

Mrs. Magnolia Sealy |  
Vs. No. 944 | IN THE DISTRICT COURT OF DICKENS COUNTY, TEXAS.  
J. N. Ballard et al | NOVEMBER TERM, A. D. 1927.

On this the 8th day of December, A. D. 1927, this case came on and was called for trial in its regular order, whereupon came the plaintiff, by her attorneys, and the intervener Charlie Perrin in person and by his attorneys, and thereupon it was suggested to the court by intervener, Charlie Perrin that since the filing of this suit, defendant, J. N. Ballard had died intestate, and that intervener has been appointed, has qualified and is now acting administrator of the estate of said J. N. Ballard, deceased, whereupon the court directed and here orders that he intervene and defend this cause as the legal representative and in behalf of said estate of J. N. Ballard, deceased.

And it appearing to the court that defendant J. C. Jones has heretofore made default, and a judgment has heretofore been rendered in favor of plaintiff against said J. C. Jones, to wit; on the 30th day of November, 1926, at a prior term, and that the said J. C. Jones has been duly and legally cited in person to appear and answer/<sup>and</sup> that R. M. Hamby has filed his disclaimer herein. And plaintiff and intervener having announced to the court that they had agreed on a judgment to be rendered in this cause, which agreement having been stated to the court, and the court having fully understood the same, finds that said agreement is just and equitable, and ought to be and is in all things approved and confirmed by the court, and upon such agreement the court renders the following judgment.

It is ordered, adjudged and decreed by the court that the plaintiff, Mrs. Magnolia Sealy do have and recover of and from the intervener, Charlie Perrin, Administrator, and also against R.M. Hamby and J. C. Jones, the following described land, with the title and possession thereof, to wit:

All that part of the Samuel Burns survey, and of the B. D. Glasgow survey No. 1, situated in Dickens County, Texas, lying within and described by metes and bounds as follows:

Beginning at a 2 inch pipe set in the ground for the Northeast corner of the Geo. W. Penny survey, and the northwest corner of Samuel J. Burns survey, from which a mesquite 5 inches in

diameter, marked X bears North 23 degrees east; a large gyp stone mound bears east 2 varas, an iron pipe set by R. M. Kenney for the Northeast corner of the Geo. W. Penny survey bears North 412 varas and west 209 varas;

Thence East at 1166 varas pass 412 south of an iron pipe set for the southeast corner of the M. Oliveres survey, at 2811 varas, a 2 inch iron pipe set in the ground, marked 8-DKC for the northeast corner of this survey, from which a stone mound bears south 73 degrees and 15 minutes west, 18.2 varas; a mesquite 6 inches in diameter bears North 26 degrees and 15 minutes West, marked X 46, 6 varas;

Thence south 2811 varas a set 2 inch iron pipe marked 23-DKC, for the southeast corner of this survey, from which a 4 inch mesquite, marked X bears north 7 degrees and 30 minutes west, 31.5 varas, a large gyp stone mound bears north 9 degrees and 15 minutes west, 199.5 varas;

Thence West 1813 varas a set 2 inch iron pipe, marked 28-DKC from which a 5 inch mesquite marked X, bears south 65 degrees east 9 varas; another marked X bears south 54 degrees and 30 minutes east, 2.6 varas;

Thence north 81.5 varas, an iron pipe, the southeast corner of the B. D. Glasgow, survey, at 636 varas an iron pipe set for the Northeast corner of said Glasgow survey, at 861 varas, a stake for the inner corner of said Samuel Burns survey, as fixed by this judgment;

Thence West at 904 varas, cross a fence, 225 varas north of an angle bar and ~~gyp bar~~ and gyp stone mound under fence, at 998 varas a stake set for the north-southwest corner of said Burns survey, as fixed by this judgment, from which a 2 inch iron pipe bears south 225 varas;

Thence north 1950 varas to the place of beginning, for which plaintiff may have her writ of restitution.

And it is further ordered, adjudged and decreed by the court that the intervener, Charlie Perrin, administrator of the estate of J. N. Ballard, deceased, do have and recover of and from the plaintiff, Mrs. Magnolia Sealy, for the benefit of said estate, the following described land to-wit:

All of that part of survey No. 1, S. F. No. 7846, Block X1, B. D. Glasgow, original grantee, and of the Samuel Burns survey,

lying within and bounded by the following boundaries, to wit:

Beginning at an iron pipe in the east line of survey No. 345, H. & G. N. Railway Company, 42 varas south of its Northeast corner, for the southwest corner of this tract;

Thence north at 42 varas pass southeast corner of survey No. 2, C. & M. Ry. Co. continuing north crossing Croton Creek, and at 553.2 varas pass an angle bar and gyp stone mound under fence, at 778.2 varas, a stake set for South-southwest corner of the Samuel Burns survey, as fixed by this judgment, and also for the northwest corner of this tract;

Thence East 904 varas, a stake set for the inner corner of the Samuel Burns survey, as fixed by this judgment, and for the northeast corner of this tract;

Thence south, passing an iron pipe at 225 varas, marked X, from which a mesquite 10 inches in diameter bears south  $83 \frac{1}{3}$  degrees East,  $34 \frac{1}{2}$  varas, marked X, at 779.5 varas a stake set in bed of Croton creek, 81.5 varas north of an iron pipe;

Thence north 89 degrees and 55 minutes west with the north line of survey No. 31, and with the Matador Fence, 902.6 varas, to the place of beginning, this tract containing 124.6 acres, and for which intervener may have his writ of restitution, and it is further ordered by the court that defendant R. M. Hamby go hence and recover his costs in this behalf expended.

It is further ordered by the court that the costs in this cause shall be paid, one half by the plaintiff and one half by the intervener, for which the officers of this court and all parties entitled to costs in this cause, may have their executions.

It is further ordered by the court the said Geo. M. Williams, be, and is hereby allowed the sum of \$75.00 as fees for surveying the lands involved in this suit, and the further sum of \$51.00 for expenses of chain carriers and flagman and stenographer, used in making his report, which sums aggregating the sum of One-hundred-twenty-six and No/100 (\$126.00) Dollars, is ordered to be taxed as part of the costs of this suit.

ISAAC O. NEWTON,  
DISTRICT JUDGE.

THE STATE OF TEXAS]

COUNTY OF DICKENS | I, Robt. Reynolds, Clerk District Court, Dickens  
County, Texas, do hereby certify that the above and foregoing instru-  
ment of writing is a true and correct copy of JUDGMENT in case of  
Mrs. Magnolia Sealy Vs. No. 944, J. N. Ballard et al, as recorded  
in Volume 3, page 360, District Court Minutes, Dickens County, Texas.

Given under my hand and seal of office, this <sup>5</sup>th day of  
*March*  
~~February~~ 1928.

*Robert Reynolds* Clerk

District Court, Dickens County, Texas.

By *Neal Fortson* Deputy.

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K. H. Kennedy, I

Vs. No. 383

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IN THE DISTRICT COURT OF DICKENS COUNTY,  
TEXAS.

J. N. Ballard, et al

May Term, A. D. 1921

On this the 2nd day of June, A. D. 1921, came on for trial the above entitled cause, the Plaintiff, K. H. Kennedy, appeared in person and by his attorney, and announced ready for trial and the Defendant, J. N. Ballard, also appeared in person and by his attorney and announced ready for trial. And the Defendant Emily J. Ballard, came not, but wholly made default, and it appearing to the court from an inspection of the record herein that the said Defendant, Emily J. Ballard, has been duly and legally cited to appear and answer herein, by non-resident notice in the manner and form and for the length of time provided by law, and that said service is in all things due, regular, complete and perfect, to this term of the court; The court directed the trial to proceed, and a Jury being demanded came R. L. Carleton and eleven others good and lawful men, who being duly selected, empaneled and sworn, and having heard the pleadings of the parties, and the evidence thereon submitted and the charge of the court, retired in charge of the proper officer to consider of their verdict, and afterwards returned into open court in due form of law the following verdict, which was received by the court and is here now entered of record in the minutes of this court to-wit:

"We, the Jury find for the Plaintiff for the land in controversy described in Plaintiff's First Amended Petition as against both the defendants, J. N. Ballard and Emily Ballard. And in favor of the Plaintiff against the Defendant, J. N. Ballard, for \$61.00 damages. We the jury further find against the Defendant, J. N. Ballard, on his plea of limitation.

R. L. CARELTON,

Foreman of the Jury."

It is therefore ordered, adjudged and decreed by the court in accordance with the verdict of the jury that the plaintiff, K. H. Kennedy, do have and recover of and from the Defendant, J. N. Ballard and Emily J. Ballard, the title and possession of the lands and premises described in Plaintiff's petition, situated in Dickens County, Texas, and being the east one-half of survey No. 2, by virtue of Certificate No. 68, made for the Central and Montgomery R. R. Company

originally sold and awarded by the State of Texas to Jack Carter, Said survey No. 2, being described by metes and bounds as follows, to-wit:

Beginning at the northeast corner of survey No. 1, same Certificate; Thence east 1900 vrs. to stake; Thence South 1900 vrs. to the Northeast corner of survey No. 345 a stake; Thence West 1900 vrs. to stake; Thence North 1900 vrs. to the plate of beginning, and being more definitely described with reference to physical marks upon the ground as follows, to-wit: Beginning at the Northwest corner of Survey No. 345, Cert. No. 10/2068, issued by the General Land Office to the Houston & Great Northern Railway Co., a stake marked N. W. 345, on top of ridge, whence a mesquite 2" brs. North  $76\frac{1}{4}$  West,  $45\frac{5}{10}$  vrs. a do 2" brs. N.  $69\frac{1}{4}$  E. 24 vrs. Thence North 1900 vrs. a stake; Thence North  $89^{\circ} 55'$  East  $1958\frac{5}{10}$  vrs. to stake; Thence South  $0^{\circ} 25'$  East, 1900 vrs. to the N. E. corner of said Survey No. 345, a stone and stake marked N. E. 345, and mound of Gip stones on West side of a ridge, near foot, and at East side of a small cove; whence a mesquite 8" brs. N.  $78\frac{3}{4}$  West  $65\frac{5}{10}$  vrs. a do, 6" brs. South  $29\frac{1}{3}$  West.  $84\frac{7}{10}$  vrs. corner about 90 vrs. South of Croton Creek; Thence South  $89^{\circ} 55'$  West,  $1958\frac{5}{10}$  vrs; With North line of said Survey 345 to the place of beginning; For which the Plaintiff K. H. Kennedy, shall have his writ of possession as against both the Defendants, J. N. Ballard and Emily J. Ballard.

It is further ordered, adjudged and decreed by the court that the Plaintiff K. H. Kennedy, do have and recover of and from the said Defendant, J. N. Ballard, the sum of \$61.00, together with interest thereon at the rate of 6 per cent. per annum from this date until paid, and all costs of suit. For all of which let execution issue.

It is further ordered, adjudged and decreed by the court that the officers of the court do have and recover of and from the respective parties the costs by them respectively incurred, for which let execution issue.

THE STATE OF TEXAS

COUNTY OF DICKENS | I, Robt. Reynolds, Clerk District Court, Dickens County, Texas, do hereby certify that the above and foregoing instrument of writing is a true and correct copy of JUDGMENT in case of K. H. Kennedy, Vs. J. N. Ballard, et al, Style No. 383, recorded in Volume 3, page 22, District Court Minutes, Dickens County, Texas.

Given under my hand and seal of office, this 5th day of March 1928.

ROBT. REYNOLDS, Clerk District Court, Dickens County, Texas.

By *Neal Gertson* Deputy.

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Mrs. Magnolia Sealey    )   No. 944  
                              )   :  
                              )   In the District Court of  
                              )   :  
                              )   Dickens County, Texas.  
J. N. Ballard et al    )   :

To the said Honorable District Court:

In obedience to an order of said court, appointing me to make a survey of the Samuel Burnes & B. D. Glasgow Surveys in Dickens County, and make a report of same to the said court, respectfully submit the following as my findings therein, (together with a plat thereof), to-wit:

Explanatory statement in connection with my survey of the B.D. Glasgow survey No. 1, S.F. 345, Dickens County, Texas.

To correctly survey this tract I had to get the two inner lines of the Saml L. Burnes Survey. The Burnes Survey ties to the M. Oliveres. The Oliveres ties to the Jossep M. Sanceda and the Sanceda ties to the S.W cor No. 1, John Gibson Scrip 148 and the N. E. Corner of the I. & G. N. R.R. Co. Survey Scrip 123. These two surveys are a part of a large group of some seventy odd surveys, made by Jasper N. Hays in May 1876. In 1879 Hays made his second surveying trip to this part of the State and located the Sanceda, the M. Oliveres, the G.W.Penny and Saml L. Burns surveys. In 1902 State Surveyor R. M. Kenney resurveyed the Hays locations in a general re-survey for the Matador Land & Cattle Company and put marked iron pipes at many corners. Field notes of Kenney's work were approved by the Commissioner of the Gen'l Land Office and recorded in Surveyors records at Dickens. Afterwards there was a suit in Federal Court at Fort Worth. Matador Land & Cattle Co. Vs. R. M. Hamby et al. The decision was that Kenney's pipes put for the Hays locations should be moved 207 vrs E. and 412 vrs South. In fall of 1908 I received written instructions from the Land Commissioner to move the Kenney pipes as per the decree of Court. I moved all of Kenneys pipes on said locations except at the N.E. the S.E. & S.W. Corner of the Oliveres, the N.W. Corner of the Burns and N. W. Corner No. 1, H. E. & W.T. R.R.Co. There was a case in Dist. Court at Seymour after I reset the Kenney pipes. The decision in this case sustained the position of the corners as reset by me. I was a witness in this case and it was carried to the Higher Court, and decision of Dist Court affirmed. On Oct. 31, 1927, I

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went to J.D.Harkey's N.W.Corner of the S. L. Burns and ran 412 vrs N. & 207 vrs W. and found Kenney's old pipe standing in good condition I checked East 1370 vrs & found Kenney's old pipe in deep canon set for S.E.Cor. M. Oliveres Sur. & ran 412 vrs S. & 207 Vrs. E. to a md of gyp stones at S.E.Corner of the Oliveres Survey probably made by J. D. Harkey. I ran to a point 9/10 of a vara N. of this stone md., to get the inner corner of the Burns Survey. I ran 2587 vrs S. & 165 vrs West from Kenney's S. E. Corner of the Oliveres, which is 2175 vrs South and 372 vrs West of the correct<sup>ed</sup> or true S. E. Corner of the Oliveres and found J.D.Harkeys<sup>Corner of Burns.</sup> to be exactly corr-

ect. I ran South 636 vrs & set an iron pipe for the most Southern S.W. Corner of the Burns Survey. Wh. a mes. 4" brs N.  $39\frac{1}{2}$  E. 4.3 vrs mkd x a mes. 5" brs N.  $85\frac{1}{2}$  E. 8.2 vrs. mkd X. the N. line of Sec. 31, Block A.S. J. S. Callaway is 81.5 vrs N. of this corner. At N.W.Corner of 31, Blk A.S. there is the original stone md, that is 42 vrs South and 873 vrs N. 89 55' <sup>S. 1</sup> W. of N.E.Corner of Sec. 345 as established by me in 1908. No. 31 conflicts with Sec. 345, 290 acres, and the Matador Land & Cattle Co. got judgment for this conflict in Federal Court at Fort Worth in fall of 1917 The Spur Land Syndicate sued the Matadors to recover this conflict and other conflicts of Block A. S., J. S. Callaway and Block A. B. (R. M. Thomson), extending South to near Kent County line. The Federal Court sustained my resurvey of Block No. 1, H. & G. N. R. R. which resurvey was based on the resurvey made by L. C. Wise Deputy District Surveyor in year 1882. The Matador Land & Cattle Co. recovered all that part of the conflict that they had inclosed intheir pastures on plea of limitation under color of title. In winter of 1914 I ran a connecting line from the original S.W. corner of Sec. 1, Block A.S. East to S.E.Corner No. 5 and North to original N.E. corner of 37 same block on this run I identified S.E.Cor. 1, S.E. Cor. 2, S.E. Cor. 3, S.E.Corner 4, the N.E.Cor of 5, N.E. corner of 10, N.E.Cor of 11, N.E.Cor. of 23, N.E.Cor of 24 and the N.E.Corner of 37. All were originally made by Geo. Heifrin in 1882. I had previous to 1914 in my work on block 1, identified N.W.Corner of 31, the S.W.Corner of 30 and S.W.Cor. of 17 and S.W.Corner, No. 1, all original corners. I am sending you an old blue print that shows true ground position of most

of Block A.S. and is from same tracing as the blue print turned over by me to Federal Court at Fort Worth in fall of 1917. It also shows a part of Block No. 1, H. & G. N. R. R. Co. Several corners made by L. C. Wise in 1882, are shown thus ~~⊗~~ on this map. In January and February 1911 and probably in late fall of 1910, the Matador Land and Cattle Company did considerable fencing on west parts of Blocks A. S. and A. B. and J. D. Harkey ran the lines for the fencing. He ran a line from N.E. Corner of 31 Block A. S. East and a fence was put on it. This fence is the one I call for in field notes of the B.D.Glasgow survey. This fence I find is not too far North for North line of 31 Blk. A. S. and I think it should be accepted as the true line. The West boundary of the B.D.Glasgow survey is the East line of Sec. 2, Cert. 68, Central & Montgomery R. R. Co. As I understand it, the West line of the Glasgow Sur. was settled in the suit of King Kennedy Vs. Ballard. The decision puts S.E. Corner of No. 2 at the N. E. Corner of 345, Block 1, H. & G. N. R. R. Co. as established by me in 1908, and fence was put on line/<sup>run</sup> from N.E. 345 and I have called for this fence in field notes of the Glasgow Sur. Some question might be raised as to whether Nos. 1 and 2 C. & M. R. R. Co. should share with sections 345, & 346, the excess in Eastings & Westings of 115.4 varas over two miles. I show on the map submitted here the position of East lines of 1 & 2 when placed. One mile and 2 miles respectively, East of East line of 378 Block marked thus -x-x-x- East line of 1 would pull West 57.7 vrs and East line of 2 would pull 115.4 vrs West of where placed to fit corners of Block No. 1. The most Northerly S.W. Corner of the Saml L. Burns Survey is 94 varas West of the N.W. Corner of the B.D.Glasgow Survey. It is 90.5 varas West from the North end of the Jones fence running from N.E. Cor 345 to the West line of the Burns Survey (See Map).

I send field notes of the B.D.Glasgow survey as corrected by me 88.6 acres about 16 acres of which is sand bar land in bed of Croton creek. I also send you field notes of 72 acres of land out of the Burns Survey that was enclosed by the late J. N. Ballard for a pasture, partly enclosed by a fence and partly by a canon. (See Map.)

*GEO. M. Williams*

Field notes of a tract of 72 acres out of the Saml L. Burns  
Sur. Cert. 23/44 Dickens County, Tex. Being land that was enclosed by  
J. N. Ballard.

Beginning at the N.W. Corner of the B.D. Glasgow Survey as survey-  
ed by me an angle bar & md of gyp rocks under a fence and on an inner line  
of the Saml L. Burns survey 94 ~~va~~ East of most Westerly S.W. Corner of the  
Burns Survey. Thence No  $\odot$  deg. 9' W. along a fence 703 vrs to an iron pipe  
where a fence of N. side of the Ballard enclosure joins this fence. Thence  
with the Ballard fence S.  $81\frac{3}{4}$  E. 288.2 vrs an iron pipe whence a mesq. 3"  
brs N. 82 E.  $1/2$  vrs mkd X. Thence N. 82 E. along said fence 303 vrs to an  
iron pipe in a canon, wh. a cedar 3" brs S.  $72\frac{1}{2}$  W. 6 vrs. mkd X. Thence  
down said canon, with its Meanders as follows: S 6 deg. W. 38 vrs. S. 52  
W. 20 vrs. S.  $29\frac{1}{2}$  E. 42 vrs. S.  $4\frac{1}{2}$  W. 27 vrs. S. 32 E. 37 vrs. S. 5 deg E  
31 vrs. S. 13 E. 50 vrs. S.  $21\frac{1}{2}$  W 173 vrs. S.  $13\frac{1}{2}$  E. 117 vrs. S.  $23\frac{1}{2}$  E.  
65 vrs. S. 27 E. 63 vrs. S. 8 E. 43 vrs. S. 37 E. 33 vrs. S. 47 E.  $29\frac{1}{2}$   
vrs to an iron pipe in said canon on said inner line of said Burns Sur-  
vey 222 $\frac{1}{2}$  vrs West of the inner corner of said Burns Survey. Thence West  
with said Burns line 681.5 vrs to place of beginning.

Surveyed Nov. 2, 1927.

Geo. M. Williams

DICKENS Co. SK.  
FILE 27

Surveyed Nov. 5, 1852.

*Geo. W. Williamson*

with said Burns line 681.5 ars to place of beginning.

vey 532 1/2 ars West of the inner corner of said Burns Survey. Thence West

ars to an iron pipe in said canon on said inner line of said Burns Sur-

68 ars. S. 21 E. 63 ars. S. 8 E. 43 ars. S. 31 E. 83 ars. S. 47 E. 82 1/2

31 ars. S. 13 E. 80 ars. S. 21 1/2 W 178 ars. S. 13 1/2 E. 117 ars. S. 83 1/2 E.

W. 50' ars. S. 29 E. 29 1/2 ars. S. 4 1/2 W. 27 ars. S. 32 E. 37 ars. S. 5 deg E

ars. S. 29 E. 29 1/2 ars. S. 4 1/2 W. 27 ars. S. 32 E. 37 ars. S. 5 deg E

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~~5 FT 846~~

~~Dickens County  
Court Records~~

~~Nov 16- 1852~~

~~J. T. Robinson Com'r.~~

~~W. F. McDonald~~

~~File Clerk~~

of the same I. Burns survey 94 ars East of most Westerly S.W. Corner of the

ed by me an angle bar & md of 84p rocks under a fence and on an inner line

beginning at the N.W. Corner of the B.D. Glasgow Survey as surveyed-

J. M. Bellard.

Sur. Cert. 23/44 Dickens County, Tex. Being land that was enclosed by

Field notes of a tract of 75 acres out of the same I. Burns