

IN THE DISTRICT COURT OF LINCOLN COUNTY, OKLAHOMA

Robert Henry Nickell, an infant under
the age of 14 years, who lives by
Virginia Tompkins, his mother and
next friend,

Plaintiff,

-vs-

No. 15034

U. S. Nickell, Aquilla McFerron,
Ada Dodson, Mary Kathryn Reart,
Ellis Nager Nickell, Franklin Edgar
Nickell, and Henry Stelson Nickell,
individually, and Henry Stelson Nickell
as Administrator of the Estate of
M. H. Nickell, deceased,

Defendants.

A B S U R D

Comes the defendants and for answer to the petition herein and the
respective counts thereof, allege and state;

1.

That this Court is without jurisdiction to hear and determine the
alleged matter set forth in the petition, said petition showing on its
face that the matter in controversy is within the exclusive jurisdiction
of the County Court of Lincoln County, Oklahoma, and that said Court has
jurisdiction to hear and determine every material averment set forth in
said petition, the authority of this court being appellate only.

2.

That said petition fails to state facts sufficient to constitute
a cause of action in favor of the plaintiff to the relief prayed for or
for any relief.

a cause of action in favor of the plaintiff to the relief prayed for or for any relief.

3.

Further answering defendants show the Court that the plaintiff, Robert Henry Mickell, is not a proper party for the further prosecution of this suit, for the reason that the same was instituted during his alleged minority by his adoptive mother, Virginia Townsley, who said Virginia Townsley having abandoned said suit and failing to prosecute the same, the issues therein have failed for want of prosecution and plaintiff,

having attained his majority since the original institution of said suit, can only prosecute his alleged claim in a suit originally instituted on his own behalf as an adult.

4.

Defendants deny each, every, all and singularly, the allegations of said petition, and ask the Court to require plaintiff to adduce strict proof of all such allegations of the alleged contractual relations between plaintiff and decedent or otherwise.

5.

Further answering, and for further defense, defendants specifically deny the existence of the alleged and pretended contract upon which plaintiff relies, and further shows the Court that the only relationship ever existing between plaintiff and the decedent, R. H. Mickell, was the relation of step-father and step-son during the married life of said decedent and the adoptive mother of said plaintiff, Virginia Townsley, and that said relationship was terminated by the divorce of said decedent and plaintiff's adoptive mother in cause No. D-528, entitled Jennie Mickell, plaintiff, vs. R. H. Mickell, defendant, in the District Court of Lincoln County, Oklahoma, and by virtue of a decree therein dated the 3rd day of December, 1934, which decree said relationship was terminated.

5. (6) Further answering, and for further defense, defendants specifically deny the existence of the alleged and pretended contract upon which plaintiff relies, and further shows the Court that the only relationship ever existing between plaintiff and the decedent, W. H. Mickell, was the relation of step-father and step-son during the married life of said decedent and the adoptive mother of said plaintiff, Virginia Townsley, and that said relationship was terminated by the divorce of said decedent and plaintiff's adoptive mother in cause No. D-523, entitled J. M. Mickell, Plaintiff, vs. W. H. Mickell, Defendant, in the District Court of Lincoln County, Oklahoma, and by virtue of a decree therein dated the 3rd day of December, 1934, which decree and other pleadings in said cause are all made a part of this petition by reference for all purposes as fully as if the same was embodied herein in full.

6.

For further answer and further defense, the defendants allege and show the Court that after the divorce of said decedent, W. H. Mickell, and said adoptive mother of plaintiff, the plaintiff who was an habitual drunkard continued and persistently thereafter remained in and about the home of said decedent, against the will of said decedent and after said decedent had attempted to rid himself of his presence, plaintiff persisting in coming to the decedent's home and without authority entering said home of said decedent and remaining there over the protest of said decedent, even after decedent had attempted to forcibly eject him from the premises, and that during all of his stay in and about the home of said decedent, he contributed nothing toward the maintenance of said home or the care of said decedent or assisted said decedent in any manner about his work and affairs, but on the contrary was continuously involved in violation of the criminal laws whereby said decedent agreed to obtain the release

