

Civil Procedure A
Prof. Brill
Fall 2012

Mid-term Examination

Bob and Ray Rebel are twin brothers, born in Mississippi, and still residing in the family home with their parents at 62 Elm Street, Oxford, Mississippi. They went to High School and college in Mississippi; they work in Oxford. Rarely do they venture outside the Magnolia State. But their primary outing is to hunt mallard ducks in Arkansas.

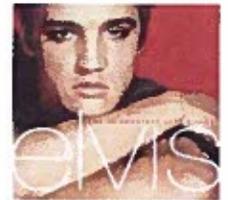


Each fall for the last 5 years they have crossed the Mississippi River bridge at Helena-West Helena; buy their Arkansas hunting license; purchase their supplies and head to the Stuttgart area. A week later, loaded with their catch, they head for the bridge and back home to Mississippi.

Wilma Wynne lives and works in Wynne, Arkansas, a charming town and the site of Village Creek State Park, 60 miles west of Memphis, Tennessee. Once a month, for a night on the town, she and friends go to Memphis for dinner and entertainment.



In September 2010 she was at Graceland, in Memphis, Tennessee, touring the home of Elvis for the first time. She saw Ray, also touring Graceland for the first time. Just as Elvis started singing "Love me Tender", their eyes met; sparks flew across the room; and they instantly bonded. Although they were both shy and innocent individuals, before the evening was over, they ended up in the Peabody Hotel. In the morning as they left, they said "same time next year."



In September 2011 he arrived at the hotel, and expectantly waited for her arrival. She walked in, with a three month old son, Bubba! Bubba had been born in the Wynne, Arkansas hospital. When Ray said he could not be the father, Wilma replied, "you are the only one, you are his dad." At her request he crossed the Mississippi River and had a blood test done in Arkansas. The blood test confirmed that he was the father.



In January 2012 Wilma brought a lawsuit against Ray in Arkansas state court, seeking a determination of paternity and an award of monthly child support. The Circuit Court of Cross County, Arkansas, properly and promptly issued a summons. Wilma's attorney was sick and extremely occupied with other matters, and therefore unable to tend to the case for several months. In July 2012 the attorney contacted a Mississippi sheriff and told him to "serve Ray properly." The sheriff went to 62 Elm Street on a Saturday afternoon; Bob was cooking ribs and watching Albert Pujols and the St. Louis Cardinals on television; the sheriff left the papers with Bob, and told him to deliver the papers to Ray; that evening Bob gave the papers to his brother.

Ray's attorney has filed several motions with the Arkansas state court, including 12(b)(2), 12(b)(4) and 12(b)(5).

In response, Wilma's attorney stated to the court: "Your honor, this case is easy. The defense motions have no merits. Ray has minimum contacts in Arkansas; he hunts here; he had the blood test here; Bubba was born here; jurisdiction is proper under cases such as Hess and Perkins. Ray was properly and reasonably notified under Mullane. The motions should be denied. This case should go forward."

You represent the defendant Ray. You are standing in front of the Arkansas trial judge. Make the best argument you can. Be sure to refute the obvious arguments of the plaintiff. Be organized, be logical, be creative (if necessary, and reasonably) be comprehensive.

1. Your answer will be based on your knowledge of the law, your presentation of the law, your responsiveness to the assigned task, your organization, your thoroughness, your persuasiveness, your creativity and similar factors.
2. You may keep this essay question.
3. This question is based, in part, on Payne v. France, 373 Ark. 175, 282 S.W.3d 760 (2008).