



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Jesse James
State Treasurer
Austin, Texas

Dear Mr. James:

Opinion No. O-4523
Re: Payment of judgment to heirs of
Joseph R. Eastburn.

We have examined the nunc pro tunc judgment dated March 24, 1942, sent to you in cause No. 49,107, Elizabeth P. Thilow, et al., v. Charley Lockhart, rendered in the District Court at El Paso. It appears that this judgment was certified to the county court in El Paso and has been entered in the minutes of that court as the judgment of the county court, as shown by the certificate from the clerk of the county court in El Paso.

There is also attached to your letter a copy of the judgment rendered in 1935 by the county court in El Paso, under which the money was deposited with the State Treasurer.

The letter from Mr. E. R. Gamble, the Attorney who sent you the papers states that the case originated in the county court and was appealed to the district court. The judgment of the district court directs that its judgment be certified to the county court for observance. It is therefore apparent that the case originated in the county court, as is required by Article 3652 of the Revised Statutes.

You are therefore advised to pay the money to the parties named in said judgment. You should issue a warrant payable to each respective party in the sum named in the judgment.

We note the request of Mr. Gamble that the entire fund be sent to the clerk or someone else there for distribution. Under the law you cannot follow this procedure but you are required to pay to each claimant the amount to which the court finds he is entitled.

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We are returning to you herewith the letter you received from Mr. Gamble, the judgment of the district and county courts, as well as the other papers attached to your file.

Yours very truly

ATTORNEY GENERAL OF TEXAS

SEP 1 1942
Gov. Sells
GOVERNOR

By

Geo. W. Barcus
Geo. W. Barcus
Assistant

OWN:AMM

ENCLOSURES

APPROVED
OPINION
COMMITTED
BY *Blw*
CHAIRMAN