

93-007

No. ~~Involved~~

FILED DISTRICT COURT
COWLEY COUNTY, KANSAS

JAN 14 2 51 PM '94

Shelly Gasper, #12896
Assistant Attorney General
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MEMLWN.JE/SHELLYG/CEMETERY

IN THE DISTRICT COURT OF COWLEY COUNTY, KANSAS
SITTING IN ARKANSAS CITY

STATE OF KANSAS, ex rel.
ROBERT T. STEPHAN, Attorney General,

Plaintiff,

vs.

Case No. 93-C39-A

RICHARD SMART, NEXT HEIR OF DAVID
SMART; COWLEY COUNTY MEMORIAL LAWN
CEMETERY ASSOCIATION; V & A
ENTERPRISES, INC.; KATHRYN JACOBS,
EXECUTRIX OF THE ESTATE OF VERNON
JACOBS; ORVILLE DAVIS; FRANK
GRISWOLD; CEMETERY CORPORATION OF
AMERICA; BOARD OF COWLEY COUNTY
COMMISSIONERS and THE UNKNOWN
OFFICERS, TRUSTEES, SUCCESSORS,
CREDITORS AND ASSIGNS OF MEMORIAL
LAWN CEMETERY;

Defendants.

JOURNAL ENTRY

NOW on this 14th day of January, 1994, the above-entitled matter comes on regularly before the Court for hearing against defendants and the unknown officers, trustees, successors, creditors and assigns of Memorial Lawn Cemetery. The plaintiff appears by and through Shelly Gasper, Assistant Attorney General. The defendant, Board of County Commissioners of Cowley County,

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appears by William A. Taylor, III, Cowley County Counselor. Defendant, Orville Davis appears by Jacob Graybill. There are no other appearances.

The court being fully and duly advised finds as follows:

1) Plaintiff filed its original petition on November 8, 1993.

2) Defendant, David Smart was served by serving his next heir, Richard Smart, on November 15, 1993 by certified mail. Defendant, Board of County Commissioners of Cowley County, was served by serving the Cowley County Clerk on November 15, 1993 by certified mail. Defendant Frank Griswold was served by certified mail on November 13, 1993. Defendant Orville Davis was served by certified mail on November 16, 1993. Defendant Estate of Vernon Jacobs was served by serving the executrix, Kathryn Jacobs by certified mail on November 15, 1993. The remaining defendants, known and unknown, were served by publication notice.

3) Notice of Suit was published once a week for three consecutive weeks in the Winfield Daily Courier beginning on November 10, 1993. Proof of such publication has been filed with this court pursuant to K.S.A. 60-307.

4) This action was brought by the Attorney General of Kansas, Robert T. Stephan, as part of his enforcement duties under the Kansas Cemetery Corporations Act, K.S.A. 17-1366 and K.S.A. 17-1367.

5) The defendant, David Smart, deceased, is the last known owner of record of Memorial Lawn Cemetery.

6) The time for filing an answer is past and all defendants are in default or have filed disclaimers of interest except for those appearing herein.

7) The legal description of Memorial Lawn Cemetery is:

Section 36, Township 33, Range 3 North 1/2 of
the Northeast 1/4 of the Southeast 1/4 less
right of way.

8) Defendant, David Smart, was a cemetery corporation as defined by K.S.A. 17-1312(f).

9) Defendant, David Smart, failed, for a period of at least one year, to care for graves, grave markers, driveways and buildings.

10) Defendant, Memorial Lawn Cemetery, has not made annual reports to the Secretary of State pursuant to the provisions of K.S.A. 17-1312(a) et seq. and amendments thereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1) Any and all cemetery corporations holding title or interest in Memorial Lawn Cemetery are hereby dissolved.

2) Memorial Lawn Cemetery is hereby declared to be abandoned pursuant to K.S.A. 17-1367.

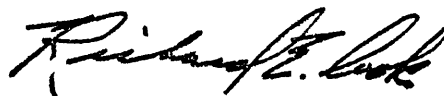
3) Title to all property described in paragraph 7 above is hereby transferred, free and clear of any liens or encumbrances of record, to the Board of County Commissioners of Cowley County, Kansas, pursuant to K.S.A. 17-1367.

4) All entities with records or funds of Memorial Lawn Cemetery shall transfer same to the Treasurer of Cowley County,

Kansas, and such records and funds shall become the property of such county.

5) The Municipality of Cowley County, Kansas, shall be responsible for maintenance of said cemetery.

IT IS SO ORDERED.



JUDGE OF THE DISTRICT COURT

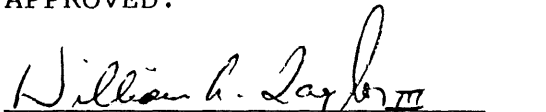
PREPARED AND APPROVED BY:



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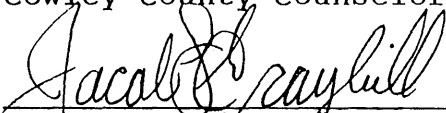
Attorney for Plaintiff
State of Kansas

APPROVED:



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