

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2025-CP-00551-COA

**IN THE MATTER OF THE ESTATE OF LARRY
RICHARDSON, DECEASED: MARLON ULMER**

APPELLANT

v.

**LIONEL RICHARDSON, ADMINISTRATOR OF
THE ESTATE OF LARRY RICHARDSON**

APPELLEE

DATE OF JUDGMENT:	04/09/2025
TRIAL JUDGE:	HON. BILLIE J. GRAHAM
COURT FROM WHICH APPEALED:	JONES COUNTY CHANCERY COURT, SECOND JUDICIAL DISTRICT
ATTORNEY FOR APPELLANT:	MARLON ULMER (PRO SE)
ATTORNEY FOR APPELLEE:	ERIC NICHOLAS CERRA
NATURE OF THE CASE:	CIVIL - WILLS, TRUSTS, AND ESTATES
DISPOSITION:	AFFIRMED - 10/20/2026
MOTION FOR REHEARING FILED:	

BEFORE CARLTON, P.J., McDONALD AND EMFINGER, JJ.

McDONALD, J., FOR THE COURT:

¶1. Marlon Ulmer appeals the Jones County Chancery Court’s determination that his petition to be adjudicated an heir of Larry Richardson, who died intestate in December 2022, was untimely. Larry’s nephew, Lionel Richardson, filed a petition to open Larry’s estate and determine his heirs. Ulmer sought to intervene and requested that the chancery court declare him Larry’s sole heir. The chancery court denied Ulmer relief because he had failed to establish paternity within the time required by Mississippi Code Annotated section 91-1-15(3)(c) (Rev. 2021).¹ On appeal, Ulmer argues that the chancery court erred when it (1)

¹ Section 91-1-15(3)(c) requires that there must be “an adjudication of paternity after the death of the intestate, based upon clear and convincing evidence, in an heirship proceeding. . . .”

excluded him as Larry's heir, (2) failed to order DNA testing to establish paternity, and (3) closed Larry's estate without recognizing him as an heir.

FACTS AND PROCEDURAL HISTORY

¶2. Larry Richardson died intestate on December 18, 2022. According to his obituary, Larry had two children: one daughter, Shentoria Richardson, and one son, Marlon Ulmer. Larry's parents, however, had adopted Shentoria on March 16, 1979, and the chancery court found that she was Larry's sibling. Ulmer, however, was born out of wedlock, and his paternity was not established during Larry's lifetime. Larry had six biological siblings: (1) Eddie Richardson Jr., (2) Carla Watts, (3) Ronnie Richardson, (4) Bernice Cooley, (5) Thomas Richardson, and (6) Charlene Heidelberg.

¶3. On March 28, 2023, Lionel Richardson, Larry's nephew, filed a petition to open Larry's estate and appoint himself as the administrator. That same day, the chancery court issued an order opening the estate and appointing Lionel as administrator, contingent upon his taking the oath and posting a bond. On April 18, 2023, Lionel did both. Ulmer was not served with a copy of the petition. The *Laurel Leader-Call* published the notice to creditors on April 22, April 29, and May 6, 2023.

¶4. On May 23, 2023, the Estate filed a petition to adjudicate heirs, claiming that Larry's seven siblings, which included Shentoria, were the "sole and only lawful heirs-at-law of the decedent" and that the administrator was "not aware of any other persons who claim to be heirs at law." A hearing on the petition was set for July 13, 2023, and notice to unknown heirs was published on June 3, June 10, and June 17, 2023. Ulmer was not personally served

with the petition or the notice of hearing.

¶5. Ulmer did not file any response to the Estate's petition to establish heirship. Instead, on June 9, 2023, Ulmer, by and through counsel, filed a motion to intervene. Ulmer alleged that he was Larry's biological son and the sole beneficiary of Larry's estate and requested that the court order DNA testing to confirm the relationship. On June 12, 2023, the Estate filed its response to Ulmer's motion to intervene, asking that the motion be struck and that Rule 11 sanctions be imposed.

¶6. On July 13, 2023, the chancery court held a hearing on the Estate's petition to determine heirs. The court noted in its order that

all persons claiming to be the heirs at law of Larry Richardson were thrice called in open court, but none appeared except Marlon Ulmer did appear, without counsel, and claim to be the biological son of the decedent herein but offered no evidence of his kinship. . . .

The court entered an order adjudicating heirs at law of Larry Richardson, finding that Larry's sole and only heirs were his siblings, including Shentoria.

¶7. Ulmer took no further action until nearly a year after his June 9, 2023 filing and more than a year after Larry's death. On June 3, 2024, Ulmer, acting pro se, again moved to intervene under Mississippi Rule of Civil Procedure 24(a). Ulmer asserted that the Estate failed to acknowledge him as Larry's sole heir and beneficiary, and he requested DNA testing to establish paternity. Additionally, Ulmer attached recent LabCorp DNA results for himself, his mother (Sandra Collier), and Shentoria Richardson. The test confirmed a 99.11% probability that Ulmer and Shentoria were paternal half-siblings. Ulmer also attached receipts showing that he paid \$4,900 toward Larry's funeral expenses and purchased

other funeral items.

¶8. On July 11, 2024,² the administrator filed a petition to close the estate, discharge the administrator, and secure related relief. The petition asserted that Larry’s biological daughter, Shentoria, could inherit³ as a sibling because she was adopted by Larry’s parents. The petition also noted that Ulmer attended the heirship hearing to claim status as Larry’s biological son, but failed to pursue that claim.

¶9. A Rule 81 summons was issued to the heirs and Ulmer for a hearing on the motion to close the estate, set for September 10, 2024. On August 21, 2024, Ulmer, through new counsel, objected to the petition to close the estate. Ulmer explained that he had filed a second motion for leave to intervene, supported by DNA testing confirming that he and Shentoria are paternal half-siblings. Based on these results, Ulmer contended that because Shentoria’s adoption by her paternal grandparents legally placed her as Larry’s sibling, he remains Larry’s sole surviving heir.

² In the interim, on March 21, 2024, Lionel filed a motion to sell real estate, requesting to sell Larry’s real property to Thomas Richardson for \$50,000. On May 15, 2024, Lionel amended the motion, with notice of hearing, changing the sale amount from \$50,000 to \$60,000. On May 24, 2024, Lionel filed a second motion to sell real estate, including notice of a hearing. Further, Lionel explained his request to sell by stating that dividing the property among the numerous heirs would be “burdensome” to the estate and that selling the property would be in the best interest of all parties. On May 28, 2024, the court granted Lionel permission to sell Larry’s property.

³ None of the parties contest that Shentoria had been adopted by Larry’s parents. It should be noted that Shentoria attempted to pursue her paternity claim herself but abandoned it at some point. Had she pursued her claim, she very likely could have inherited from Larry because she had already been adjudicated through the adoption process to be his sibling and, thus, a legal heir. It is clear under Mississippi law that adopted children can inherit from both their adoptive and biological family members. *Mitchell v. Moore*, 237 So. 3d 681, 688 (¶¶42-44) (Miss. 2017).

¶10. The September hearing was continued to February 4, 2025.⁴ On January 22, 2025, Ulmer filed a notice of intent to offer medical records by certification. The records included affidavits and genetic testing data between Ulmer, Sandra, and Shentoria.

¶11. On February 11, 2025, Ulmer petitioned the chancery court to adjudicate him as Larry's heir and appoint him as administrator. A few days later, the Estate moved to dismiss and strike Ulmer's petition, contending that it was untimely under Mississippi Code Annotated section 91-1-15(3)(c). Relying on *Jamison v. Williams (In re Estate of Elmore)*, 150 So. 3d 709, 712 (¶18) (Miss. Ct. App. 2013), the Estate argued that Ulmer's June 9, 2023 motion to intervene ceased any tolling attributable to his lack of notice and triggered a ninety-day limitations period to adjudicate his paternity.

¶12. The Estate also argued that section 91-1-15(3)(c) required Ulmer to establish paternity within one year of Larry's death. Because Larry died on December 18, 2022, the Estate maintained that the limitations period expired on December 18, 2023, and barred Ulmer's claim.

¶13. Additionally, the Estate challenged Ulmer's proof of paternity. Although Ulmer relied on genetic testing data that identified him and Shentoria as paternal siblings, the Estate questioned Shentoria's paternity because the adoption decree identified her mother as her only living parent even though Larry was alive at the time of the adoption. Because of this discrepancy, the Estate moved to dismiss Ulmer's claim, asserting that Ulmer's genetic testing did not establish paternity and requesting \$3,000 in attorney's fees.

⁴ Although not reflected on the docket, the hearing was continued without objection from any parties and ultimately held on April 8, 2025.

¶14. On February 20, 2025, Ulmer responded to the Estate’s motion to dismiss. Ulmer claimed that his motion to intervene gave the Estate notice of his claim. Ulmer argued that the Estate was then required to give him a separate notice of his ninety-day deadline to file the paternity action.⁵ He cited *Smith ex. rel. Young v. Estate of King*, 579 So. 2d 1250 (Miss. 1991), and *Haley v. Thomas (In re Est. of Thomas)*, 883 So. 2d 1173 (Miss. 2004).

¶15. On April 8, 2025, the chancery court held a hearing on Ulmer’s petition and the Estate’s motion to dismiss. The Estate argued that *Elmore* controlled because Ulmer made an appearance by filing his motion to intervene. This appearance ceased the tolling of any limitation period due to Ulmer’s lack of notice. In response, Ulmer argued that the Estate’s failure to provide him notice created a due process issue, citing *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 487-88 (1988).

¶16. Ultimately, the chancery court found that Ulmer had sufficient notice of the estate proceedings but failed to comply with the statutory requirements for establishing paternity.

The chancery court cited *Elmore* in its ruling, stating:

Ninety-day limitations period applicable to complaint to determine paternity that was filed by decedent’s purported illegitimate child, which was tolled as a result of the failure by administrator of decedent’s intestate estate to give notice to purported illegitimate child, was untolled but such child’s filing of Motion to Intervene in the estate administration. Filing of Motion demonstrated that purported illegitimate child had actual notice of the proceeding.

Here, as in *Elmore*, Ulmer filed a motion to intervene on June 9, 2023, indicating his notice

⁵ On appeal, Ulmer abandons this argument and does not argue that the Estate owed him additional notice of the ninety-day period. In any event, section 91-1-15(3)(c) does not require separate notice.

of the proceedings. But he failed to file a petition to establish paternity within ninety days as required by the statute. Thus, the chancery court issued an order denying Ulmer's heirship claims as untimely, pursuant to section 91-1-15(3)(c), and entered another order granting the administrator's request for leave to file an amended petition to close the estate.

¶17. On May 8, 2025, Ulmer appealed, arguing that his paternity claim was not barred under section 91-1-15(3)(c).

STANDARD OF REVIEW

¶18. Our review of appeals from chancery court is limited. *Curry v. Thomas (In re Est. of Lewis)*, 422 So. 3d 484, 492 (¶26) (Miss. Ct. App. 2025) (citing *Miller v. Pannell*, 815 So. 2d 1117, 1119 (¶9) (Miss. 2002)). "An appellate court will not disturb the factual findings of a chancellor unless such findings are manifestly wrong or clearly erroneous. If there is substantial evidence to support the chancellor's findings of fact, those findings must be affirmed. On questions of law, this Court reviews the record de novo." *In re Est. of Elmore*, 150 So. 3d 709, 710 (¶7) (Miss. Ct. App. 2013) (quoting *In re Est. of Thomas*, 883 So. 2d at 1176 (¶9)), *aff'd on other grounds*, 150 So. 3d 700 (Miss. 2014). "Application of a statute of limitation is a question of law to which a de novo standard also applies." *Vanderford v. Est. of Gibson (In re. Est. of Gibson)*, No. 2024-CA-01355-COA, 2026 WL 2095000, at *4 (¶31) (Miss. Ct. App. July 21, 2026) (quoting *Sarris v. Smith*, 782 So. 2d 721, 723 (¶6) (Miss. 2001)).

DISCUSSION

¶19. Ulmer raises several issues on appeal; however, because the timeliness of Ulmer's

heirship claim is dispositive, we address whether section 91-1-15(3)(c) bars his claim.

¶20. The Estate contends that under section 91-1-15(3)(c),⁶ Ulmer's petition to adjudicate his paternity and establish himself as Larry's heir was time-barred. The limitations period to file a claim to adjudicate the paternity of an alleged nonmarital child for purposes of inheritance is governed by section 91-1-15(3)(c), which provides:

(c) However, no such claim of inheritance shall be recognized unless the action seeking an adjudication of paternity is filed within one (1) year after the death of the intestate or within ninety (90) days after the first publication of notice to creditors to present their claims, whichever is less; and such time period shall run notwithstanding the minority of a child. This one-year limitation shall be self-executing and may not be tolled for any reason, including lack of notice. *If an administrator is appointed for the estate of the intestate and notice to creditors is given, then the limitation period shall be reduced to ninety (90) days after the first publication of notice, if less than one (1) year from the date of the intestate's death; provided actual, written notice*

⁶ Although the statute uses the antiquated term "illegitimate," we refer to children born to unmarried parents as "nonmarital child[ren]" throughout this opinion instead of using the statutory term "illegitimate child." The terminology used in the statute has been expressly addressed by Judge Westbrook on several occasions:

[C]hildren born out of wedlock should be referred to as "nonmarital natural children." Under Mississippi Code Annotated section 91-1-15(d) "natural parents" is the term used to define the biological mother or father of the "illegitimate child." Since this term already acknowledges the biological relationship of each parent to the child, the term "nonmarital natural child" could effectively replace "illegitimate." This more modern term highlights the relationship between the child and parent without carrying a negative connotation. Other states around the country have also begun changing their language. The term "nonmarital natural child" recognizes that the child is a natural child of a nonmarital parent, resulting in the distinction between "marital natural children" and "nonmarital natural children."

In re Est. of Lewis, 422 So. 3d at 484, 495-96 (¶¶38-40) (Westbrooks, J., specially concurring); *Est. of Dorsey v. Matory*, 435 So. 3d 976, 987 (¶34) (Miss. Ct. App. 2025) (Westbrooks, J., specially concurring); *see also In re Est. of Gibson*, 2026 WL 2095000, at *5 (¶¶37-38).

is given to all potential illegitimate heirs who could be located with reasonable diligence. . . .

Miss. Code Ann. § 91-1-15(3)(c) (emphasis added). This Court held in *In re Estate of Lewis*, 422 So. 3d at 493 (¶29), that section 91-1-15(3)(c) is a “nonclaim statute” that no party may waive. Unlike a standard statute of limitations, a nonclaim statute is self-contained; it makes timely filing a strict condition of the right to sue and explicitly prohibits untimely claims. *See* 54 C.J.S. *Limitations of Actions* § 32 (updated May 2025).

¶21. In this case, Ulmer failed to establish paternity during Larry’s lifetime. Larry passed away on December 18, 2022. Under section 91-1-15(3)(c), any action seeking an adjudication of paternity for inheritance had to be filed within one year of Larry’s death or ninety days from the first day of publication, whichever is less, if Ulmer had notice of the estate proceedings.

¶22. *In re Estate of Elmore*, 150 So. 3d 709 (Miss. Ct. App. 2013), is applicable to this case, although not in the same posture.⁷ There, Elmore died intestate on November 5, 2000. On March 13, 2002, Kathleen Jamison alleged that she was Elmore’s sole heir and petitioned to open an estate and appoint herself as the administrator. *Id.* at 710 (¶3). She later amended the petition to add Tekeyia as an additional surviving heir. *Id.* On August 21, 2003, the chancery court opened the estate and appointed Kathleen as administrator. *Id.* A few days later, Kathleen issued and published notice to the creditors, but she failed to provide Elmore’s nonmarital son Cedric with notice of the estate proceeding. *Id.* at 712 (¶¶16-17).

⁷ In *Elmore*, 150 So. 3d at 702 (¶¶5-7), the Supreme Court granted certiorari and affirmed our disposition to reverse the chancellor’s denial of the motion to dismiss the complaint for the determination of heirship on other grounds.

¶23. Approximately eight years later, on March 2, 2011, Cedric filed a motion to remove Kathleen as administrator. *Id.* at 710 (¶4). Cedric’s motion acknowledged that the estate had been opened in 2003, that he knew Kathleen was appointed as administrator, and that she had published notice to the creditors. *Id.* at 712 (¶17). Four months after filing his petition to remove Kathleen, Cedric filed a complaint to determine paternity and heirship. *Id.* at 710 (¶5). Kathleen moved to dismiss the complaint, arguing that Cedric (1) lacked standing as an interested party, (2) failed to state a claim, and (3) was barred by the statute of limitations. *Id.* at (¶5). On October 11, 2011, the chancery court denied Kathleen’s motion and permitted Cedric to intervene. *Id.* at (¶6). On June 19, 2012, the chancery court held a paternity hearing and found that Cedric was Elmore’s son and a lawful heir. *Id.* at (¶¶5-6). Kathleen appealed, arguing that the chancery court (1) erred in applying the ninety-day statute of limitations rather than the one-year statute of limitations under section 91-1-15(3)(c), and (2) erred in finding that the ninety-day statutory limitations period was not tolled. *Id.* at 710-12 (¶¶6-14).

¶24. On appeal, this Court held that Cedric’s March 2, 2011 motion demonstrated his actual knowledge of the estate proceeding and ended any tolling attributable to Kathleen’s failure to provide him notice. *Id.* at 712-13 (¶¶17-19). Once Cedric filed that motion, he had ninety days to seek an adjudication of paternity under section 91-1-15(3)(c). *Id.* at 713 (¶18). However, because Cedric waited until July 7, 2011, to file his paternity complaint, we held that section 91-1-15(3)(c) barred his claim and reversed the chancery court’s judgment. *Id.* at (¶19).

¶25. The same analysis set forth in *Elmore* applies in Ulmer’s case here. Similar to Cedric in *Elmore*, Ulmer did not initially receive notice of the estate proceeding. The administrator published notice to creditors on April 22, April 29, and May 6, 2023, but conceded that Ulmer received no notice. However, like Cedric, on June 9, 2023, Ulmer filed a motion to intervene, demonstrating that he had actual knowledge of the estate proceedings. Applying *Elmore*, Ulmer’s filing ceased any tolling attributable to his lack of notice and triggered the ninety-day limitations period. Thus, Ulmer had ninety days – until September 7, 2023 – to file a petition to establish paternity.

¶26. Ulmer did not act within the mandatory statutory period. Moreover, although Ulmer appeared at the estate’s heirship hearing, he failed to present evidence to establish paternity. Instead, Ulmer took no further action until August 2024, when he objected to closing the estate. By that point, the ninety-day limitations period had already expired. Just as Cedric’s actual knowledge triggered the clock in *Elmore*, Ulmer’s June 9, 2023 motion to intervene triggered the limitations period here. Because Ulmer failed to establish paternity within the ninety-day period, the chancery court correctly concluded that section 91-1-15(3)(c) barred⁸ his claim to inherit as Larry’s heir-at-law.

¶27. Additionally, in his reply brief, Ulmer argues that the Estate failed to identify him as an heir, citing *Smith ex rel. Young v. Estate of King*, 579 So. 2d 1250 (Miss. 1991), and *In re Estate of Thomas*, 883 So. 2d 1173 (Miss. 2004). However, issues raised for the first time in the reply brief are not considered. *Biegel v. Gilmer*, 329 So. 3d 431, 434 (¶11) (Miss.

⁸ Additionally, Ulmer was also barred by the one-year statute since he did not file his action to establish paternity until August 21, 2024.

2020); *see also Polk v. State*, 435 So. 3d 454, 459 (¶20) (Miss. Ct. App. 2026) (finding new issues raised for the first time in a reply brief are waived). Thus, Ulmer’s argument has been waived.

¶28. Notwithstanding the waiver, Ulmer’s argument fails because *Smith* and *Thomas* do not apply. Although the administrator knew that Ulmer was listed as a child in the obituary yet failed to notify him of the estate proceedings, Ulmer had actual notice of the estate proceedings at least by his June 9, 2023 motion to intervene. Thereafter, Ulmer failed to timely file a petition to establish paternity, and *In re Estate of Elmore* controls.

CONCLUSION

¶29. Because Ulmer failed to file a petition for an adjudication of paternity within ninety days of filing his motion to intervene, under section 91-1-15(3)(c) he is barred from inheriting as Larry’s heir-at-law. Finding that the chancery court correctly dismissed Ulmer’s heirship claim and granted the administrator leave to amend the petition to close the estate, we affirm the judgment of the Jones County Chancery Court.

¶30. **AFFIRMED.**

BARNES, C.J., CARLTON AND WILSON, P.JJ., LAWRENCE, McCARTY, EMFINGER, WEDDLE AND LASSITTER ST. PÉ, JJ., CONCUR. WESTBROOKS, J., CONCURS IN RESULT ONLY WITHOUT SEPARATE WRITTEN OPINION.