L6	N 80°58'55" E	12.8

