

NO. 13950

IN RE THE MATTER OF THE
PARTITION OF THE ESTATE OF
JESSEY ROBERTSON, DECEASED

IN THE 113TH JUDICIAL
DISTRICT COURT OF
UPSHUR COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes the following named heirs at law of Jesse Robertson, deceased, hereinafter referred to as plaintiffs complaining of the following named heirs at law of Jesse Robertson, deceased, hereinafter referred to as defendants and for cause of action for partition would respectfully show the Court as follows:

1.

a. The land, subject matter of this partition suit,
is described as follows:

Being all that certain lot, parcel or tract of land composed of 95 acres, more or less, in the William Britian Survey, Upshur County, Texas, and being further described as follows:

Beginning at the Northwest corner of said Brittain Survey, Thence South 90 poles with East line of said survey to a stake & pine brs N 46 degrees West 29 links to a hickory brs South 87 degrees East 40 links.

Thence East at 177 $\frac{4}{5}$ poles to a stake a Red Oak
brs S 20 degrees 18 links to a small P.O. West 25
degrees E. 18 links.

Thence North 90 poles to North line of the original survey to a stake a Sweet Gum brs North 78 degrees E. 9 links to a pin oak brs. North 4 degrees W. 14 links.

Thence with said line to the place of beginning containing 100 acres less 5 acres sold to P&H Railway Company for right of way leaving 95 acres and being the same land described in a Warranty Deed from F.F. McKissack to Jessie Robertson dated 12-13-1879 and recorded in Volume 11, page 269 of the Deed Records of Upshur County, Texas.

b. That said Jesse Robertson died on April 3, 1903, that his will was filed for record in the Deed Records of Upshur County, Texas, in Volume 11, page 276, that no administration is pending upon the estate of Jesse Robertson, and no administration is necessary in that there are no debts owed by his estate; and the District Court has jurisdiction of this cause, and there is not in any way or manner any conflict with any probate Court in that the Probate Courts of the State of Texas.

do not have jurisdiction for the reason there are no debts owed by the estate of Jesse Robertson, and the only way a partition of said real estate can be had is by this procedure in the District Court for division in kind or sale, through a receiver and a partition of the proceeds.

2.

a. The following named persons were the children of the said Jesse Robertson, his first wife, Marty, who predeceased him and his Second Wife, Peggy, who survived him. The property described below was the community property of Jesse and Mary and Jesse's separate property during his marriage to Peggy.

- P 1. Ankie Robertson ^{deceased}
P 2. Emanuel Robertson
X 3. Jessie Robertson, survived Jesse but died, no marriage, no children
4. Lonnie Robertson ^{deceased} ✓
D - Deceased 5. Willie Robertson ✓
P 6. Leroy Robertson ✓
P 7. Ema Robertson ✓
D - Deceased 8. Phoebe Robertson ✓
9. Sarah Jane Robertson ✓
10. Mary Robertson ✓
X 11. Artie Robertson; died before Jesse Robertson died, no marriage, no children.
X 12. Aquilla Robertson, died before Jesse Robertson, no marriage, no children

b. Therefore the heirs at law of Jesse Robertson are the children (or their heirs at law) named in 2. a. 1, 2, 4, 5, 6, 7, 8, 9. and 10.

3.

The plaintiffs, hereinafter named, are the surviving children or grandchildren or heirs at law of the heirs at law of said Jesse Robertson as follows:

a. Ankie Robertson, married two times:
Robertson was the first wife, she died prior to Ankie's death with children born to the marriage, all survived Ankie. Second wife: Lula Robertson survived Ankie, 2 children born to second wife and Ankie.

a. Cash Robertson, deceased, survived by, 1. Ethyl

Williams, 2533 Warren, Dallas, Texas, 2. Minnie Williams, 1235 Whittaker, Dallas, Texas, 3. Carl Robertson, 625 N. Perry Ave., Tucson, Arizona.

- b. Tim Robertson, deceased, no children
- c. Frank Robertson, Winfield, Louisiana
- d. Prince Robertson, Ft. Worth, Texas
- e. Carolyn Robertson McCollums, 1303 Glidden, Dallas,
- f. Missey Robertson, predeceased Ankie, ___ children survived Missey.
- b. Emanuel Robertson, married once, Annie Robertson, seven children:
 - 1. John Robertson, died in 1965 survived by 7 children.
 - 2. Arquilla Robertson, Los Angeles, California
 - 3. Arthur Robertson, Taylor, Texas.
 - 4. Emmanuel Robertson, Jr., deceased, 2 children, Helen dead. Robertson died in WW2 left three children, Hampton, George, Eunice Faye.
 - 5. M.L. Robertson, Dallas, Texas
 - 6. George Robertson, died January 9, 1954, survived by only son, Nathaniel Robertson, Dallas, Texas.
 - 7. Bea Robertson, Dallas, Texas.
- c. Leroy Robertson, born May 27, 1893, now 74 years old, resides in Chicota, Texas.
- d. Ema Robertson Jones, now deceased, survived by 4 children, Granville, Gilmer, Texas, Odella Waters, died in 1966, survived by two children, Sarah Martin Williams, Longview, Texas and Joe Jones, deceased, no children.

4.

The defendants hereinafter named are also the surviving children or grandchildren of the heirs at law of said Jesse Robertson as follows:

(a) Lonnie Robertson, died 1947, 3 children, one died before him, 2 survived him both dead.

(b). Willie Robertson, died in 1950 survived by 10 children, Ollie, Melvin, Ketheral, Roxana, J.T., Jesse, Coneta, Ruby-lean, Jodie Faye and _____. Etheral, J.T. and _____ have died prior to the filing of this suit, their heirs at law standing in their respective place.

c. Phoebe Robertson Montgomery, deceased, had 2 children one died before she died, one child survived her named Cora D.

Montgomery, who died, no children.

(d) Sarah Jane Young, deceased, survived by her husband, Eugene Young, now deceased. No children born of this marriage.

(e) Mary Long Armstead, no children born of her marriage with Armstead.

5.

The heirs of law of Jesse Robertson are the sole owners of the said above described land, so far as is known by the plaintiff's and they are all co-owners of same. The estimated value of said land is in excess of \$5,000.00.

WHEREFORE, premises considered, plaintiff's pray that the defendants be cited to appear and to answer this petition and that upon final hearing hereof they have judgment for the partition and division of said land if same is susceptible of division in kind, if not, then that a receiver be appointed to sell same and to divide the proceeds pro rata, and for such other and further relief, at law or in equity, general or special, to which they may show themselves justly entitled, including costs of suit.

Michael J. McCloud, Jr.
Michael J. McCloud, Jr.
Attorney for Plaintiff
723 Mercantile Continental Bldg.
Dallas, Texas RI7-6150

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FILED DISTRICT CLERK
U.S. DISTRICT COURT
NORTH DALLAS
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NO. 13,958

IN RE THE MATTER OF THE / IN THE 115TH JUDICIAL
PARTITION OF THE ESTATE OF / DISTRICT COURT OF
JESSEY ROBERTSON, DECEASED / UPSHUR COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Dossie Lee Robertson, hereinafter referred to as Defendant, and would respectfully show the Court as follows:

1.

That he is an heir and an interest holder in the land described in Plaintiff's Original Petition and specifically in Paragraph 1 of said Original Petition. That in addition to being an heir and being entitled to a portion of said land, he is also the owner of additional interests in said land by virtue of the fact that he has purchased the interests held by some of the other heirs of Jessej Robertson, deceased.

2.

Defendant further generally and specifically denies the allegations contained in Plaintiff's Original Petition and demands strict proof thereof.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that plaintiffs take nothing by virtue of their suit and for such other and further relief to which he may show himself justly entitled, either at law or in equity.

WELBY K. PARISH
P. O. Box 457
Gilmer, Texas 75644


Attorney for Defendant, Dossie Lee
Robertson.

NO. 13,958

IN RE THE MATTER OF THE X IN THE 115TH JUDICIAL
PARTITION OF THE ESTATE OF X DISTRICT COURT OF
JESSEY ROBERTSON, DECEASED X UPSHUR COUNTY, TEXAS

ORDER

On the 5th day of April, 1973, the above entitled and numbered cause came on for hearing before this Court, the plaintiffs appearing in person and by attorney, and the defendant herein appeared in person and by attorney.

It appearing to the Court that in the above entitled and numbered cause there are defendants who are co-owners of the land sought to be partitioned, but whose residences are unknown to the plaintiffs despite due diligence on plaintiff's part to ascertain them. It appears further that after issuance of citation by publication, pursuant to Rule 758 of the Rules of Civil Procedure, such defendants have wholly failed to make appearance herein.

IT, THEREFORE, ORDERED, pursuant to Rule 759, that Lowell C. Holt, a duly licensed and practicing attorney of Gilmer, Upshur County, Texas, be and he is hereby appointed to defend the rights of such co-owners herein, and attorney ad litem's fee of \$75.00 is hereby awarded to the said Lowell C. Holt to be assessed as costs of Court.

IT IS FURTHER ORDERED that this suit proceed in conformity with Rule 244 of the Rules of Civil Procedure.

A jury having been waived, the Court found, after the presentation of the evidence and the argument of counsel, that the following, or their heirs, are the sole owners of the land described hereinbelow:

- (1) Ankie Robertson;
- (2) Emmanuel Robertson;

- (3) Lonnie Robertson;
- (4) Willie Robertson;
- (5) Leroy Robertson;
- (6) Ema Robertson;
- (7) Phoebe Robertson;
- (8) Sarah Jane Robertson;
- (9) Mary Robertson.

The land which is the subject of the suit, is described as follows:

Being all that certain lot, parcel or tract of land composed of 95 acres, more or less, in the William Brittain Survey, Upshur County, Texas, and being further described as follows: BEGINNING at the Northwest corner of said Brittain Survey; THENCE South 90 poles with West line of said survey to a stake, a pine brs N 46 degrees West 29 links to a hickory brs South 87 degrees East 40 links; THENCE East at 177-4/5 poles to a stake a Red Oak brs S 20 degrees 18 links to a small P. O. West 25 degrees E. 18 links; THENCE North 90 poles to North line of the original survey to a stake a sweet gum brs North 78 degrees E. 9 links to a pin oak brs. North 4 degrees W. 14 links; THENCE with said line to the place of beginning, containing 100 acres, less 5 acres sold to PBSIO Railway Company for right of way leaving 95 acres and being the same land described in a warranty deed from T. P. McKissack to Jessie Robertson dated 12-13-1879, and recorded in Volume 11, page 269, of the Deed Records of Upshur County, Texas.

The Court further finds that the whole of the foregoing real property is susceptible of an equitable division or partition into nine shares to those nine persons or their heirs as hereinabove described.


IT IS, THEREFORE, ORDERED that the above referred to land be partitioned among those parties or their legal heirs, in accordance with their interest herein determined.

The Court further finds that Dessie Robertson has paid taxes on said lands in the sum of \$1,000.00, and IT IS THEREFORE ORDERED that said taxes be repaid by each heir according to his or her proportionate share, and a lien be retained upon each share until said taxes are repaid.

On the 9th day of May, 1974, it having come to the attention of the Court that the commissioners or surveyors had not been appointed in the above entitled and numbered cause:

IT IS, THEREFORE, ORDERED that R. E. McClelland be appointed surveyor and commissioner to divide the land along with Tully Reynolds and J. W. Tefteller, as commissioners, the foregoing three persons being residents of Upshur County, Texas, and said commissioners, as appointed, are competent and disinterested persons, and the Court hereby appoints them to divide and partition the said foregoing land and allocate the shares thereof among the parties in accordance with this decree and the law of Texas, and said commissioners expenses to be taxed as costs of court.

Signed this the 21st day of June, 1978.



Judge Presiding

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LEO WILLIAMS
DISTRICT CLERK

RECORDED

Vol. 16 Page 105-606
Civil Minutes, Upshur Co., Texas

NO. 13,958

IN RE THE MATTER OF THE I IN THE DISTRICT COURT
PARTITION OF THE ESTATE OF I OF UPSHUR COUNTY, TEXAS
JESSEY ROBERTSON, DECEASED I 115TH JUDICIAL DISTRICT

WRIT OF PARTITION

THE STATE OF TEXAS: TO ANY SHERIFF OR ANY CONSTABLE WITHIN THE
STATE OF TEXAS - GREETING:

You are hereby commanded to notify R. E. McClelland, Tully Reynolds and Jeff Baird by reading this writ to each of them and by delivering the accompanying certified copy of the decree of the court to any one of them, that they have been duly appointed commissioners by the District Court of said County, to partition among Ankie Robertson, Emmanuel Robertson, Lonnie Robertson, Willie Robertson, Leroy Robertson, Ema Robertson, Phoebe Robertson, Sarah Jane Robertson and Mary Robertson, joint owners thereof, a certain tract of land described in a decree directing partition rendered in said court on the 21st day of June, 1978, a copy of which accompanies this writ and that they, or a majority of them, are hereby authorized and required to proceed to partition the real estate described in said decree in accordance with the directions therein contained and with the provisions of the law, among said Ankie Robertson, Emmanuel Robertson, Lonnie Robertson, Willie Robertson, Leroy Robertson, Ema Robertson, Phoebe Robertson, Sarah Jane Robertson and Mary Robertson.

And their action in the premises, duly sworn to and subscribed, they are required to return to said court twenty days from the date of service of this writ on the commissioner last served.

Herein fail not, but make due return of this writ, with your action thereon, as the law directs.

Witness Gordon E. Irons, Clerk of the District Court of