

1 CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

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4 ROBERT SULLIVANT, SR. PLAINTIFF

5 VS. CAUSE NO. CV-2021-612

6 ROBERT SULLIVANT, JR. DEFENDANT

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9 EXPEDITED TRANSCRIPT OF THE MOTION HAD AND DONE IN  
10 THE ABOVE-STYLED AND NUMBERED CAUSE, NOT FOR APPEAL  
11 PURPOSES, BEFORE THE HONORABLE ROBERT Q. WHITWELL,  
12 CHANCELLOR, ON THE 7TH DAY OF JULY, 2023, IN CALHOUN  
13 COUNTY, MISSISSIPPI, TAKEN BY CECILY BOONE FAULKNER,  
14 RPR, CSR, OFFICIAL COURT REPORTER FOR THE EIGHTEENTH  
15 CHANCERY COURT DISTRICT OF MISSISSIPPI.

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17 APPEARANCES:

18 Present and Representing the Plaintiff:

19 HONORABLE SWAYZE ALFORD  
20 Attorney at Law  
21 1300 Van Buren  
Oxford, Mississippi 38655

22 Present and Representing the Conservator:

23 HONORABLE WALTER DAVIS  
24 Attorney at Law  
25 Dunbar Davis PLLC  
324 Jackson Avenue East, Suite A  
Oxford, Mississippi 38655

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27 Present and Pro Se:

28 MR. ROBERT SULLIVANT, JR.  
29 1002 Crawford Circle  
Oxford, Mississippi 38655

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29

INDEX

Page No.

Style, Number and Appearances..... 1  
Motion by Mr. Sullivant..... 3  
Response by Mr. Alford.....22  
By Mr. Sullivant.....29  
The Court.....37  
Court Reporter's Certificate.....40

NO EXHIBITS

1 (WHEREUPON, THE CHANCERY COURT OF  
2 CALHOUN COUNTY, MISSISSIPPI, WAS DULY AND  
3 LEGALLY CONVENED, AND THE FOLLOWING  
4 OCCURRED IN THIS MATTER.)

5 HONORABLE ROBERT Q. WHITWELL: You  
6 may be seated. Thank you.

7 Mr. Sullivant, you need to come  
8 around and take this table.

9 All right. So the Court is going to  
10 call the docket. I only have one case on  
11 the docket today, 2021-CV-612, Lafayette  
12 County Chancery Court, *Robert Sullivant,*  
13 *Sr. versus Robert Sullivant, Jr.*

14 Mr. Alford for Mr. Senior. Mr. Davis  
15 for Ms. Sherry Wall, the conservator.  
16 Mr. Freeland is not here, Dr. Perkins.  
17 Mr. Sullivant, Jr. is Pro Se.

18 The Court signed an order on  
19 June 23rd setting this matter here in  
20 Calhoun County.

21 All right. Mr. Sullivant, what says  
22 the petitioner, the plaintiff?

23 MR. ROBERT SULLIVANT, JR.: Excuse  
24 me, Your Honor?

25 HONORABLE ROBERT Q. WHITWELL: I'm  
26 sorry?

27 MR. ROBERT SULLIVANT, JR.: I didn't  
28 hear what you said.

29 HONORABLE ROBERT Q. WHITWELL: Come

1 around. Just sit over there.

2 You're the movant today. You filed a  
3 motion for recusal of this Court.

4 Are you ready on your motion?

5 MR. ROBERT SULLIVANT, JR.: I am, but  
6 I have a -- I am, but I have one order of  
7 business that I would like to bring to the  
8 Court's attention before we get into that  
9 motion.

10 HONORABLE ROBERT Q. WHITWELL: All  
11 right. Well, wait a minute. We're going  
12 to find out if everybody is ready first.

13 MR. ROBERT SULLIVANT, JR.: All  
14 right.

15 HONORABLE ROBERT Q. WHITWELL: Are  
16 you ready, Mr. Alford?

17 MR. SWAYZE ALFORD: Yes, Your Honor.

18 HONORABLE ROBERT Q. WHITWELL: Mr.  
19 Davis?

20 MR. WALTER DAVIS: Yes, Your Honor.

21 HONORABLE ROBERT Q. WHITWELL:  
22 They're ready on your motion. Let's hear  
23 it.

24 MR. ROBERT SULLIVANT, JR.: Okay.  
25 Well, the first order of business is,  
26 yesterday I received a motion or a  
27 response to my motion of recusal. I got  
28 it some time between 4:00 and 4:30  
29 yesterday; although, the e-mail said I got

1           it, I think, in my e-mail box at 3:43  
2           possibly.

3           It's plaintiff's response to  
4           opposition to defendant Robert Sullivant  
5           Jr.'s motion to recuse. And according to  
6           the Mississippi Rules of Civil Procedure,  
7           I think it's 6(d), responses have to be  
8           filed five days before the hearing.

9           So I would like -- I think that is  
10          completely inappropriate, and I really did  
11          not have time to read this or prepare a  
12          rebuttal for it today in court.

13          So I would like to move the Court  
14          today to strike this response from the  
15          record and ask that not any of it be used  
16          today in court.

17          And that due to the severity of the  
18          violation of the rule, I would ask that  
19          Mr. Alford not be allowed to respond to my  
20          argument.

21          HONORABLE ROBERT Q. WHITWELL: All  
22          right. Mr. Alford?

23          MR. SWAYZE ALFORD: Your Honor, I  
24          guess first what I would say is that under  
25          the Rules of Civil Procedure there is no  
26          response that is even required to  
27          Mr. Sullivant's motion for recusal.

28          If you look under Rule 1.1 of the  
29          Uniform Chancery Court Rules, it talks

1           about motions for recusal of judges. All  
2           it talks about is what the motion filed by  
3           Mr. Sullivant is required to contain, the  
4           affidavit that is required. Such motion,  
5           you know, should be filed with the judge,  
6           which is you.

7           It talks about the time that Your  
8           Honor has to rule on the motion. It says  
9           being 30 days with hearing, if necessary.  
10          If it's held, it will be in open court.

11          It doesn't even mention a response,  
12          Your Honor. There is nothing under the  
13          rules that requires a response to any  
14          motion filed.

15          Mr. Sullivant, he cites Rule 6(d),  
16          and says you've got to file a response  
17          within five days. That is not the rule.

18          The rule is, if you're filing a  
19          motion, then you've got to file a motion  
20          within five days of a hearing. It says  
21          nothing about having five days as a  
22          response, Your Honor.

23          My intention, frankly, Your Honor,  
24          was not to file a response. I was going  
25          to show up. He asked for oral argument.  
26          That's why we're here today. I was going  
27          to show up and just make my argument.

28          In looking at his motion and looking  
29          at the cases that talk about one of the

1           allegations that he made was ex parte  
2           communications, the cases that talk about  
3           that in a lot of places refer to an  
4           affidavit of the attorney, me, who is  
5           accused. I thought, well, maybe I need to  
6           file an affidavit.

7           So that's why I decided to file a  
8           response, Your Honor, because Rule 6 later  
9           in the paragraph, you know, says, *When a*  
10          *motion is supported by an affidavit, the*  
11          *affidavit will be served with the motion,*  
12          which Mr. Sullivant filed an affidavit  
13          with his motion.

14          It says, *And except, as otherwise*  
15          *provided in Rule 59(c), opposing*  
16          *affidavits may be served not later than*  
17          *one day before the hearing, unless the*  
18          *court permits them to be served at another*  
19          *time.*

20          So under the rule -- I said, well,  
21          this may be an opposing affidavit. I can  
22          file it one day before the hearing. I  
23          attached it to my response and thought,  
24          you know, rather than having completely an  
25          oral argument, this is part of the oral  
26          argument I will make today, it's not  
27          prohibited. It's not required. I filed  
28          the affidavit one day prior to court as  
29          the rule requests.

1           The rule he cites for five days has  
2           no application to a response. It's his  
3           motion that has to be filed five days  
4           before a hearing.

5           HONORABLE ROBERT Q. WHITWELL: Well,  
6           if we were technical, Mr. Sullivant, your  
7           motion for recusal is out of time. It  
8           should have been filed within 30 days way  
9           back.

10          And you filed it, and I'm going to  
11          hear it because I'm going to give you the  
12          opportunity to be heard, like I have in  
13          every case you've been before me.

14          There's been objections to things  
15          that you've tried to introduce, and I have  
16          said, *Mr. Sullivant, it is overruled. You*  
17          *make your record and do whatever you can*  
18          *to present your case.* And that's what  
19          we're going to do today.

20          You can make your argument, and  
21          Mr. Swayze can make his argument. Unless  
22          you want additional time to continue this  
23          matter for another time to respond to  
24          that, that's up to you.

25          You didn't ask for the additional  
26          time. You just said you wanted him to be  
27          disqualified and dismiss his response.

28          I don't think a response is required  
29          in five days. I think he is right under



1 the rule.

2 So I'm here, and I'm ready to  
3 proceed. Whatever you --

4 MR. ROBERT SULLIVANT, JR.: Your  
5 Honor, I guess you did mention that we may  
6 continue this. That was going to be part  
7 of my motion. I'm sorry, I forgot.

8 I was going to say, we could -- I  
9 don't really mind the response. It's just  
10 that I haven't had a chance to even read  
11 it or go over it. And I'm sure I'm going  
12 to be faced with this, and I got this  
13 yesterday at 4:30.

14 And so I don't really mind that -- I  
15 did scan it and read it. But if we could  
16 continue for five days, that would give me  
17 a chance to at least respond or research  
18 and see what his response was.

19 HONORABLE ROBERT Q. WHITWELL: What  
20 do y'all say to that?

21 MR. SWAYZE ALFORD: I say let's move  
22 forward today, Your Honor. It doesn't  
23 change anything.

24 Like I said, I didn't have to file a  
25 response. I gave him 24 more hours'  
26 notice of what I was going to argue than  
27 he is entitled to.

28 We are all here. It's time to go  
29 forward. My request is we go forward

1 today.

2 HONORABLE ROBERT Q. WHITWELL: Well,  
3 your motion stands on its own feet -- two  
4 feet. It's good or bad or whatever it is.  
5 I'm inclined to proceed.

6 I have been snowed under with all  
7 kind of cases, and I think we -- my staff  
8 attorney talked to you last week that we  
9 need to get this on the docket within a  
10 certain period so I will have time to  
11 respond to it myself because I have other  
12 cases pending.

13 I had an all day case yesterday that  
14 I have got to write an opinion in. I'm  
15 booked up solid.

16 I will do this, I will allow you to  
17 argue your motion. If you want to file  
18 some kind of response to it, I'm not going  
19 to make a ruling on it today. I will  
20 write my opinion up in the next few days  
21 or next week.

22 I will give you an opportunity to --  
23 if you want five days to respond to it to  
24 file something different against it that  
25 would change anything, then I will allow  
26 you to do that.

27 I'm not going to stop the hearing  
28 today. I'm going to let it go forward.

29 MR. ROBERT SULLIVANT, JR.: Good

1 enough. Thank you.

2 HONORABLE ROBERT Q. WHITWELL: All  
3 right. So it's your case, and you can  
4 move forward.

5 MR. ROBERT SULLIVANT, JR.: All  
6 right. I have two handouts or I have a  
7 handout. I have two copies that I was  
8 going to refer to some case law and to  
9 some canons in the judicial ethics book.

10 If I could give one to Mr. Alford?

11 And, Your Honor, would you like to  
12 have a copy that I may refer to?

13 HONORABLE ROBERT Q. WHITWELL: That  
14 will be fine.

15 MR. ROBERT SULLIVANT, JR.: And I  
16 think I have some water back there that I  
17 left that I would like to get.

18 HONORABLE ROBERT Q. WHITWELL: All  
19 right. I guess while we're here again,  
20 since you are pro se and still not a  
21 lawyer, I'm going to have to swear you in  
22 again, Mr. Sullivant.

23 MR. ROBERT SULLIVANT, JR.: Good  
24 enough.

25 HONORABLE ROBERT Q. WHITWELL: Raise  
26 your right hand to be sworn.

27 (WHEREUPON, MR. SULLIVANT STOOD,  
28 FACED THE CLERK AND RAISED HIS RIGHT HAND  
29 TO TAKE THE OATH.)

1 HONORABLE ROBERT Q. WHITWELL: All  
2 right.

3 MR. ROBERT SULLIVANT, JR.: Okay. I  
4 would like to start with stating that the  
5 Mississippi Code of Judicial Conduct as  
6 adopted by the Mississippi Supreme Court  
7 states in Canon 3E, paragraph one -- and  
8 that refers to page 128 of my handout:

9 *Judges should disqualify themselves*  
10 *in proceedings in which their impartiality*  
11 *might be questioned by a reasonable*  
12 *person.*

13 In the matter of *Rutland versus*  
14 *Pridgen*, which is on Page 135, *It is*  
15 *established -- it is established for*  
16 *recusal what a reasonable person, knowing*  
17 *all the circumstances, harbor doubts about*  
18 *the impartiality of a judge.*

19 Although, I'm not going to go through  
20 every citation of impartiality for my  
21 motion, there are a few that I would like  
22 to address today.

23 The first example I will begin with  
24 is Your Honor's testimony at the May 9th  
25 hearing in Oxford, that is, that I do not  
26 love my father.

27 Your Honor was referring to a hearing  
28 that took place in Holly Springs. The  
29 events described by Your Honor did not

1 take place. It was false testimony.

2 Your Honor stated that Senior got up  
3 and left the room and I sat there and did  
4 nothing. Then I left. That I -- and that  
5 I did not even hug my father. That is not  
6 what happened.

7 I did go up to my father after the  
8 hearing to speak with him to see how he  
9 was doing. He was still sitting. He had  
10 not gotten up yet, but Ms. Stevens and Mr.  
11 Alford had him surrounded. They had me  
12 blocked out.

13 I should not have to compete with  
14 others to speak to my father in private.  
15 I have resentment for Ms. Stevens and for  
16 the undue influence she has put on my  
17 vulnerable father just so she can take  
18 advantage of him.

19 It made me angry that I had to  
20 negotiate around Ms. Stevens to speak to  
21 my father. Then I decided I shouldn't  
22 have to do that, so I left.

23 I don't think Mr. Alford saw me as I  
24 waited patiently to speak to my father, as  
25 Mr. Alford was also facing Senior when I  
26 approached and waited.

27 Your Honor should have seen me go up  
28 to my father and wait, as they had him  
29 surrounded. And they were talking to my

1 father, but Mr. Alford had seen me leave  
2 without speaking to my father and after I  
3 had been waiting to speak to my father.

4 I allege that Your Honor's false  
5 testimony of my character must have come  
6 from somewhere else.

7 Canon 2B, page 102 of the handout, of  
8 the judicial ethics states, *Judges shall*  
9 *not testify voluntarily as character*  
10 *witnesses.*

11 Not only that, but Rules of Civil  
12 Procedure give me the right to examine  
13 someone who testifies against me. I was  
14 denied that right on May 8th, and a  
15 prejudicial decision was made against me  
16 in determining who would be conservator  
17 based on false testimony and false  
18 characterization, and I could not  
19 cross-examine to clarify.

20 There was not even a hearing as  
21 prescribed by Mississippi Code to  
22 determine who would be conservator, just a  
23 false statement as the reason stated by  
24 Your Honor to why I should not be the  
25 conservator.

26 Later after reading the transcript,  
27 it was this instance that compelled me to  
28 do something. I researched recusal,  
29 investigated the transcript for -- to find

1 more examples of bias, prejudice, and,  
2 yes, clear and convincing evidence of ex  
3 parte communication.

4 After incidences of false character  
5 testimony -- another incidence of false  
6 character testimony was when Your Honor  
7 called me a liar just moments after  
8 implying I was lying, regarding the  
9 undisputed fact, that I did not go to  
10 Batesville to transfer the joint funds  
11 back to the joint bank account.

12 HONORABLE ROBERT Q. WHITWELL:

13 Mr. Sullivant, I didn't call you a liar.

14 Is it in the transcript that I called  
15 you a liar?

16 MR. ROBERT SULLIVANT, JR.: Yes. You  
17 said -- you accused me of a telling a half  
18 truth, and I believe that --

19 HONORABLE ROBERT Q. WHITWELL: I  
20 didn't call you a liar. I didn't say that  
21 word.

22 MR. ROBERT SULLIVANT, JR.: Well, I  
23 think I have proof -- I'm sorry, I take  
24 that as being called a liar.

25 HONORABLE ROBERT Q. WHITWELL: I'm  
26 the judge of what the statements are and  
27 whether or not I believe them or the  
28 credibility of them, and that is my job  
29 and responsibility --

1 MR. ROBERT SULLIVANT, JR.: Okay.

2 HONORABLE ROBERT Q. WHITWELL: --  
3 whatever I said, but I never called you a  
4 liar.

5 MR. ROBERT SULLIVANT, JR.: Yes, Your  
6 Honor. But I still felt offended by that,  
7 and I felt like you did call me a liar.  
8 And I have a right to feel -- I have a  
9 right to feel the way I want to --

10 HONORABLE ROBERT Q. WHITWELL: You  
11 have a lot of feelings that are not proper  
12 in this case. But go ahead.

13 MR. ROBERT SULLIVANT, JR.: I object  
14 to that, Your Honor.

15 Speculation does not constitute an  
16 undisputed fact. At page 8, line 15 of  
17 that transcript of the hearing that day  
18 after I had expressly stated that I never  
19 went to Batesville, Your Honor reminded me  
20 that I was under oath, implying that he  
21 believed I did go to Batesville and must  
22 be lying.

23 At or about line 26 of page 9, Your  
24 Honor testified outright that I was lying  
25 when Your Honor accused me of telling a  
26 half truth after I had to state, again,  
27 for the record that I did not go to  
28 Batesville.

29 I never went to Batesville. I bank



1 with Regions in Oxford where I live.

2 The real estate closing happened in  
3 Batesville, and I still went to Oxford to  
4 make the bank deposit.

5 As I do all of my banking in Oxford,  
6 I just don't go to the Batesville Regions  
7 branch. Why would I drive all the way to  
8 Batesville to transfer the joint funds  
9 back to the joint account?

10 In the record, there is no evidence  
11 that I went to Batesville, as there cannot  
12 be evidence of something that did not  
13 happen.

14 The only mention in the record is  
15 that my father, who has dementia, believed  
16 I did. At the best, that is speculation,  
17 but Your Honor regards the speculation of  
18 an 89-year-old man with dementia as fact.

19 My affidavits and reasonableness  
20 contradict this wishful speculation as  
21 conclusive proof. It is not even hearsay,  
22 but wishful, unreasonable speculation.

23 As we all heard on May 8th, during  
24 the hearing to execute a will, my father  
25 actually believes he deposited those funds  
26 into his own account in Batesville the day  
27 after the -- the day of the closing.

28 The reality of the matter, as the  
29 banking records show, the deposit was made

1           into the joint account in Oxford by me.

2           So why does Your Honor's statements  
3           in the transcript read as if he believes I  
4           went to Batesville? How is Your Honor so  
5           convinced that I went to Batesville? That  
6           Your Honor believed I must be lying if I  
7           said I did not go?

8           The reason is because Mr. Alford's  
9           case is dependent upon it. Mr. Alford  
10          contends that I went to Batesville, and  
11          the Regions branch there in Batesville  
12          told me that Senior had revoked my power  
13          of attorney; although, he has zero  
14          evidence of this.

15          It is not even hearsay, only wishful  
16          speculation. I did the reasonable and  
17          customary thing I do; that is, I went to  
18          the Oxford branch to move the money back  
19          to the joint account with my power of  
20          attorney. It was a legal transaction, so  
21          Mr. Alford has no case.

22          I allege that is the reason Your  
23          Honor believes I went to Batesville and  
24          called me a liar for stating the truth.

25          And another example at the hearing --  
26          at the hearing for summary judgment in  
27          Oxford, page 17, line 14 of the  
28          transcript, Your Honor states, *You*  
29          *committed the offense already. You,*

1 meaning me.

2 Then compared my using my legal power  
3 of attorney in order to protect the joint  
4 funds from getting into the hands of Ms.  
5 Stevens to a criminal act.

6 As we already knew at the time of the  
7 hearing, Ms. Stevens had already illegally  
8 put her name on almost \$500,000.00 of  
9 court ordered protected funds.

10 It was my duty to keep the joint  
11 funds from the sale of the farmhouse safe,  
12 as I was planning on buying a house for my  
13 father with the joint funds.

14 It would have been risky and poor  
15 judgment to keep the funds in the joint  
16 account where Ms. Stevens could once again  
17 influence Senior and take the funds for  
18 herself.

19 At the hearing for summary judgment,  
20 Your Honor stated I was guilty of a  
21 criminal offense. Then he used -- that he  
22 used to see as US prosecutor, where  
23 someone who stole state funds and was  
24 caught would want to write a check and  
25 make it right.

26 I quote from the transcript from the  
27 hearing that day, page 17, line 12, *And*  
28 *the fact that you wrote the check after*  
29 *the fact doesn't fly. You committed the*

1           *offense already before, before it*  
2           *happened.*

3           That is not what happened. I did not  
4           steal money. The comparison is  
5           unreasonable given the facts and the law.  
6           I transferred the money legally per my  
7           duty stated in the power of attorney.

8           Your Honor stated I have committed a  
9           criminal offense without evidence, nor  
10          even with a trial, when Your Honor stated,  
11          *You committed the offense.* That shows and  
12          proves prejudice that I cannot over come.

13          But what Your Honor's comparison is  
14          like is when Mr. Alford lost a large  
15          amount of Senior's money that was supposed  
16          to be in his escrow account.

17          When caught by me with strong  
18          evidence, Mr. Alford thought he could just  
19          write a check to fix the problem of  
20          violating a court order of losing client  
21          funds, exactly like in Your Honor's  
22          example when he was a US prosecutor.

23          But in this case, it did fly. Mr.  
24          Alford received no admonishment, and the  
25          motion to disqualify him for this  
26          forbidden behavior was dismissed without  
27          even a hearing, because others were in the  
28          courtroom and that it was a matter for the  
29          Bar to handle.

1           The criteria is not beyond a  
2           reasonable doubt. It is -- is there a  
3           reasonable doubt in a reasonable person's  
4           mind. Not a lawyer or a judge, just a  
5           reasonable person.

6           Furthermore, the decision of recusal  
7           shall be determined by the total -- by the  
8           total circumstances as stated in  
9           *Washington Mutual Finance versus Blackman*,  
10          which is on page 130 of my handout.

11          This is case law; and, therefore, a  
12          time limit cannot be placed on the events  
13          of recusal, even if the total case must be  
14          considered for recusal.

15          I believe that my motion and argument  
16          today has provided compelling and ample  
17          justification for Your Honor's recusal.

18          Would a reasonable person knowing all  
19          of these circumstances harbor doubts about  
20          the impartiality of a judge? The answer  
21          is clearly yes.

22          If my motion is not granted, I shall  
23          appeal to the Supreme Court of  
24          Mississippi.

25          And also I would like to add before I  
26          end, you had mentioned that my motion was  
27          out of date. I don't believe it is. It  
28          is when I discover. It states in the  
29          rule, the Chancery Rule 1.11, is when I

1 discover these things.

2 And it was not -- as going to be in  
3 the response, that is not true. I  
4 discovered these items probably around  
5 June 10th, June 15th, is when I came up  
6 with these.

7 And so the time limit had not expired  
8 by the time I filed this motion, I think,  
9 on the 25th.

10 So, anyway, actually I would request  
11 the opportunity for rebuttal.

12 HONORABLE ROBERT Q. WHITWELL: Okay.  
13 Mr. Alford?

14 MR. SWAYZE ALFORD: Your Honor, I  
15 think it seems like Mr. Sullivant's  
16 argument covered much less than his  
17 motion, so I don't know whether I need to  
18 go into things he didn't cover. I tried  
19 to cover those in my response.

20 You know, he focused a lot on this  
21 hearing in Holly Springs, you know, and  
22 that Your Honor's observations were wrong.  
23 So, I guess, I feel compelled to respond  
24 to that.

25 We were in Holly Springs. Mr.  
26 Sullivant, Jr., you know, made no attempt  
27 to speak to or even acknowledge his father  
28 that day. He had ample opportunity to do  
29 that.

1           You were in that courtroom. There  
2           was nobody else in the courtroom, Your  
3           Honor, that day. And had he really wanted  
4           to talk to his dad like he says he did,  
5           all he had to do was say a word.

6           He did not. He walked past. Didn't  
7           even acknowledge him being there. Didn't  
8           try to speak. Never saw him waiting on  
9           him.

10           And so there was no attempt by  
11           Junior, as he said, to speak to his dad or  
12           try to get his dad -- all he had to do was  
13           get my attention. We would have stepped  
14           aside and been glad to do that.

15           I was surprised that there was no  
16           contact or acknowledgment myself.

17           Your Honor, Mr. Sullivant talked  
18           about, you know, the May 8th hearing and  
19           that a conservatorship was established  
20           that day with the Court appointing Sherry  
21           Wall.

22           At that point in the process, Your  
23           Honor, we had two Independent Medical  
24           Examinations that both experts reports  
25           were in the record, both saying that  
26           Mr. Sullivant, Sr. needed a conservator.

27           So there was no question that a  
28           conservator was going to be appointed.  
29           There was no hearing necessary for that.

1 Both reports were there.

2 Dr. Perkins's report specifically  
3 said that the conservator needed to be  
4 independent. That was in the record.

5 In addition to that, it's obvious  
6 from the record that Junior had sued his  
7 father for money, and that's an ongoing  
8 litigation where he is trying to recover  
9 money from his dad.

10 So based on all of those things in  
11 the record, Your Honor followed the  
12 recommendation of Dr. Perkins and  
13 appointed Sherry Wall as an independent  
14 conservator.

15 As to the allegations, you know,  
16 having to do with me, which he addressed  
17 briefly here, Your Honor, on  
18 December 12th, Mr. Sullivant, Jr., he  
19 filed an emergency ex parte motion for  
20 temporary restraining order and  
21 preliminary injunction to freeze accounts.  
22 That's what he filed. He filed it on  
23 December 12th.

24 On December the 13th --

25 HONORABLE ROBERT Q. WHITWELL: 2022?

26 MR. SWAYZE ALFORD: 2022, yes, sir.

27 On December the 13th, the next day, he and  
28 I entered an agreed order freezing the  
29 accounts. The issue was never brought



1 before you on that.

2 By the time that -- by the time it  
3 came up in front of you, it wasn't even  
4 part of the motion for summary judgment,  
5 but it was part of his argument.

6 In that, the orders were in place  
7 freezing the accounts and all the money  
8 had been deposited back into the account.

9 I mean, there was nothing for you to  
10 do about that. That issue never got in  
11 front of you. The argument got in front  
12 of you.

13 My position, you know, has been and  
14 continues to be that there was no ethical  
15 violation.

16 Mr. Sullivant, Sr. got his money for  
17 a time. There is no ethical violation.  
18 There's no case that says it would be an  
19 ethical violation.

20 The case that is cited by Junior and  
21 his motion to disqualify doesn't deal with  
22 that. It deals with something completely  
23 different where an attorney kept money for  
24 himself that a trustee in a bankruptcy  
25 court made claim to.

26 So none of those things were an  
27 ethical violation, Your Honor.

28 In his motion for recusal, Mr.  
29 Sullivant, Jr. makes lots of allegations

1 about Dr. Perkins, about Dr. Perkins's  
2 lack of cooperation with him to set a  
3 deposition, how that couldn't happen. He  
4 mentioned his testimony in court.

5 Well, you know, I didn't know this  
6 was going to be such a big issue until,  
7 you know, it's brought up here again in  
8 the motion for recusal.

9 And what happened, when Mr.  
10 Sullivant, Jr. originally tried to --  
11 originally tried to depose Dr. Perkins,  
12 Your Honor, back in March, Mr. Sullivant,  
13 Jr. contacted Dr. Perkins directly.

14 He never mentioned it to me that he  
15 wanted to depose him. Dr. Perkins then  
16 let me know that Mr. Sullivant, Jr. was  
17 trying to depose him.

18 That's when I contacted him, which I  
19 did. It's an e-mail that's attached to my  
20 response to the motion to recuse where I  
21 e-mail Mr. Sullivant, Jr.

22 I said, hey, Mr. Perkins says you're  
23 trying to take his deposition. I think it  
24 would be best if we try to coordinate this  
25 among us so we can do it at a convenient  
26 time and place for all of us. And he  
27 charges this for his deposition, and he  
28 expects you to pay the costs.

29 No response to my e-mail, and that

1 was the end of it.

2 And yet then we get all of these  
3 allegations about Perkins won't do this,  
4 will do this, you know, somehow I'm  
5 involved and I'm being a problem. I tried  
6 to facilitate it, and it never was  
7 responded to by Sullivant Jr., Your Honor.

8 So I think he complains about the  
9 fact that he wasn't aware that Dr. Perkins  
10 was going to be in court that day on the  
11 hearing, which seems and accuses me of  
12 doing something underhanded because I  
13 didn't tell him he was coming.

14 Well, it seems odd to me that one of  
15 the things pending that day was Mr.  
16 Sullivant, Jr.'s emergency petition for a  
17 conservatorship to be appointed.

18 I would think if he's trying to get a  
19 conservator appointed, then he would  
20 consider that potentially the doctors who  
21 did the IME would have to be at the  
22 hearing to talk about that potentially.

23 I had a motion before the Court that  
24 day for a conservatorship. So, again, the  
25 idea that we would have two matters set  
26 for hearing to appoint a conservatorship,  
27 it shouldn't be a shock that one of the  
28 doctors that examined his father was there  
29 to testify about the conservatorship, if

1           need be.

2                     And, certainly, he was there to  
3           testify about the authority to execute a  
4           will because he had examined him.

5                     So, Your Honor, we --

6                     HONORABLE ROBERT Q. WHITWELL:   And  
7           there was a motion pending for him to be  
8           allowed to make a will?

9                     MR. SWAYZE ALFORD:   Yes, sir.

10                    So it seems obvious to me that  
11           anybody that knew those motions were  
12           pending would have understood that the  
13           doctor may be there, but it certainly --  
14           there was nothing requiring me to disclose  
15           that, well, Dr. Perkins is going to be  
16           there.  He is an expert.  His report in  
17           the file.

18                    Mr. Sullivant, Jr. had the report,  
19           and so there was no surprise about him  
20           being, you know, an expert in the case, or  
21           the fact that his father, who had asked  
22           the Court, you know, for authority to  
23           execute the will, will be there to testify  
24           on his own behalf.

25                    Your Honor, we addressed the other  
26           issues raised by Mr. Sullivant, Jr., the  
27           ex parte communication.  He did mention  
28           that in his argument, you know, and at  
29           best it's pure speculation on his part.

1           He's got nothing to support it. He's  
2           got no evidence to support it. You know,  
3           what you know and what I know is it's  
4           completely made up because it didn't  
5           happen.

6           So the idea that he can just put that  
7           in his motion for recusal, as if it's  
8           fact, because he's spun up an explanation  
9           for it doesn't carry today, Your Honor.

10          In fact, it is nothing but a complete  
11          false allegation against me as well.

12          The rest of ours, Your Honor, is in  
13          our response, as well as our authority  
14          that we cite as to the burden of proof  
15          here on Mr. Sullivant, Jr., none of which  
16          we believe he meets and certainly the  
17          facts are not as he states.

18          HONORABLE ROBERT Q. WHITWELL: Any  
19          rebuttal, Mr. Junior?

20          MR. ROBERT SULLIVANT, JR.: Yes.

21          HONORABLE ROBERT Q. WHITWELL: All  
22          right.

23          MR. ROBERT SULLIVANT, JR.: Thank  
24          you, Your Honor.

25          First, I would like to address that  
26          Mr. Alford said I did not attempt to speak  
27          to my father. I stated clearly that I  
28          did.

29          I remember very clearly. I was

1 standing behind Mr. Alford and Ms.  
2 Stevens, and I even commented that I  
3 didn't think he saw me. He probably just  
4 saw me leave.

5 HONORABLE ROBERT Q. WHITWELL: Are  
6 you talking about before the hearing  
7 started or after the hearing?

8 MR. ROBERT SULLIVANT, JR.: After the  
9 hearing. I was speaking after the  
10 hearing. And, also, my father was still  
11 sitting there, and they were trying to get  
12 him up.

13 My whole point is, I don't feel like  
14 I should have to negotiate around Mr.  
15 Alford and Ms. Stevens when they were  
16 blocking me out from speaking to my  
17 father.

18 I waited for a while, and I was quite  
19 angry about the matter. I wanted to speak  
20 to my father. I attempted to speak to my  
21 father.

22 So what Mr. Alford stated in regards  
23 to that is false testimony without a  
24 doubt.

25 And, also, the next point, not having  
26 a hearing he said for the conservatorship,  
27 but the Mississippi Code explicitly states  
28 there must be a hearing, especially if  
29 there are -- if more than one person

1 wishes to be conservator, there should be  
2 a hearing.

3 The Mississippi Code, again, is  
4 explicitly clear about that. There was no  
5 hearing. I was petitioning to be  
6 conservator, and that was completely  
7 dismissed without a hearing in favor of  
8 Sherry Wall because, as you stated, I  
9 didn't love my father.

10 And that was a mischaracterization,  
11 and I deeply resent that. It is not true.

12 And, again, when he -- when Mr.  
13 Alford referred back to the events in  
14 December of '22, when he violated a court  
15 order, that is clear evidence of that.

16 And he did not go back and check  
17 on -- he put the money into my father's  
18 own account. He never went back and  
19 checked on it.

20 My father was writing checks to  
21 scamsters right and left. He even bought  
22 a pickup truck for Evelyn, Ms. Stevens,  
23 out of those funds.

24 And for him to just say he just wrote  
25 a check, so there is no ethical violation  
26 is an abomination.

27 And it also goes -- as I pointed out  
28 in my earlier response, in my earlier  
29 argument, is that you stated to me -- that

1           wasn't good enough for me. You said I had  
2           already committed the offense. *You can't*  
3           *just write a check and make it okay,* said,  
4           *that will not fly.*

5                         But here in the case of Mr. Alford,  
6           it does fly. So I think that shows a bias  
7           for Mr. Alford.

8                         And then he stated, *This issue didn't*  
9           *really come up again.* It came up many  
10          times. It came up in Holly Springs, and I  
11          think that's when you referred to my  
12          allegations as a hooligan sandbag.

13                        So the issue did come back up, and  
14          there was no admonishment for Mr. Alford.  
15          And this is a very serious offense. It's  
16          a disbarable offense and at least  
17          disqualified from the case.

18                        But, again, when I had my motion to  
19          disqualify him --

20                        HONORABLE ROBERT Q. WHITWELL: If he  
21          had taken the money himself, Mr.  
22          Sullivant, Jr., I would say you're  
23          correct. He didn't take any money. Your  
24          father wrote the check out.

25                        And the way I understand it, it was  
26          put back in, and the money is back there.

27                        And so if Mr. Alford would have kept  
28          a nickel of it, I would have sanctioned  
29          him, and the Bar would have already



1           disbarred him. I --

2           MR. ROBERT SULLIVANT, JR.: And I  
3           don't agree with that ruling. He only did  
4           this after I called him.

5           He was not checking on this money.  
6           He was compelled to check on this money,  
7           he never did.

8           I just don't agree with that. It's  
9           still a serious violation of the  
10          professional ethics that he's sworn to,  
11          and I was extremely offended when this  
12          happened.

13          And, again, you stated that just  
14          because you get caught and write a check  
15          doesn't make it okay. You still committed  
16          the offense. Those were your words. It's  
17          in the transcript and I refer to --

18          HONORABLE ROBERT Q. WHITWELL: I  
19          don't know what you're --

20          MR. ROBERT SULLIVANT, JR.: Well,  
21          it's in the transcript, and I referred to  
22          the exact page and line in my -- this  
23          morning -- before when I got up and spoke,  
24          so that's where it will be.

25          I will address the Perkins issues  
26          that he brought up. I filed a motion to  
27          strike his -- I have filed a motion to  
28          strike Perkins's testimony, and I will get  
29          into all of those little issues then. I

1 don't think it really pertains to much of  
2 what is going on today.

3 And, also, there is -- Mr. Alford  
4 stated that my allegations of ex parte  
5 communication was speculation at best. I  
6 think there is clear and convincing  
7 evidence of that.

8 As I stated in my motion, when you  
9 stated, *Where you put your PIN number on*  
10 *his account*, there is no mention of that  
11 anywhere in the record.

12 And for another thing, I did not put  
13 my PIN number on his account. I have no  
14 idea where that came from, but that was  
15 very specific. You accused me of  
16 something very specific that has never  
17 been mentioned before, and, frankly, was  
18 not true. So that is my clear and  
19 convincing evidence.

20 We have to find out where you got  
21 that information and entered it into the  
22 record to get to the bottom of that. And  
23 I think that is clear and convincing  
24 evidence --

25 HONORABLE ROBERT Q. WHITWELL: I said  
26 the word *PIN* because in the record, it's  
27 about four times, that you set up an  
28 account, didn't give the telephone number  
29 to your dad. You didn't give the

1           credentials to him. You set up the  
2           account in your own name.

3           Later, there was a text from Mr.  
4           Golmon where, I think, you gave dad the  
5           credentials.

6           I don't know the difference between a  
7           credential and a PIN, but I'm telling you  
8           right now Mr. Alford never told me  
9           anything about a PIN. And that's what I  
10          called it.

11          I call it a PIN because that's what I  
12          do. I do a PIN to get in my phone or a  
13          PIN code or whatever. I don't know  
14          anything about credentials.

15          MR. ROBERT SULLIVANT, JR.: Well, a  
16          PIN --

17          HONORABLE ROBERT Q. WHITWELL: I will  
18          be honest, I'm not very savey in  
19          Ameritrade or any other accounts, so --

20          MR. ROBERT SULLIVANT, JR.: All  
21          right. Well, just to be clear --

22          HONORABLE ROBERT Q. WHITWELL: --  
23          made up and trying to be some --

24          MR. ROBERT SULLIVANT, JR.: There is  
25          a difference between a PIN number and  
26          credentials. And PIN number has never  
27          been mentioned in the record before --

28          HONORABLE ROBERT Q. WHITWELL: I  
29          mentioned it, because that's what I

1 thought it was.

2 MR. ROBERT SULLIVANT, JR.: I don't  
3 know where you would have gotten that.

4 HONORABLE ROBERT Q. WHITWELL: Well,  
5 that's what I'm telling you. I don't know  
6 the difference in them. I'm telling you  
7 that right here.

8 MR. ROBERT SULLIVANT, JR.: I am  
9 surprised to hear that, Your Honor.

10 HONORABLE ROBERT Q. WHITWELL: Well,  
11 you can be surprised. I know very little  
12 about telephones, computers. I have  
13 people to do all of that.

14 I don't know anything about -- I  
15 really don't know what PIN numbers are.

16 I have never heard the word  
17 *credentials* until I saw it in the  
18 affidavit.

19 MR. ROBERT SULLIVANT, JR.: To be  
20 factual, I did not have my credentials on  
21 his account. Per instructions from Mr.  
22 Golmon, I put -- I set up -- the accounts  
23 were all tied together with my accounts.

24 I broke them apart. Gave my father  
25 his own credentials, which he had  
26 credentials before. He just never used  
27 them. And I gave them to Mr. Golmon to  
28 give to Mr. Alford.

29 And there was no mention of PIN -- I

1 just don't follow that connection between  
2 credentials and accusing me of putting my  
3 PIN number on his account so he cannot  
4 access it, which is what you stated in the  
5 record.

6 HONORABLE ROBERT Q. WHITWELL: It's  
7 pretty clear that you put it in your name  
8 --

9 MR. ROBERT SULLIVANT, JR.: Well --

10 HONORABLE ROBERT Q. WHITWELL: -- in  
11 the record.

12 MR. ROBERT SULLIVANT, JR.: -- I  
13 disagree with that.

14 HONORABLE ROBERT Q. WHITWELL: That's  
15 what I --

16 MR. ROBERT SULLIVANT, JR.: That's  
17 all I have. I appreciate it. Thank you,  
18 Your Honor.

19 HONORABLE ROBERT Q. WHITWELL: I want  
20 to clear up a couple of things.

21 Number one, the Court is -- has the  
22 right to be a silent observer for all of  
23 the things that go on in the courtroom. I  
24 completely disagree with you on what took  
25 place in Holly Springs.

26 I watched as your dad was sitting at  
27 the table right there and you were right  
28 here. You weren't five feet from him. He  
29 is sitting there alone by himself. He

1           wasn't blocked by anybody at that time.

2                   I saw him -- maybe Mr. Alford got in  
3           front of him, but you never spoke to him  
4           or anything.

5                   The reason I made that comment was,  
6           is because in your motion, in your  
7           emergency motion, you said, *My dad and I*  
8           *have a loving relationship between us.*  
9           And I didn't see any loving relationship  
10          that day.

11                   I didn't see you try to make an  
12          attempt to speak to him or hug him or  
13          anything else.

14                   I was hoping somewhere along the  
15          line, Mr. Sullivant, that you and your dad  
16          might speak and come back together some  
17          kind of way.

18                   I made an observance as a judge, and  
19          I have a right to do that. I'm not  
20          testifying. I'm making a finding of what  
21          I saw and what I observed, and that's what  
22          that was.

23                   That's why I made that comment, so  
24          you can take it for what it's worth.

25                   I also have a right under Rule 614(b)  
26          to interrogate witnesses, call witnesses,  
27          whatever I need to do to ferret out the  
28          facts in a case.

29                   And just because I ask you questions

1 during the hearing, it's not testimony of  
2 the judge. It's an interrogation of you  
3 as to ask you questions and make  
4 statements about what I observed. That is  
5 totally proper as a judge.

6 So in response to any of those  
7 comments, that's my response to that.

8 I will take this matter under  
9 advisement.

10 Anything else you want to say, Mr.  
11 Alford?

12 MR. SWAYZE ALFORD: No, sir, Your  
13 Honor.

14 HONORABLE ROBERT Q. WHITWELL: Mr.  
15 Davis, I didn't give you an opportunity.  
16 Do you want to say anything?

17 MR. WALTER DAVIS: I have nothing to  
18 add, Your Honor.

19 HONORABLE ROBERT Q. WHITWELL: All  
20 right. That will conclude this hearing.  
21 I will file a written response, as I'm  
22 required to under the rules, to this  
23 motion that Mr. Sullivant, Jr. has filed.

24 So that will conclude this hearing.

25 MR. SWAYZE ALFORD: Thank you, Your  
26 Honor.

27 MR. ROBERT SULLIVANT, JR.: Thank  
28 you, Your Honor.

29 (PROCEEDINGS CONCLUDED.)

## 1 COURT REPORTER'S CERTIFICATE

2  
3 STATE OF MISSISSIPPI

4 COUNTY OF UNION

5  
6 I, Cecily Boone Faulkner, RPR, CSR,  
7 Official Court Reporter for the Eighteenth Chancery  
8 District, Mississippi, do hereby certify that to the  
9 best of my skill and ability I have reported the  
10 proceedings had and done in the above styled and  
11 numbered cause on the docket of the Lafayette County  
12 Chancery Court, and the above and foregoing forty  
13 (40) pages contain a true, full and correct  
14 transcript of my stenographic notes and realtime  
15 taken in said proceedings.16  
17 I do further certify that my certificate  
18 attached hereto applies only to the original and  
19 certified transcript. The undersigned assumes no  
20 responsibility for the accuracy of any reproduced  
21 copies not made under my control or direction.  
2223 This the 8th day of July, 2023.  
2425  
26  
27  
28  
29  
/s/ Cecily Boone FaulknerCECILY BOONE FAULKNER, RPR, CSR  
Official Court Reporter  
512 Lakeview Cove  
New Albany, Mississippi 38652  
(662)316-1829  
National RPR No. 048426  
Mississippi CSR No. 1157

My Commission Expires: 1/12/2024



1 CHANCERY COURT OF LAFAYETTE COUNTY, MISSISSIPPI

2

3 ROBERT SULLIVANT, SR. PLAINIFF

4 VS. CAUSE NO. CV-2021-612

5 ROBERT SULLIVANT, JR. DEFENDANT

6

7

8 Expedited Transcript of 7/7/23

9

10

11 Original Transcript: \$200.00

12 Deposit Paid: \$250.00

13

14 REIMBURSEMENT OF \$50.00 VIA PERSONAL CHECK

15

16

17

18 Thank you,

19 Cecily

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21

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23

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