

**IN THE CHANCERY COURT OF      COUNTY, MISSISSIPPI**

**IN THE MATTER OF      ,  
ALLEGED TO BE MENTALLY ILL**

**MOTION TO DISMISS FOR LACK OF JURISDICTION, OR  
IN THE ALTERNATIVE, FOR A CHANGE OF VENUE**

, Guardian of      , moves the Court as follows:

1.      The Movant is the duly and lawfully appointed guardian of      , non compos mentis, having been duly appointed by the Chancery Court of      County, Mississippi.
2.      The      , has filed a Petition in this Court seeking appointment of a guardian ad litem for      who is an inmate at the      Hospital.
3.           is and has always been a resident of      County, Mississippi; the currently appointed guardian is a resident of      County, Mississippi.
4.      All of the property owned by      , other than negligible personal effects such as clothing, is situated either in      County, Mississippi or      County, Mississippi.
5.      Section 93-13-123 and Section 125, Mississippi Code of 1972, as amended, provides that the Chancery Court in any county in which may be situated the property of a person who has been adjudicated to be of unsound mind is the Court which shall have jurisdiction of the appointment of a guardian; likewise, said statutes provide that the Chancery Court of the county of residence of such persons shall likewise have the aforementioned jurisdiction.
6.      Section 93-13-121, Mississippi Code of 1972, as amended, provides that any petition for appointment of a guardian shall be filed by the incompetent or his/her guardian in the office of the Clerk of the Chancery Clerk in the county of the residence of the incompetent.
7.           County is not the county of residence of      nor is it the county where his/her property is located.
8.      The issue of standing of the      has been raised in a separate motion but the guardian hereby again asserts that the said      has no standing to bring this action; however, in the event that the Court determines such Motion should be heard, the guardian maintains that this Court has no jurisdiction for the appointment of a guardian of      , a resident of      County, Mississippi, whose property is located in      and I or      counties, Mississippi.
9.      In the alternative, if the Court finds it appropriate not to dismiss said Motion, then the said Motion For Appointment Of A Guardian Ad Litem should be transferred to either to County Chancery Court, being the county of residence of      or      County Mississippi, being the county of residence of the guardian of      and the county in which all of the property of      is located.

10. The statutes pertaining to the jurisdiction of the Chancery Court of the county where a public facility is located (as the same may relate to outpatient commitments) is not applicable to matters pertaining to the appointment of a guardian.

11. The confinement of to the Hospital does not alter the fact of his/her residence or domicile. He/She was committed to the State Hospital by the Chancery Court of County, Mississippi while he/she was a resident of County, Mississippi and for all purposes he/she has remained a resident of County, Mississippi and is, at this time, a resident of County, Mississippi.

12. Having been adjudicated non compos mentis, is, for all intents and purposes, a legal infant. A legal infant occupies essentially the same legal position as a minor and, in so far as residence is concerned, a minor cannot choose his/her own residence but rather assumes the residence of his/her parents or guardian. In this case such places of residence would be either County, Mississippi or County, Mississippi.

13. Where a guardian has been previously appointed by one Court, another Court is without authority to appoint a second guardian while the first is still serving ( vs. , 94 So2d 610).

WHEREFORE, PREMISES CONSIDERED:

, guardian of , moves the Court to dismiss the Motion For Guardian Ad Litem filed herein by the , for the reason that this Court is without jurisdiction to hear this matter or, in the alternative, to transfer said Motion to the Chancery Court of County, Mississippi or the Court of County, Mississippi.

And Movant prays for general relief.

Respectfully submitted,

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Attorney for

Of counsel:

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Attorney for