

BRENDA DISMUKES SADLER
8 Avenida de Manana
Pensacola, Florida 32561,

Petitioner,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MISC. 95-437

FINAL ORDER

Brenda Dismukes Sadler ("Petitioner") filed a claim with the Department concerning certain unclaimed stock being held by the Department. The Department's Unclaimed Property Section denied the claim, and the Petitioner appealed to the Administrative Law Division. A hearing was conducted on January 23, 1996. The Petitioner represented herself at the hearing. Assistant Counsel Dan Schmaeling represented the Department.

The issue in this case is whether the Petitioner is entitled to the unclaimed property in question. Specifically, has the Petitioner offered sufficient proof that her deceased husband, Glenn P. Dismukes, was the owner of the unclaimed stock. Glenn P. Dismukes died in 1980.

In 1992, the Department received certain stock and accrued dividends from AmSouth Bank as unclaimed property pursuant to Code of Ala. 1975, §35-12-20 et seq. The stock was listed in the name of either Glenn P. Dismukes or Rev. Glenn P. Dismukes. The address and social security number of Glenn P. Dismukes were unknown. A handwritten note from AmSouth bank indicated that the property had been acquired by AmSouth by merger with either American National

Bank in Mobile or First National Bank in Decatur.

The Department subsequently advertised the property in the largest newspaper in Jefferson County as required by Code of Ala. 1975, §35-12-32. The Petitioner was informed of the notice, and subsequently filed claims with the Department on the assumption that the Glenn P. Dismukes listed in the notice was her deceased husband.

The Petitioner argues that the property must have belonged to her deceased husband because (1) his family had lived in Mobile and did business with AmSouth Bank in Mobile, and (2) he was a reverend, the same as the owner of the disputed property.

The Department denied the claims because it was not satisfied that the Petitioner's deceased husband was the same Glenn P. Dismukes to which the property belonged. The Petitioner timely appealed to the Administrative Law Division.

This case turns on whether the Petitioner has submitted reasonable proof that her deceased husband was the owner of the stock in question? This is a close case, but in my opinion, she has.

As a general rule, the fact that a claimant has the identical name as the reported owner of unclaimed property is not, by itself, sufficient proof of ownership. However, in this case, both the owner and the Petitioner's deceased husband were both reverends.

The unusual name, Glenn P. Dismukes, also indicates that the two

are one in the same. The Department has also checked its computer records going back to 1988, and there is no other Glenn P. Dismukes on record.

Under the circumstances, there is reasonable proof that the Petitioner's deceased husband was the same Rev. Glenn P. Dismukes that owned the property in issue. Consequently, the Department should allow the Petitioner's claims for the stock and all increments that accrued before the stock was delivered to the Department. The Petitioner is not entitled to any increments that accrued after the stock was delivered to the Department. Code of Ala. 1975, §35-12-35.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered February 12, 1996.

BILL THOMPSON
Chief Administrative Law Judge