

IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
AT MEMPHIS

IN RE:)
)
TIMIKA MONTES DE OCA)
Petitioner,)
)
v.)
)
JANE DOE (UNKNOWN DECEDENT),)
UNKNOWN HEIRS OF UNKNOWN DECEDENTS)
Respondent,)

Docket No. CT-3460.21
Div IX

PETITION FOR TERMINATING USE OF LAND AS BURIAL GROUND AND FOR DISINTERMENT AND
REINTERMENT OF JANE DOE, UNKNOWN DECEDENTS

1. COMES NOW, TIMIKA MONTES DE OCA (hereinafter "Petitioner"), the owner of land located in the City of Memphis, State of Tennessee, County of Shelby, bearing Tax Parcel ID No. D0147 00253 and comprised of approximately 15.447 acres (the "Property"), that contains two (2) gravesites thereon and respectfully petitions this Honorable Court, pursuant to Tenn. Code Annotated § 46-4-101 et seq., to authorize and approve the disinterment and relocation of the gravesites and remains thereon pursuant to the specifications set forth herein. In support of this Petition, Petitioner states as follows:
2. On September 18, 2018, petitioner and family purchased the Property from previous owners. Previous owners have stated that the Property has been in the family over 40 years and was used only as farm land with to their knowledge "no one has ever lived on the property".
3. There are two (2) gravesites on the Property (collectively referred to herein as the "Graves") containing the remains of an unknown female (collectively referred to herein as "Decedent") and nearby a heavily disturbed grave with no remains.
4. On the evening of Monday April 5th, SCSO were called to the site when a 95% complete set of a woman remains were discovered. A construction crew inadvertently discovered two unmarked graves on the Property. The finds were made on the north end of a finger ridge within an approximately 15 ac. tract that was being cleared of timber for a private home to be constructed. Because there was a missing person from this area, the discovery was initially treated as a crime scene. SCSO collected the woman's remains and took her the

Medical Examiner's office of Dr. Benjamin Figura, PhD, D-ABFA (Forensic Anthropologist). Dr. Benjamin Figura has past experience with a similar iron coffin discovery in New Jersey (see <https://ironcoffinmummy.com>) and within a few minutes he determined that it was a nineteenth century burial that had been uncovered, and not a crime scene. The next morning the SCSO personnel returned to the site, and discovered that a second burial had also been extensively disturbed by heavy equipment (track hoe). Dr. Benjamin Figura has also stated that after extensive research that the remains of the Decedents are unknown.

5. Tenn. Code Ann. § 46-4-101 applies to:

[A]ny burial ground in the State of Tennessee... which the court to which jurisdiction is given by this chapter finds, for any of the reasons hereinafter stated, is unsuitable for its use as such and as a resting place for the dead whose remains are buried therein, or the further use of which for such purposes the court finds, for any of such reasons, is inconsistent with due and proper reverence or respect for the memory of the dead or otherwise unsuitable for such purposes, the reason being:

 - (1) The burial ground having been abandoned; or
 - (2) The burial ground being in a neglected or abandoned position; or
 - (3) The existence of any conditions or activities about or near the burial ground which the court finds render the further use of same for the purposes aforementioned inconsistent with due and proper reverence or respect for the memory of the dead, or for any other reason unsuitable for such purposes. [Emphasis Added].
6. Due to the upcoming residential development occurring on the Property, the current location for the Grave is unsuitable, and the Decedent should be relocated out of due and proper reverence and for the memory of the Decedent.
7. Petitioner would remove and relocate the Decedent in accordance with all the applicable laws and regulations.
8. Tenn. Code Ann. § 46-4-103(a)(1) provides that only "interested persons" may bring an action for disinterment and relocation in the court "of the county in which any such burial ground is situated... to have the remains of all deceased persons buried in such ground removed therefrom and reburied in a suitable repository to be obtained for that purpose before their removal from such burial ground."
9. Tenn. Code Ann. § 46-4-102 defines "interested persons" as "any and all persons who have any right or easement or other right in, or incident or appurtenant to, a burial ground as

such, including the surviving spouse and children, or if no surviving spouse or children, the nearest relative or relatives by consanguinity of any one (1) or more deceased persons whose remains are buried in any burial ground.

10. Petitioner, as the owner of the Property, qualifies as an interested person under Tenn. Code Ann. § 46-4-102, and files this Petition in that capacity.
11. This Court has jurisdiction to rule on this matter under Tenn. Code Ann. § 46-4-102, due to the Graves being located in Shelby County, Tennessee.
12. Tenn. Code Ann. § 46-4-103(b) provides “[I]n any such suit, all interested persons who are not complainants shall be made defendants...”
13. Based upon the Decedents passing away over two hundred (200) years ago, there are no known heirs of the Decedents. Therefore, no one has been made a party to this proceeding pursuant to Tenn. Code Ann. § 46-4-103(b).
14. Petitioner has notified any possible unknown heirs of the unknown Decedents of her proposed plans to relocate the Graves by placing a public notice in the Commercial Appeal.
15. Petitioner, upon obtaining the necessary authorization from this Court intends to relocate the Decedent to the Shelby County Cemetery. This process will include removing the Decedent from the possession of Dr. Benjamin Figura at The University of Tennessee Health and Science Center, located at 637 Poplar Ave. Memphis, TN 38104, relocation handled by R Bernard Funeral Home, and obtaining a new casket for the Decedent and a burial plot at the Shelby County Cemetery. Prior caskets were demolished during construction.
16. Petitioner has contacted R Bernard Funeral Home and the Shelby County Cemetery and procured estimated costs and will make all appropriate arrangements under Tenn. Code Ann. § 46-4-104 prior to any disinterment or removing Decedent from Dr. Figura or relocation taking place.
17. Petitioner shall follow all public health rules and regulations set forth under Tenn. Code Ann. § 64-4-110 regarding the disinterment of the Decedent.
18. Petitioner shall cover any and all costs related to disinterment, removal, and relocation.

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

1. That this Court find disinterment and relocation of the Decedent appropriate under Tenn. Code Ann. § 46-4-101 et seq. due to the residential development of the Property rendering

the Graves unsuitable for the site and inconsistent with due and proper reverence for the Decedents.

2. This Court approve disinterment, removal, and relocation of the Decedent pursuant to Tenn. Code Ann. § 46-4-101 et seq. and authorize Petitioner to take all necessary actions to do so.
3. For such other relief as the Court deems the Petitioner to be justly entitled.

Respectfully Submitted,

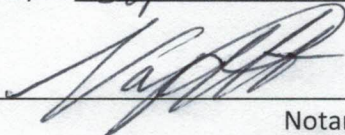


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STATE OF TENNESSEE

COUNTY OF SHELBY

Before me, a notary public in and for said county and state, personally appeared Timika Montes de Oca, owner of land located in the City of Memphis, State of Tennessee, County of Shelby, bearing Tax Parcel ID No. D0147 00253 and comprised of approximately 15.447 acres (the "Property"), who executed the foregoing PETITION FOR TERMINATING USE OF LAND AS BURIAL GROUND AND FOR DISINTERMENT AND REINTERMENT OF JANE DOE, UNKNOWN DECEDENT on this 13th day of September, 2021.



Notary Public

(Seal)



My commission expires: 6/16/2024

My Commission Expires June 16, 2024