BILL GARRETT, Davidson County
Trans:T20100037167 ORDER
Recvd: 06/18/10 11:28 5 pgs
Fees:27.00 Taxes:0.00
20100618-0047576

# IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

RECEIVED
MAY 2 7 2010
Dav. Co. Chancery Court

**TOMMY BENSON** )
**Petitioner,** )
)
**Vs.** )
)
**TERESA LILLIAN EARP** )
**Respondent.** )

F07D
**No. 09-1454-III**
**Notice of Entry Requested**

2010 JUN 14 PM 3:26
FILED

## ORDER SETTING ASIDE DEED

This cause came to be heard on May 25th, 2010, upon Petitioner, Tommy Benson's Petition to Set Aside Deed. The Respondent did not appear. The property in dispute is located at 613 South 13th Street, Nashville, Davidson County, TN 37202, more fully described as land in Davidson County, Tennessee, being lot No. 101 of the Plan of Payne Blakemore and Cummings Subdivision, of record in Plat Book 57, page 70, Register's Office for Davidson County, Tennessee. A Warranty Deed, Instrument #20090601 - 0049806, Davidson County, Tennessee, Register's Office, was executed by Tommy Benson, Grantor, to Teresa Earp, Grantee, on September 17, 2008.

After the testimony of the Petitioner, the following facts were adopted by the Court:

On approximately September 15, 2008, Respondent, Teresa Earp, brought domestic violence charges against Petitioner, Tommy Benson, resulting in the incarceration of Tommy Benson. Mr. Benson remained incarcerated until 1:00 am September 17, 2008. Mr. Benson suffers from an advanced terminal liver condition which causes the ammonia levels in Mr. Benson blood to rise. Increased ammonia levels impair Mr. Benson's cognitive faculties causing disorientation. Additionally, Mr. Benson suffered burns to 90% of his body and takes Loritab to treat pain from this

condition. Upon his release from jail, (the charges of domestic violence were subsequently dismissed) Mr. Benson returned to his residence and was informed by Ms. Earp that he needed to be at a notary's office to execute a limited power of attorney in the morning. The parties went to a notary office an document was executed.

On September 17, 2008 Mr. Benson was greatly disoriented and did not read the document executed. Teresa Earp accompanied him to the notary's office.
Mr. Benson was in great physical distress as a result of his liver condition, incarceration and pain medication. Mr. Benson also believes that Ms. Earp caused him to ingest additional mind altering substances, including Loritab and Xanex.

After executing the documents the parties returned to the residence and Teresa Earp summoned the police. The police arrived and transported Mr. Benson to Vanderbilt Emergency Room and he was admitted. Mr. Benson remain hospitalized at Vanderbilt and was transported from Vanderbilt To Middle Tennessee Mental Health Hospital.

Mr. Benson did not learn of the executed deed until June, 2009. Mr. Benson did not intend to execute a deed to Ms. Earp. Some discussion had taken place about Mr. Benson giving Ms. Earp the property upon his death, but nothing had ever been finalized. Mr. Benson alleges that Ms. Earp knowingly, intentionally and maliciously took advantage of Mr. Benson's medical conditions, diminished mental condition and confidence in her to fraudulently obtain execution of the deed.

Based upon the above proof the finds that the Petitioner, Tommy Benson, lacked the requisite mental capacity to execute the deed to the Respondent, Teresa Earp.

It is, therefore, **ORDERED, ADJUDGED AND DECREED,** that the Deed #20090601-0049806, filed with the Davidson County, Tennessee, Register's Office on June 1, 2009, is hereby set aside. All costs in this matter shall be paid by the Respondent, Teresa Earp, for which execution may issue.

**It is so ORDERED.**

**Entered this the _____ day of _____, 2010.**

Ellen Hobbs Lyle

**Chancellor Ellen Hobbs Lyle**

Approved for Entry,

KST

Kevin S. Terry #15267
Attorney for Petitioner
211 Printers' Alley
Suite 600
Nashville, TN 37201
(615) 618-0107

I HEREBY CERTIFY THAT THIS IS A TRUE COPY
OF ORIGINAL INSTRUMENT FILED IN MY OFFICE
THIS 18th DAY OF June 2010
CRISTI SCOTT, CLERK & MASTER
BY _____ DEPUTY
DAVIDSON CO. TENN. NASHVILLE

**Certificate of Service**

I hereby certify that a true an exact copy of this document has been delivered to Ms. Earp at 1446 Ardee Avenue, Apt # 13, Nashville, TN 37216 on this the 27th day of May, 2010.

KST

Kevin S. Terry

**RULE 58 CERTIFICATION**

A Copy of this order has been served by U. S. Mail upon all parties or their counsel named above.

CS

Deputy Clerk and Master
Chancery Court

6/14/10
Date

BILL GARRETT, Davidson County
Trans:T20090035697 DEEDWARR
Recvd: 06/01/09 09:26 2 pgs
Fees:12.00 Taxes:0.00
[redacted]
20090601-0049806

FILED
2010 JUN 14 PM 3:26
BENTON GARRETT CLERK & MASTER DAVIDSON COUNTY

This Instrument Prepared by:
MARTIN A. KOOPERMAN
Attorney at Law
Duzane, Kooperman & Mondelli
603 Woodland Street
Nashville, TN 37206-4211
(615) 259-1214

**This firm did not conduct a title search, issue a title opinion letter, or issue the title insurance regarding the sale of this property.**

# WARRANTY DEED

| ADDRESS OF NEW OWNER: | SEND TAX BILLS TO: | MAP & PARCEL NO. |
|---|---|---|
| TERESA LILLIAN EARP | Same | Map 94-1 |
| 613 South 13th St. | | Parcel 92 |
| Nashville, TN 37206 | | |

**FOR AND IN CONSIDERATION** of $10.00 cash in hand paid by the Grantee named herein, and and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, I, **TOMMY BENSON, unmarried ("Grantor")**, have bargained and sold, and by these presents does hereby transfer and convey unto **TERESA LILLIAN EARP, unmarried ("Grantee")** and her heirs, successors and assigns, all my right, title and interest in and to the following described tract of land:

LAND in Davidson County, Tennessee, being Lot No. 101on the Plan of Payne Blakemore and Cummings Subdivision, of record in Plat Book 57, Page 70, Register's Office for Davidson County, Tennessee, to which Plan reference is hereby made for a more complete description of the property.

BEING the same property conveyed to Tommy Benson, unmarried, by Warranty Deed from Ronald S. Pardue and wife Nancy Sue Pardue of record in Instrument No. 20070717-0085194, Register's Office for Davidson County, Tennessee.

This conveyance is made subject to such limitations, restrictions and easements as may affect the premises.

This is improved property known as 613 South 13th Street, Nashville, Davidson County, Tennessee.

**TO HAVE AND TO HOLD** the Property, with the appurtenances, estate, title and interest thereto belonging to Grantee, her heirs, successors and assigns, forever; and Grantor does covenant with Grantee that she is lawfully seized and possessed of the Property in fee simple, has a good right to convey it, and the

same is unencumbered unless otherwise herein set out; and Grantor does further covenant and bind herself, her heirs, assigns and representatives, to warrant and forever defend the title to the Property to Grantee, her heirs, successors and assigns, against the lawful claims of all persons whomsoever. Wherever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**WITNESS** my hand this 17 day of September, 2008.

Tommy Benson
**TOMMY BENSON**

**STATE OF TENNESSEE )**
**COUNTY OF DAVIDSON )**

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, the within named bargainor, **TOMMY BENSON**, with whom I am personally acquainted, or proved to me based upon satisfactory information, and who acknowledged that she executed the within instrument for the purposes therein contained.

Witness my hand and official seal at Nashville, Tennessee, this 17 day of September, 2008.

Marcey Ward
**NOTARY PUBLIC**
My Commission Expires: May 8, ~~2008~~ 2012




**STATE OF TENNESSEE )**
**COUNTY OF DAVIDSON )**

The actual consideration or value whichever is greater for this transfer is $50.00.

**AFFIANT**

Sworn to and subscribed before me this
17 day of September, 2008.

Marcey Ward
**NOTARY PUBLIC**
**My Commission Expires:** May 8, 2012

