

COCHRAN, OSWALD, BARTON, MCDONALD & GRAHAM, P. C.

JACK COCHRAN
JULIUS H. OSWALD
L. CLAY BARTON
ROBERT K. McDONALD !
CINA GRAHAM
KIM MICHAEL ROAM
JAMES R. HALL
DON MOORE
SAMUEL S. ZOLICKER
SUSAN E. LONG
JAMES H. YOUNG
OF COUNSEL:
WILLIAM J. PETERS !
ROBERT E. SHARP

STATE OF ARKANSAS) SS
COUNTY OF NEWTON)

I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
FOREGOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK
_____ AT PAGE _____.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF
SAID COURT THIS 26 DAY OF AUGUST 1990

Hubert Roberson
COUNTY & CIRCUIT CLERK
by Carolyn Thomas sec.

LAW OFFICES

ONE JEFFERSON PLACE

P. O. BOX 660

BLUE SPRINGS, MISSOURI 64013

(816) 229-8121

BLUE SPRINGS TELECOPIER (816) 229-0802

1117 S. BROADWAY

OAK GROVE, MISSOURI 64075

(816) 229-6386

(816) 625-4111

OAK GROVE TELECOPIER (816) 625-7204

March 26, 1990

REPLY TO: Blue Springs

OUR FILE:

RE: Estate of Katherine Middleton
Accounts and Safe Deposit Box(es) of Decedent

Midland Bank

P.O. Box 267

Lee's Summit, Missouri 64063

Dear Gentlemen:

Please be advised that I am the attorney representing Mildred M. Anderson, sister of the deceased Katherine Middleton. Mildred Anderson is applying for letters of administration appointing her as personal representative for the Estate of Katherine Middleton.

Please be further advised that Katherine Middleton's death is currently under investigation and her husband, Kenneth G. Middleton, has been charged with Murder One in connection with her death.

Therefore, I am requesting that any and all accounts in the name of Katherine Middleton, either alone or jointly with Mr. Middleton be held until a determination has been made by the court as to whether or not Mr. Middleton is entitled to receive any of the proceeds there of.

Additionally, if your bank has an safe deposit box in Katherine Middleton's name, either alone or jointly held, access to said safe deposit box(es) needs to be denied to Mr. Middleton and his agents. If such a box exists, we request that it be opened by your personnel and the contents inventoried. If said box contains the original Last Will and Testament of Katherine Middleton, please either file said original will with the Probate Court of Jackson County at Independence

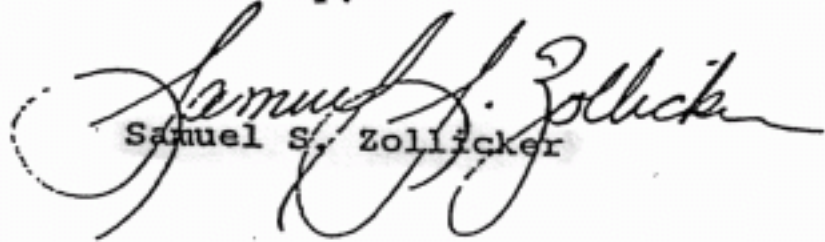


March 26, 1990
Page 2

or forward it to the undersigned attorney and we shall see that it is
filed with the court.

Please feel free to contact me if you have any questions.

Sincerely,


Samuel S. Zollicker

SSZ:jly
cc: Mildren M. Anderson !

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Prior revisions: 1929 § 5400; 1919 § 11779

(1964) This statute is not applicable to deposits not solely in the name of the minor. *McIntyre v. McIntyre* (Mo.), 377 S.W.2d 421.

362.466. Applicability of law — rights, powers, protections. — Any bank or trust company holding deposit accounts pursuant to this chapter shall have the same rights, powers and protections provided a bank or trust company under subsection 6 of section 362.471 as it relates to any account; nor shall any law impose a duty to the contrary on such bank or trust company.

(L. 1997 H.B. 257)

362.470. Joint deposits. — 1. When a deposit is made by any person in the name of the depositor and any one or more other persons, whether minor or adult, as joint tenants or in form to be paid to any one or more of them, or the survivor or survivors of them and whether or not the names are stated in the conjunctive or the disjunctive or otherwise, the deposit thereupon and any additions thereto made by any of these persons, upon the making thereof, shall become the property of these persons as joint tenants, and the same, together with all interest thereon, shall be held for the exclusive use of the persons so named, and may be paid to any one of such persons during his lifetime, or to any one of the survivors of them after the death of any one or more of them. The making of a deposit in such form, and the making of additions thereto, in the absence of fraud or undue influence, shall be conclusive evidence in any action or proceeding to which either the bank or trust company or any survivor is a party of the intention of all the parties to the account to vest title to the account and the additions thereto and all interest thereon in the survivor. By written instructions of all joint tenants given to the bank or trust company they may require the signatures of more than one of such persons during their lifetimes or of more than one of the survivors after the death of any one of them on any order for payment, withdrawal, check endorsement or receipt, in which case the bank shall honor orders to pay or withdrawals and make payments of interest only in accordance with such instructions, but no such instructions shall limit the right of the sole survivor or of all of the survivors to all or any part of any such deposit or interest thereon. The payment and the receipt or acquittance of the one to whom the payment is made as provided in this section shall be a valid and sufficient release and discharge to the

bank or trust company, whether any one or more of the persons named is dead or alive, for all payments made on account of such deposit prior to the receipt by the bank or trust company of notice in writing signed by any one of the joint tenants not to pay the deposit in accordance with the terms thereof. After receipt of such notice a bank or trust company may refuse without liability to honor any check or other order to pay, withdrawal, receipt, or to pay out any interest thereon pending determination of the rights of the parties. No bank or trust company paying any survivor in accordance with the provisions of this section shall thereby be liable for any estate, inheritance or succession taxes which may be due this state. As to any minor who is a joint tenant as provided in this section, all of the provisions of section 362.465 shall apply.

2. If more than two persons are named as such depositors and one of them dies, the deposit becomes the property of the survivors as joint tenants.

3. The pledge or assignment to the bank or trust company of all or part of a joint tenancy deposit or the interest thereon, signed by any joint tenant or tenants, whether minor or adult, upon whose signature or signatures withdrawals may be made from the account shall be a valid pledge or transfer to the bank or trust company of that part of the deposit pledged or assigned, and shall not operate to sever or terminate the joint tenancy of or any part of the account, subject to the effect of the pledge or assignment.

4. The adjudication of incompetency of any one or more joint tenants shall not operate to sever or terminate the joint tenancy of any part of the deposit and the deposit may be withdrawn, paid out or pledged by any one or more of the joint tenants in the same manner as though the adjudication of incompetency had not been made except that any payment, withdrawal or pledge on behalf of the incompetent joint tenant shall be by his guardian.

5. Any deposit made in the name of two persons or the survivor thereof who are husband and wife shall be considered a tenancy by the entirety unless otherwise specified.

(RSMo 1939 § 7996, A.L. 1967 p. 445, A.L. 1977 S.B. 420)

Prior revisions: 1929 § 5400; 1919 § 11779

(1967) A deposit made by deceased depositor and in the name of deceased depositor "or" his brother was not in form to be paid to either, or the survivor of them, and did not comply with this section. *Ison v. Ison* (Mo.), 410 S.W.2d 65.

(1967) The use of the two persons who of a joint tenancy

(1967) Certificates of defendant were presumption of joint account which is granted, unambiguous constitutes the sin not be varied or c 421 S.W.2d 44

(1974) Overrules *Jen. Loan Association and the strict co. Humphreys* (Mo.

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(1980) Where statute bank deposit is p their names as hu estate by entirety that went into ac 175.

362.471. I effect — payn company may certificate of de Doe, pay on de shall, during th first named in t under the sole c named; and the be entitled to c wise deal with t named in the ac

2. At the de sons, the acco the person or death" person company is au and surrender withdrawal af named persons

3. If there is who is a holde persons shall survivorship. death person, t shares to pay-c

MARTIN LAW FIRM, P.A.

P. O. BOX 454

JASPER, ARKANSAS 72641-0454

THOMAS A. MARTIN

TELEPHONE
(501)446-5546

April 23, 1991

Mr. Kenneth G. Middleton
#179112
F.R.D.C. 2-A-203
P.O. Box 190
Fulton, Missouri 65251

RE: Lockhart et al. v. Middleton !

Dear Mr. Middleton:

Please find enclosed copies of two uncollected checks which I presented for payment. These checks "bounced." I have also enclosed a checking debit from my bank.

These are very critical times in the course of your lawsuit and I don't need to be worrying about my money. I will tell you that I do not plan to do anything further in regards this matter until we resolve the manner in which I am to be paid.

I will appreciate your getting back to me at your earliest convenience.

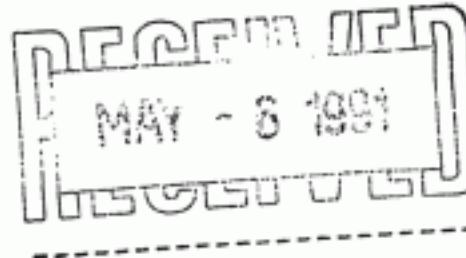
Sincerely,

Thomas A. Martin

TAM:cim

MIDLAND BANK

740 N.W. BLUE PARKWAY
P.O. BOX 267
LEE'S SUMMIT, MISSOURI 64063-0267
TELEPHONE: (816) 524-8000
FAX: (816) 525-8624



May 1, 1991

Thomas Martin
Jaspen, Arkansas 72641

RE: Returned checks, Kenneth Middleton

Dear Mr. Martin,

With regards to checks #1353 for \$500.00 and #1354 for \$50.00 written by Mr. Kenneth Middleton and returned by us due to an error on our part. Mr. Middleton's account indeed had collected funds at the time the checks were presented for payment. If you would like to submit the items for payment, at this time there would be no problem in paying them.

Please accept our apologies for the inconvenience this has caused you. I do hope you will not hold Mr. Middleton accountable for our error. If you should require further information please do not hesitate to contact me.

Sincerely,

Rhonda Watkins
Asst. Vice President

ESTATE NUMBER

APPENDIX A

[illegible]

(Attach sheet for additional names or informa

Form 10030
Page 2 of 3

ormal FILED
OFFICE OF THE CIRCUIT CLERK
NEWTON COUNTY, ARKANSAS

FEB 28 1991

ESTATE NUMBER

APPENDIX B

The undersigned persons entitled to administer the estate hereby renounce our right to administer the estate and request that letters of administration be issued to Mildred M. Anderson

whose address(es)

(is) (are)

SIGNATURE

RELATIONSHIP

RESIDENCE AND ZIP CODE

Hearldine Leachant

Sister

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OFFICE OF THE CIRCUIT CLERK
NEWTON COUNTY, ARKANSAS

FEB 28 1991

APPENDIX B

The undersigned persons entitled to administer the estate hereby renounce our right to administer the estate and request that letters of administration be issued to MILDRED M. ANDERSON

_whose address(es)

(15) ~~(one)~~

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FILED
OFFICE OF THE CIRCUIT CLERK
NEWTON COUNTY, ARKANSAS

FEB 28 1991

STATE OF MISSOURI

STATE OF ARKANSAS) SS
COUNTY OF NEWTON)

I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE COUNTY & STATE ARKANSAS, DO HEREBY CERTIFY THAT THE ATTACHED AND FORWARDED INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK NO. CR90-0348 AT PAGE 148 DIV. NO. I-17

VS.

KENNETH G. MIDDLETON

DEFENDANT

BAIL BOND IN ANY FELONY OR MISDEMEANOR CASE

STATE OF MISSOURI
COUNTY OF JACKSON SS

KNOW ALL MEN BY THESE PRESENTS, that I/we KENNETH G. MIDDLETON the defendant as principal, and Self 10% as surety

acknowledge that I/we owe and are bound unto the State of Missouri in the full penal sum of \$100,000.00 the payment of which I/we bind myself/ourselves, my/our heirs, executors, administrators and assigns to be levied of my/our goods and chattels, land and tenements, and unto the said State rendered, upon the conditions hereinafter set out, and in further security for the performance of this bond I, the defendant, have deposited in the registry of this Court:

- (a) Cash in the amount of \$ 10,000.00
- (b) The following securities _____

The conditions of this bond are that whereas the defendant stands charged in this Court with the commission of the criminal offense(s), to wit:

Count I - Murder First Degree; Count II - Armed Criminal Action -- CLASS A FELONIES

NOW, THEREFORE, if said defendant shall personally be and appear in this Court to answer the said charge(s) on AS ORDERED BY COURT not to depart without leave and shall be and appear in this Court from time to time thereafter as required by the Court and throughout the pendency of the action, for trial and all other proceedings herein, including the rendition of final judgment and sentence herein and shall abide and submit himself/herself to the orders, judgment, sentence and process of the Court herein, and shall be and appear from time to time in any other court to which said cause may be taken by change of venue as required by such court for all proceedings therein, including trial and rendition of sentence and final judgment, and shall abide and submit himself/herself to the orders, judgment, sentence and process of said court, then, in such event, this bond shall be null, void and of no effect and said cash or securities SHALL BE RETURNED TO DEFENDANT, or his/her assign(s), provided, however, that any fines, judgments or costs assessed against defendant may be withheld by the Court from any cash or securities deposited as a condition of this bond. Otherwise, this bond shall remain in full force and effect and this Court, upon a declaration of forfeiture thereof, and after the State has obtained a final judgment upon said bond in the manner prescribed by law or by the rules of the Supreme Court, may order the said cash to be appropriated to the State of Missouri or the said securities to be sold and the proceeds thereof appropriated to the State of Missouri and disposed of in accordance with law. Additional conditions of this bond are that:

- (1) Defendant Under Supervision of State Board of Probation and Parole
- (2) Not to leave counties of Jackson and Clay without previous permission of Prosecuting Attorney
- (3) Not to dispose of any marital or jointly held property w/o permission of Pros Atty & Probate Court

All sureties herein submit themselves to the jurisdiction of this Court and to any other court to which said cause may be taken on change of venue and irrevocably appoint the court administrator or clerk of such court in which said cause shall be pending as their agent upon whom may be served for them any notice, motion, pleading or process having to do with any proceeding for the forfeiture of this bond.

IN WITNESS THEREOF, I/we have hereunto set my/our hand(s) on April 13, 1990!

SURETY

ADDRESS

APPROVED ON:

April 13, 1990!

(SEAL)

X Kenneth Middleton
DEFENDANT/PRINCIPAL

X _____

X _____

TELEPHONE NO.

Subscribed and sworn to by defendant on the above date.

Shirley M. Taylor
JUDGE/DEPUTY COURT ADMINISTRATOR

WHERE BOND IS SIGNED BY SURETY COMPANY, THE AGENT OF THE COMPANY SHALL ATTACH POWER OF ATTORNEY. PLEASE READ IMPORTANT NOTICES ON REVERSE SIDE WHICH CONTAIN ADDITIONAL CONDITIONS OF YOUR BOND.

JRCT 1302 - 8/89

ORIGINAL

(Not to be filed in court's case file folder)

JOINT EXHIBIT

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI,
AT INDEPENDENCE

GEARLDINE LOCKHART,

MILDRED M. ANDERSON,

JOYCE M. HENSON,

JESSE J. BREWER,

Plaintiffs,

v.

KENNETH G. MIDDLETON,

Defendant.

STATE OF ARKANSAS) SS
COUNTY OF NEWTON)

I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
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AT PAGE

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF
SAID COURT THIS THE 18 DAY OF August 1990

Hubert Roberson

COUNTY & CIRCUIT CLERK

By: James McKnight

CV90-18801

Case No.

CIVIL K

PETITION FOR WRONGFUL DEATH (8109)

COME NOW Plaintiffs and for their cause of action against the
Defendant allege and state as follows:

1. That Plaintiffs Gearldine Lockhart, Mildred M. Anderson,
Joyce M. Henson and Jessie J. Brewer are the surviving adult
siblings of the decedent, Katherine B. Middleton, and are the
proper parties herein, pursuant to Section 537.080, Missouri
Revised Statutes.

2. That Plaintiff Gearldine Lockhart is and was at
mentioned herein a resident of Raymore, Cass County, Missouri.

3. That Plaintiff Mildred M. Anderson is and was at all
times mentioned herein a resident of Pleasant Hill, Cass County,
Missouri.

EXHIBIT A

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JACKSON COUNTY, ARKANSAS

4. That Plaintiff Joyce M. Henson is and was at all times mentioned herein a resident of St. Joe, Searcy County, Arkansas.

5. That Plaintiff Jessie J. Brewer is and was at all times mentioned herein a resident of Everton, Marion County, Arkansas.

6. That Defendant Kenneth G. Middleton, is and at all times mentioned herein was a resident of Blue Springs, Jackson County, Missouri.

7. That on or about February 12, 1990, at approximately 1:54 P.M., the decedent, Katherine B. Middleton, sustained a fatal bullet wound to the head with a handgun fired by the Defendant, Kenneth G. Middleton, her spouse, at their residence located at 1409 N. 48th, Blue Springs, Jackson County, Missouri.

8. That as a direct result of said fatal bullet wound, above-mentioned, the decedent, Katherine B. Middleton, sustained a fatal injury to her brain, causing her demise at approximately 5:43 P.M. on February 12, 1990.

9. That Defendant, Kenneth G. Middleton, did willfully and intentionally inflict said fatal bullet wound upon the decedent, purposefully intending to cause her death, which death did occur as a direct result thereof.

10. That the willful and intentional act of Defendant, above-referenced, was the direct and proximate cause of the fatal injuries to the decedent, Katherine B. Middleton, causing her extreme pain and suffering and eventually her death on February 12, 1990.

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NEWTON COUNTY, ARKANSAS

FEB 28 1991

11. That as a direct and proximate result of the aforesaid willful and intentional act of the Defendant, Plaintiffs have been damaged in the following respects:

(a) Plaintiffs are entitled to compensatory damages for the reasonable value of the decedent's services, consortium, companionship, comfort, console and support of which Plaintiffs have been deprived by reason of said death; and

(b) Plaintiffs are entitled to survival damages, including all medical expenses, for the conscious pain and suffering of the decedent from the time of the aforementioned occurrence until the time of her death.

(c) Plaintiffs are entitled to aggravating circumstances, in that Defendant, Kenneth G. Middleton, did willfully and intentionally cause the death of Katherine B. Middleton.

WHEREFORE, Plaintiffs, Gearldine Lockhart, Mildred M. Anderson, Joyce M. Henson and Jessie J. Brewer, pray for judgment against Defendant Kenneth G. Middleton for actual damages, including aggravating circumstances, in excess of Fifteen Thousand Dollars (\$15,000.00), for their costs of this action and for such other relief as the Court deems just and proper.

Respectfully submitted,

COCHRAN, OSWALD, BARTON,
McDONALD & GRAHAM, P.C.

Samuel S. Zolllicker
SAMUEL S. ZOLLICKER

#34930

Donald R. Moore
DONALD R. MOORE

601 Jefferson, P.O. Box 550
Blue Springs, Missouri 64013
(816) 229-8121

ATTORNEY FOR PLAINTIFFS

IN THE CHANCERY COURT OF NEWTON COUNTY, ARKANSAS

GERALDINE LOCKHART,
MILDRED M. ANDERSON,
JOYCE M. HENSON and
JESSE J. BREWER

PLAINTIFFS

VS.

NO. E 91-17-1

KENNETH G. MIDDLETON

DEFENDANT

COMPLAINT

Come now the plaintiffs, by their counsel, and for their Complaint against Kenneth G. Middleton, state:

1. Plaintiffs Geraldine Lockhart and Mildred M. Anderson are residents of the State of Missouri. Plaintiff Joyce M. Henson is a resident of Searcy County, Arkansas. Plaintiff Jesse J. Brewer is a resident of Marion County, Arkansas. Defendant Kenneth G. Middleton is a resident of the State of Missouri, and is subject to the jurisdiction of this Court due to his interest in the real property at issue in this cause.

2. The real property at issue in this cause is situated in Newton County, Arkansas. Venue of this cause properly lies in this Court.

3. Defendant holds legal title to the following described real property situated in Newton County, Arkansas:

TRACT 1: That certain tract of land known as the D.M. Middleton homeplace, containing 87 acres, more or less, and being all of the land owned by D.M. Middleton at the time of his death in Sections 16, 21 and 22, Township 15

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NEWTON COUNTY, ARKANSAS

North, Range 20 West, and contiguous thereto.

TRACT 2: Set at the NW Corner of the NW 1/4 of the NW 1/4 of Section 28 in Township 15 North, Range 20 West, and run thence East 1.64 chains; thence South 12 degrees West 3.13 chains; thence South 33 1/2 degrees West 7.22 chains; thence South 26 degrees West 8.29 chains to a place of beginning: thence South 28 degrees West 14.72 chains; thence South 24 1/2 degrees West 26 chains; thence South 64 degrees East 57 links; thence North 52 degrees East 21.15 chains; thence North 4 degrees West 9.68 chains; thence North 20 degrees East 3.28 chains; thence North 30 degrees East 5.73 chains; thence North 40 degrees East 3.05 chains; thence North 50 1/2 degrees West 5.71 chains to the place of beginning, containing 20 acres, more or less.

TRACT 3: The Northeast Quarter of the Southeast Quarter in Section 18, Township 15 North, Range 20 West.

TRACT 4: A part of the West one-half of the Northwest Quarter (W 1/2 NW 1/4) of Section 17, Township 15 North, Range 20 West, described as beginning at the NW Corner of said Section 17, run thence South on section line 2640 feet; thence East 990 feet; thence North 1980 feet; thence East 330 feet; thence North 660 feet to the NE Corner of the W 1/2 of the NW 1/4 of Section 17; thence West 1320 feet to the place of beginning. Containing 65 acres, more or less. Including all surface and mineral rights.

TRACT 5: The Northeast Quarter of Section 18, Township 15 North, Range 20 West

4. Defendant was married to Katherine B. Middleton on or about April 28, 1974.

5. On or about February 12, 1990, defendant wrongfully caused the death of plaintiffs' decedent, Katherine B. Middleton.

6. Plaintiffs are the brother and sisters of the decedent, wrongful death beneficiaries and the heirs at law of Katherine B. Middleton, the former spouse of the defendant.

7. Plaintiffs have filed in the Circuit Court of Jackson

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NEWTON COUNTY, ARKANSAS

FEB 28 1991

County, Missouri, a Petition for Wrongful Death. A copy of said Petition is attached hereto and incorporated herein as Exhibit "A" as if set out word for word.

8. Plaintiffs have filed in the Circuit Court of Jackson County, Missouri, Probate Division, an Application for Letters of Administration of the estate of Katherine B. Middleton, who died intestate. A copy of said Application is attached hereto and incorporated herein as Exhibit "B" as if set out word for word. No personal representative of said estate has yet been appointed.

9. On or about February 22, 1991, defendant was convicted in the Circuit Court of Jackson County, Missouri, of murder in the first degree for the death of plaintiffs' decedent, Katherine B. Middleton, and was sentenced to life without parole. Defendant was also convicted of armed criminal action and sentenced to two hundred (200) years.

10. By his actions, defendant wrongfully terminated the dower interests and the expectancy of the statutory interests of a surviving spouse of plaintiffs' decedent, Katherine B. Middleton.

11. It is contrary to the public policy of the State of Arkansas to permit the defendant to profit by his wrongdoing.

12. This Court should impose a constructive trust upon the above-described real property, together with and including all other real and personal property in which the defendant may own a legal or equitable interest and declare that beneficial ownership thereof is vested in the plaintiffs as wrongful death

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NEWTON COUNTY, ARKANSAS

FEB 28 1991


beneficiaries and heirs at law of plaintiffs' decedent, Katherine B. Middleton, who died intestate.

13. Plaintiffs have no adequate remedy at law.

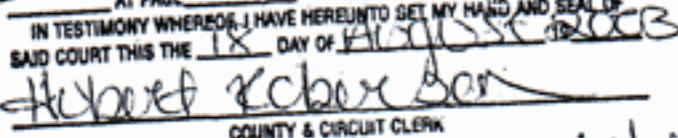
WHEREFORE, plaintiffs pray that this Court impose a constructive trust upon the above-described real property, together with and including any and all other real and personal property in which the defendant may own a legal or equitable interest, that plaintiffs be declared to be the beneficial owners of said property, that this Court appoint its Commissioner to sell the above-described property at judicial sale, that the proceeds of said property, less the cost of sale, be paid to the plaintiffs, for their costs herein expended, a reasonable attorney's fee, and any and all other relief to which they may be entitled at law or in equity.

GERALDINE LOCKHART,
MILDRED M. ANDERSON,
JOYCE M. HENSON and
JESSE J. BREWER

By:


Steven B. Davis
Davis & Goldie
Attorneys at Law
P.O. Box 1595
Harrison, Arkansas 72602-1595
501-741-4646

STATE OF ARKANSAS) ss
COUNTY OF NEWTON)
I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
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COUNTY & CIRCUIT CLERK

By: Jamie McKnight

FILED
OFFICE OF THE CIRCUIT CLERK
NEWTON COUNTY, ARKANSAS

FEB 28 1991

IN THE CHANCERY COURT OF NEWTON COUNTY, ARKANSAS

GERALDINE LOCKHART, MILDRED M. ANDERSON
JOYCE M. HENSON AND JESSE J. BREWER

PLAINTIFFS

vs.

NO. E 91-17-1

KENNETH G. MIDDLETON AND LYNN CARL MIDDLETON

DEFENDANTS

ORDER

Now on the 2nd day of April, 1992, the matter of the motion to dismiss pending in this case came on for hearing and the parties appeared by counsel and, after giving one week for additional briefs, from the file in the case and the law, giving due weight to the arguments of counsel, the Court finds:

In the original Complaint filed February 28, 1991, the Plaintiff alleged that the Defendant, Kenneth G. Middleton, owns title to certain lands located in Newton County described in the Complaint and referred to therein as tracts 1, 2, 3, 4 and 5. It is alleged that the said Defendant and Katherine B. Middleton were married on April 28, 1974, and that on February 12, 1990, Kenneth G. Middleton wrongfully caused the death of Katherine B. Middleton, his spouse and that he was convicted of murder in the first degree and was sentenced to life in prison without parole. It was further alleged that a wrongful death action was filed in the Circuit Court of Jackson County, Missouri and that probate proceedings have been instituted there as well.

A lis pendens was filed February 28, 1991, covering all of the real property mentioned in the complaint. An answer and a motion to dismiss were filed April 3, 1991. A hearing was held on the

motion and the Court ruled that Arkansas' lis pendens statute
A.C.A. 16-59-101 has been construed to apply only to cases where
the claims made affect title and liens on real estate or personal
property and not to actions seeking a money judgment. See: Tolley
v. Wilson 212 Ark. 163, 205 S.W. 2d 177 (1947). It therefore has
no applicability to the case where there is a wrongful death action
pending in Missouri seeking money judgment. An order was entered
herein from the first hearing, 16 September, 1991. It allowed
further pleadings. A Second Amended Complaint was filed October
12, 1991. It alleged that Kenneth Middleton acquired title to
tract one by deed dated February 26, 1973, (prior to the marriage)
that he acquired title to tract 2 at some unknown date, and that
he acquired title to tract 3 on March 13, 1978, and to tract 4 on
June 10, 1988, and to tract 5 on February 15, 1978.

It is claimed:

(1) That the defendant wrongfully terminated the dower
interests and expectancy of statutory interests of Katherine B.
Middleton in the property of her husband contrary to the public
policy of this state and that the Court should impose a
constructive trust on all of his real and personal property. In
the case of Luecke v. Mercantile Bank of Jonesboro, 286 Ark. 304,
691 S.W. 2d 843, the type argument made here was rejected. In that
case it was observed:

"We have long followed the rule that one who
wrongfully kills another is not permitted to profit by
the crime [citations omitted].

Here, however there is no effort by the estate of
Mr. Simpson [the murderer] to recover anything from Mrs.

RESEARCH REFERENCES

Ark. L. Notes. Gitelman and Watkins, No Requiem for Ricarte: Separation of Powers, the Rules of Evidence, and the Rules of Civil Procedure, 1991 Ark. L. Notes 27.

UALR L.J. Survey, Civil Procedure, 12 UALR L.J. 603.

Survey, Civil Procedure, 13 UALR L.J. 321.

CHAPTER 59

LIS PENDENS !

RESEARCH REFERENCES

UALR L.J. Note, Bankruptcy — A Fraudulent Conveyance Action and a Lis Pendens May Create a Lien Which Sur-

vives a Bankruptcy Discharge, 15 UALR L.J. 319.

16-59-101. Filing of notice required to constitute constructive notice of pending action.

CASE NOTES

ANALYSIS

Complaint for money judgment.
Effect of filing.
Transfer.

acquires a specific lien on the property conveyed, including lien on real property when notice of lis pendens is filed. *Clark v. Bank of Bentonville*, 308 Ark. 241, 824 S.W.2d 358 (1992).

Complaint for Money Judgment.

Only the filing of a lis pendens against the property can render the complaint a matter of record before it is reduced to judgment, but lis pendens cannot be filed for a complaint merely for a money judgment and not directly affecting the title to the real estate. *Bank of Cave City v. Abstract & Title Co.*, 38 Ark. App. 65, 828 S.W.2d 852 (1992).

Effect of Filing.

A general creditor who files an action to cancel a fraudulent conveyance of a debtor

Transfer. !

The recording of a lis pendens affects the possession and interests in debtor's property; accordingly, the recording of the notice of lis pendens is itself a "transfer" within the meaning of 11 U.S.C. § 547, which transfer occurred when the notice was recorded. *Dupwe v. Worthen Nat'l Bank (In re Rising Fast Rentals, Inc.)*, 162 Bankr. 203 (Bankr. E.D. Ark. 1993).

Simpson's [the victim] estate. Mr. Simpson's heirs are not the recipients of any ill gotten gains. At most, Mrs. Simpson had a contingency interest in Mr. Simpson's estate based on her dower interest and the specific provisions of his will. That contingency never ripened into a vested interest since Mrs. Simpson died first.

....

As previously stated, the only interest Mrs. Simpson had in the real and personal property owned by Mr. Simpson in his own name was as a beneficiary under his will and through her dower interest. When she predeceased him, she never acquired any further claim, because her death prevented her dower interest from vesting, LeCroy v. Cook, Commissioner of Revenues, 211 Ark. 966, 204 S.W. 2d 173 (1947),"

(Even had the widow's dower right ripened into a vested estate it being a life estate, terminates upon her death so that even had there been a pending action for possession of the land the claim would abate and not descend to the heirs. See: King v. Gibson, 620 S.W.2d. 257.)

The Supreme Court also held in the Luecke case, "Since we hold that under the facts in this case the appellees are not profiting from their father's wrongful conduct we decline to follow either of the theories proposed by the appellant." As this Court understands the Luecke case, it says that the cancellation of the deceased's expectancy of dower in the property of the wrongdoer is not something which is actionable and based upon Luecke, the Court so holds, and dismisses the complaint as it relates to that allegation.

It is also alleged:

(2) That during the course of the marriage the Middletons acquired marital property including some automobiles, farm

equipment and cattle which are enumerated in the pleadings, that
some of the property had been sold and that some of Mrs.
Middleton's separate personal property was removed to the real
property in Newton County and held there by Lynn Carl Middleton as
agent for Kenneth G. Middleton.

It should be noted that since the real estate has a title and
is alleged to be in the name of the husband alone, it is treated
differently than the personalty. These facts makes applicable
certain rules of law incidental to real property. The personal
property may or may not have a title, but in this case there is no
allegation that it does have or does not or that it is either in
his name or hers. In this context, through out the Complaint as
amended the court considers that the term "marital property" is
intended to make an allegation that the personal property belonged
to both.

It is asked that the Court declare that the parties became
tenants in common of the personal property and also that the Court
find that the heirs of the deceased are the owners of her share of
the property. The Plaintiffs also ask for an accounting and for
judgment against the defendants for the proceeds. The Court finds
that the complaint states a cause of action as to the personal
property for which relief could be granted if the allegations were
proven and the Court overrules the motion as to that.

It is alleged:

(3) That the Court should find that the real and personal
property should be distributed as if the parties were being

divorced treating the property as marital property. A.C.A. 9-12-315 says that "(a) At the time a divorce decree is entered: (1) (A) All marital property shall be distributed one-half (1/2) to each party unless the court finds such a division to be inequitable." The problem the court sees with applying this act to this case is that these parties are not divorced and are not parties to a divorce action. By its terms, the act is to apply to divorce cases only. In addition, even under the act, an unequal disposition of the property could be made if circumstances warranted. While it has been held that the courts of Arkansas have jurisdiction to divide Arkansas real estate if a divorce has been entered in some other state, (see: Mitchell v. Meisch, 22 Ark. App. 264, 739 S. W. 2d 170), it was also held that, in absence of an agreement to the contrary, the statute only empowers the court to act thereunder to divide the property at the time of the entry of the decree of divorce (or where the divorce has been awarded in a foreign court lacking jurisdiction to enter a decree regarding the title to the Arkansas property). The Supreme Court has also held that the purpose of the property division section of the divorce statute is to effect an equitable distribution of the property of the parties upon divorce. Stover v. Stover, 287 Ark. 116, 696 S. W. 2d 750. The Court in Luecke, supra, did comment that it's decision squared with the divorce statute, but it did not say that it would use that act to grant a defacto divorce property division post mortem. Under the circumstances the Court does not see that the complaint, even as amended, states a cause of action for any relief under

A.C.A.9-12-315 and so holds. (Other aspects of the personal property issues are dealt with elsewhere).

It is also alleged:

(4) It is alleged that marital funds (funds belonging to both) in which Katherine B. Middleton had an interest were used to construct certain improvements on the property known herein as Tract One which Mr. Middleton owned before the marriage. And it is alleged that her heirs are entitled to have a constructive trust declared upon the property for her interest therein. The case of Remshard v. Renshaw 143 S.W. 1092, 102 Ark. 309, held that a widow was entitled to a lien on the land of her husband for the amount of her separate funds invested in the property. That case seems analogous to this one. Reasoning from that case, it seems that in this case the deceased's heirs should not be placed in a worse legal position, after he killed her, than she would have been had he died first. It may be, however, that the matter of the premarital agreement will have some effect upon this issue, but, as already mentioned, that will need to be dealt with either at trial or on some other type of motion.

Therefore, It is the Order of the court that the Plaintiffs' Complaint as amended is hereby ordered dismissed except as it relates to the claims:

(a) that there should be a trust placed on the personal property in the hands of both of the defendants, that some of the personal property should be found to be owned as tenants in common, that some of it was her separate property, and that there should

be an accounting for all personal property of the deceased which has been taken and possessed by the Defendants, and, the allegation

(b) that there should be a constructive trust placed on Tract One of the real estate for the deceased's interest therein which is alleged to have resulted from her contribution thereto through the investment of marital funds.

IT IS SO CONSIDERED, ORDERED, ADJUDGED AND DECREED.

[Signature]
CHANCELLOR

CERTIFICATE OF RECORD
Filed for record in my office on the 26th
day of May, 1992!
at 10:30 o'clock A. M. and now recorded
in Book 9 Page 341
26th May 92
Hubert Roberson
By Blenda Wheeler
D.C.



STATE OF ARKANSAS) ss
COUNTY OF NEWTON)
I, HUBERT ROBBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
FOREGOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK
9 AT PAGE 341
IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND SEAL OF
SAID COURT THIS THE 18 DAY OF AUGUST 2003
Hubert Roberson
COUNTY & CIRCUIT CLERK
By: jamie mcknight

125.

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
PROBATE DIVISION
AT INDEPENDENCE

MILDRED M. ANDERSON,
Personal Representative for
the Estate of Katherine B.
Middleton,
Route 1, Box 128
Pleasant Hill, MO 64080

and

JESSE J. BREWER,
Route 1, Box 797
Everton, AR 72633

and

JOYCE M. HENSON,
Route 2
St. Joe, AR 72675

and

GERALDINE LOCKHART,
304 South Madison
Raymore, MO 64083

Petitioners,

vs.

Case No. _____

KENNETH G. MIDDLETON,
Potosi Correctional Center
Route 2, Box 2222
Mineral Point, MO 63660
Prison I.D. #179112

Respondent.

In the Estate of

KATHERINE B. MIDDLETON,

Deceased.

Estate No. 32336

STATE OF ARKANSAS) SS
COUNTY OF NEWTON)

I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
FOREGOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK
AT PAGE

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF
SAID COURT THIS THE 18 DAY OF AUGUST 1983

Hubert Roberson
COUNTY & CIRCUIT CLERK

By: Jamie McKnight

RECEIVED

PROBATE
CIRCUIT
JACKSON
By: SM JOINT
EXHIBIT

DE KANSAS) SS.
OF NEWTON)
I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
GOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK

PETITION FOR JUDGMENT BARRING

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF
COURT THIS THE 18 DAY OF AUGUST 1990

SURVIVING SPOUSE FROM MARITAL RIGHTS

Hubert Roberson
COUNTY & CIRCUIT CLERK

J. Jamil McKnight

COME NOW Petitioners, by and through their attorney, Samuel S.

Zollicker, and for their cause of action state and allege as follows:

1. Petitioner Mildred M. Anderson is the Personal Representative for the Estate of Katherine B. Middleton, Decedent, who died in testate on February 12, 1990. Petitioners Mildred M. Anderson, Joyce M. Henson, and Geraldine Lockhart are the surviving sisters of the Decedent, Katherine Middleton; Petitioner Jesse J. Brewer is the surviving brother of the Decedent, Katherine Middleton.

2. Respondent Kenneth G. Middleton is Decedent's surviving spouse.

3. Petitioners are the sole heirs at law of the Decedent.

4. That Respondent, Kenneth G. Middleton, is barred from all rights of inheritance, all rights as surviving spouse of the decedent, including exempt property, the one-year support allowance, the homestead allowance, rights as a joint tenant or tenant by the entirety, rights as a beneficiary of any contractual rights, and rights as a beneficiary of any non-probate transfer for the reason that Respondent is guilty of misconduct by reason of having shot and killed the Decedent on or about February 12, 1990.

5. Respondent, Kenneth G. Middleton, was charged with Murder I, a Class A Felony, and armed criminal action, a Class A Felony, in connection with the death of the Decedent, Katherine B.

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Middleton, and was found guilty of both offenses. Certified copies of the indictment and the judgment in Case No. CR90-0348 are attached hereto as Exhibits "A" and "B" respectively.

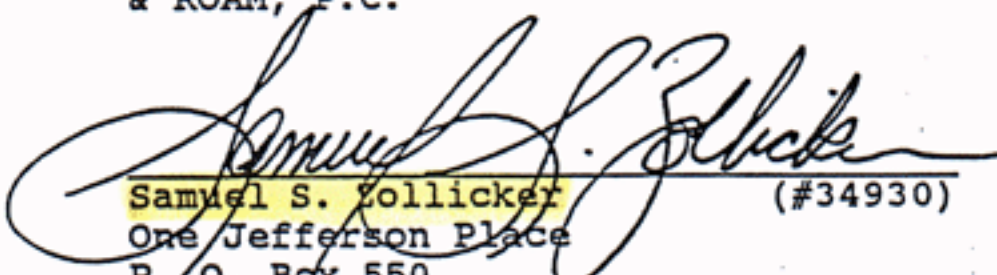
WHEREFORE, Petitioners pray a judgment of the Court declaring Respondent Kenneth G. Middleton, guilty of misconduct and barring said Respondent from all rights of inheritance and all rights as surviving spouse, including exempt property, the one-year support allowance, the homestead allowance, rights as a joint tenant or tenant by the entirety, rights as a beneficiary of any contractual rights, and rights as a beneficiary of any non-probate transfer, and for such other relief as to the Court seems just and proper.

The undersigned swears that the matters set forth above are true and correct to the best knowledge and belief of the undersigned subject to the penalties of making a false affidavit or declaration.

STATE OF ARKANSAS) SS
COUNTY OF NEWTON)
I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND FOREGOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK _____ AT PAGE _____
IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF SAID COURT THIS THE _____ DAY OF _____ 19____

COUNTY & CIRCUIT CLERK

COCHRAN, OSWALD, MCDONALD, GRAHAM & ROAM, P.C.


Samuel S. Zollicker (#34930)
One Jefferson Place
P. O. Box 550
Blue Springs, MO 64013
Telephone: (816) 229-8121
FAX No.: (816) 229-0802
ATTORNEY FOR PETITIONERS

STATE OF MISSOURI)
COUNTY OF JACKSON) SS.

Samuel S. Zollicker, of lawful age, being duly sworn, upon his oath, states that he is the attorney of record for Petitioners, and that the facts set forth in the above and foregoing Petition for


128
Judgment Barring Surviving Spouse From Marital Rights are true to
the best of his knowledge and belief.


Samuel S. Zollicker

Subscribed and sworn to before me, a Notary Public, this 13th
day of August, 1991.


Notary Public

My Commission Expires:


MAXINE M. HARTNETT
Notary Public, State of Missouri
Commission Expires October 21, 1992

STATE OF ARKANSAS)
COUNTY OF NEWTON) ss
I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
FOREGOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK
AT PAGE _____
IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF
SAID COURT THIS _____ DAY OF _____ 19____

COUNTY & CIRCUIT CLERK

1st Pg Certified

Newton
IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE

GEARLDINE LOCKHART, et al.

PLAINTIFFS

VS.

92-19
No. CV 90-18801
Division Two

KENNETH G. MIDDLETON

DEFENDANT

NOTICE OF FILING

Notice is hereby given that a judgment rendered in the Circuit Court of Jackson County, Missouri, at Independence in Case No. CV 90-18801 in favor of Gearldine Lockhart, Mildred M. Anderson, Joyce M. Henson and Jesse J. Brewer in the total sum of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) against judgment debtor Kenneth G. Middleton has been filed for record in Newton County, Arkansas, on May 29, 1992.!

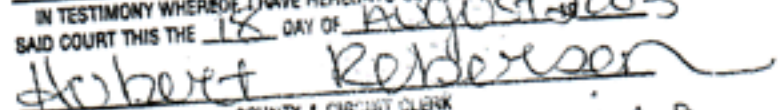
GEARLDINE LOCKHART, MILDRED M.
ANDERSON, JOYCE M. HENSON and
JESSE J. BREWER

By: 

Steven B. Davis
Davis & Goldie
Attorneys at Law
P.O. Box 1595
Harrison, Arkansas 72602-1595
501-741-4646

STATE OF ARKANSAS) SS
COUNTY OF NEWTON)
I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
FOREGOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK

AT PAGE _____
IN TESTIMONY WHEREOF, I HAVE HEREINTO SET MY HAND AND SEAL OF
SAID COURT THIS THE 18 DAY OF August 1992


COUNTY & CIRCUIT CLERK
By: *Jamie McKnight*

FILED
OFFICE OF THE CIRCUIT CLERK
NEWTON COUNTY, ARKANSAS

MAY 29 1992

A.M. 153 P.M.

IN THE CIRCUIT COURT OF JACKSON COUNTY
AT INDEPENDENCE

STATE OF ARKANSAS) SS
COUNTY OF NEWTON)
CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
FOREGOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK
AT PAGE

GEARLDINE LOCKHART, et al.,
Plaintiffs,
v.
KENNETH G. MIDDLETON,
Defendant.

IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF
SAID COURT THIS THE 18 DAY OF AUGUST 1992
Hubert R. R. R.
County & Circuit Clerk
Case No. CV90-18801
Division Two

JUDGMENT ENTRY UPON DEFAULT BY DEFENDANT

NOW on this day, the Court having taken up for consideration
this matter, and the Plaintiffs appearing in person and by counsel,
and the Defendant appearing not, and the Court having considered
the evidence.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the Court
hereby finds in favor of Plaintiffs on their Petition For Wrongful
Death against the Defendant and awards damages in favor of
Plaintiffs in the amount of 1,350,000.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court
hereby apportions damages to the Plaintiffs in the following
manner:

Plaintiff	% of Damages	Amount of Award
Gearldine Lockhart	<u>37%</u>	<u>\$500,000</u>
Mildred M. Anderson	<u>37%</u>	<u>\$500,000</u>
Joyce M. Henson	<u>15%</u>	<u>200,000</u>
Jesse J. Brewer	<u>11%</u>	<u>150,000</u>


Dated: May 26, 1992!

William W. Ely
Judge

JOINT
EXHIBIT

CERTIFICATE OF SERVICE

I, Steven B. Davis, attorney of record for plaintiffs herein, hereby state that a copy of the above and foregoing Notice of Filing has been served upon Kenneth G. Middleton by placing a copy of same in the U.S. Mail, postage prepaid, addressed to Mr. Kenneth G. Middleton, Reg. No. 179112-2B-5, Potosi Correctional Center, Route 2, Box 2222, Mineral Point, Missouri 63660, on this 29th day of May, 1992.!


Steven B. Davis

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
PROBATE DIVISION, AT INDEPENDENCE

MILDRED M. ANDERSON,
Personal Representative for
the Estate of Katherine B.
Middleton, et. al.
Petitioners,

vs.

KENNETH G. MIDDLETON
Respondent.

CASE # PR-91-032336-02

IN THE ESTATE OF
KATHERINE B. MIDDLETON,
Deceased.

ESTATE NUMBER 32336

**SUGGESTIONS IN OPPOSITION TO KENNETH MIDDLETON'S
APPLICATION FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM**

COME NOW, Petitioners, by and through their attorney, Samuel S. Zollicker, and for their Suggestions In Opposition to Kenneth Middleton's Application For Writ of Habeas Corpus Ad Testificandum, states as follows:

1. Although Missouri Statute §491.230(1) empowers the Court "upon the application of any party to a criminal suit or proceeding" to issue a Writ of Habeas Corpus for the purpose bringing any person who may be detained in jail or prison to be examined as a witness in such suit or proceeding, that same statute specifically prohibits a person detained in a correctional facility from appearing and attending or being caused to appear and attend any civil proceeding. Mo. Stat. Ann. §491.230 (Vernon Supp. 1992) (emphasis added). Missouri Statute §491.230(2) provides "no person detained in a correctional facility of the Department of Correc-

tions shall appear and attend or be caused to appear and attend any civil proceeding, regardless of whether he is a party, except in those instances in which the offender is a Respondent in a Chapter 211 proceeding to terminate parental rights." Mo. Stat. Ann. §491.230 -(Vernon Supp. 1992) (emphasis added).

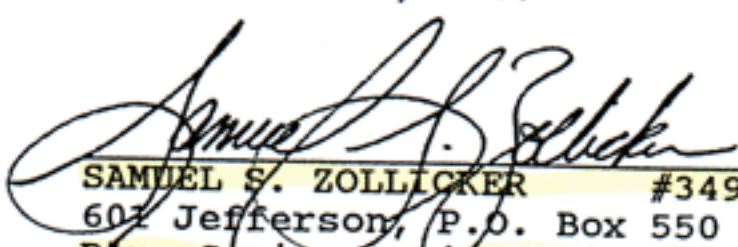
2. "[I]t is well established that an inmate of a correctional facility does not have a constitutional right to appear as a party in a civil action." Lockhart v. Middleton, 863 S.W.2d 367, 369 (Mo. Ct. App. 1993).!

3. If the Defendant feels his testimony is necessary or would be beneficial at trial, he has had ample opportunity to obtain the same by deposition which would be admissible pursuant to Missouri Supreme Court Rule 57.07(a)(1)(3)(B). The Petition For Judgment Barring Surviving Spouse From Marital Rights was filed with this court on August 13, 1991; therefore, Kenneth Middleton has had ample opportunity to offer his testimony by deposition since that time if he chose to do so.

WHEREFORE, Petitioners respectfully request that the Court deny Defendant's Application For Writ of Habeas Corpus Ad Testificandum.!

Respectfully submitted,

COCHRAN, OSWALD, MCDONALD,!
GRAHAM & ROAM, P.C.


SAMUEL S. ZOLLICKER #34930
601 Jefferson, P.O. Box 550
Blue Springs, Missouri 64013
Telephone #: (816) 229-8121
FAX #: (816) 229-0802
ATTORNEY FOR PETITIONERS

I hereby certify that a copy of
the foregoing was mailed this
! 28th day of January, 1994, to:

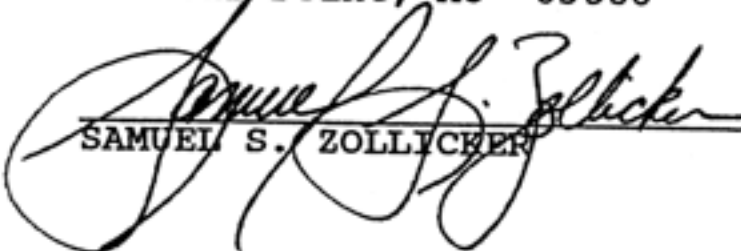
Kenneth G. Middleton

#179112

Potosi Correctional Center

Route 2, Box 2222, 5-B-44

Mineral Point, MO 63660


SAMUEL S. ZOLICKER

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
PROBATE DIVISION, AT INDEPENDENCE

MILDRED M. ANDERSON,
Personal Representative for
the Estate of Katherine B.
Middleton, et. al.
Petitioners,

vs.

KENNETH G. MIDDLETON
Respondent.

CASE # PR-91-032336-02

94 JAN 31 AM 11:49

IN THE ESTATE OF
KATHERINE B. MIDDLETON,

ESTATE NUMBER 32336

Deceased.

ORDER DENYING WRIT OF HABEAS CORPUS AD TESTIFICANDUM

The Court, having taken up for consideration the Respondent's
Application for Writ of Habeas Corpus Ad Testificandum, and being
duly advised in the premises, denies same.!

Valarie Sweet
JUDGE
1-31-94!

CERTIFIED COPY

STATE OF MISSOURI, COUNTY OF JACKSON
I, Margaret L. Sauer, Clerk of the Probate Division,
Circuit Court of Jackson County, Missouri, hereby
certify this document to be a true copy and on
file and of record in this office.

Witness my hand and official seal this
day of December, 1993.

Circuit Court, Margaret L. Sauer, Probate Div.
Clerk

By Kelli Fisher, D.D.C.

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IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
PROBATE DIVISION, AT INDEPENDENCE

MILDRED M. ANDERSON,
Personal Representative for
the Estate of Katherine B.
Middleton, et. al. Petitioners,

vs.

KENNETH G. MIDDLETON
Respondent.

I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
FOREGOING INSTRUMENT OF WRITING IS A TRUE AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS THE SAME APPEARS OF RECORD IN RECORD BOOK
AT PAGE

IN TESTIMONY WHEREOF, I HAVE HEREIN SET MY HAND AND SEAL OF
SAID COURT THIS THE 18 DAY OF August 1993

Hubert Roberson
COUNTY & CIRCUIT CLERK
By: James McKnight
CASE # PR-91-032336-02

91 JAN 31 AM 11:19

IN THE ESTATE OF
KATHERINE B. MIDDLETON,
Deceased.

ESTATE NUMBER 32336

JUDGMENT

Now on this 31st day of January, 1994, the Petition for
Judgment Barring Surviving from Marital Rights having come before
the Court for hearing, the Petitioner's appearing by their
attorney, Samuel S. Zollicker, and the Respondent appearing not,
the court having heard the evidence and being duly advised in the
premises, finds that the Respondent, Kenneth G. Middleton, did
feloniously and intentionally and without legal justification kill
Katherine B. Middleton;

Wherefore it is hereby ordered adjudged and decreed that
Kenneth G. Middleton is hereby barred from all rights of inheri-
tance, all rights as surviving spouse of Katherine B. Middleton,
including exempt property, the one-year support allowance, the
homestead allowance, all rights as a joint tenant or tenant by the

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entirety in any real or personal property so held with Katherine B. Middleton, all rights as a beneficiary of any policies of insurance, retirement plans, profit sharing plans, employee stock ownership plans, or any other contractual rights of Katherine B. Middleton, and all rights as a beneficiary of any non-probate transfer for the reason that Respondent, Kenneth G. Middleton, did feloniously and intentionally and without legal justification kill Katherine B. Middleton.

STATE OF ARKANSAS) SS
COUNTY OF NEWTON)
I, HUBERT ROBERSON, COUNTY & CIRCUIT CLERK WITHIN AND FOR THE
COUNTY & STATE AFORESAID, DO HEREBY CERTIFY THAT THE ATTACHED AND
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IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF
SAID COURT THIS THE _____ DAY OF _____ 19____
COUNTY & CIRCUIT CLERK

Valerie Street
Judge/Commissioner

1st Pg Certified

Kenneth G. Middleton #179112
Potosi Correctional Center
Route 2, Box 2222 (5-A-15)
Mineral Point, Missouri 63660

September 28, 1995

Ms. Margaret L. Sauer
Probate Division, Clerk
Jackson County Courthouse
308 West Kansas, Third Floor
Independence, Missouri 64050-3715

IN RE: MILDRED M. ANDERSON, et al., vs. KENNETH G. MIDDLETON
PR91-032336-02 and/or PR93-032336-02

Dear Ms. Sauer:

Please send me an up-dated complete docket sheet and/or the status of the above entitle cause of action. Enclosed you will find a self-addressed stamped envelope for your convenience. Please send me this information as soon as possible.

Thank you in advance for your cooperation in this matter and I await your response.

Yours very truly,

Kenneth G. Middleton
Kenneth G. Middleton
[Pro-se]

cc: file

This file was closed on December 2, 1994, and sent to the Record Center for storage.

Patricia Ruggles
ALL C.

Exhibit - A-

IN THE ESTATE OF KATHERINE B. MIDDLETON, (DEC
ANDERSON, MILDRED M., PERSONAL REPRESENTATIVE, RESPONDENT ✓
34930 SAMUEL ZOLICKER, PRIVATE ATTORNEY
BOX 500, 601 JEFFERSON, BLUE SPRINGS, MO 64013

VS.

MIDDLETON, KENNETH G., APPELLANT ✓
00001 PARTY ACTING PRO SE
RT 2 BOX 2222, MINERAL POINT, MO 63660

CASE TYPE - MOTION FILED IN THIS COURT
CIR. COURT CASE NUM. - PR-91-032336-02

FILING	FILING	EVENT
DATE	ATTORNEY	
10-19-95	00001	MOTION FOR OUT OF TIME APPEAL KENNETH G MIDDLETON DENIED 10-27-95 ✓
10-19-95		MOTION FILED IN MISSOURI COURT OF APPEALS 34930 SAMUEL ZOLICKER APPEARED: 10-19-95 00001 KENNETH G MIDDLETON APPEARED: 10-19-95
10-27-95		<u>CASE DISPOSED - MOTION FOR OUT OF TIME APPEAL DENIED</u> ✓!
10-27-95		CASE DISPOSED - MOTION OVERRULED/DENIED