

MCGUFFEY v. HAYNIE, CHANCELLOR.

4-8395

208 S. W. 2d 10

Per Curiam Opinion delivered January 26, 1948.

Rehearing denied February 23, 1948.

PROHIBITION.—Where in preliminary proceedings factual matters are presented for the trial court's determination, prohibition will not lie to correct an erroneous decision.

Prohibition to Calhoun Chancery Court; *George R. Haynie*, Chancellor; writ denied.

J. R. Wilson, for petitioner.

L. B. Smead and *Bernard Whetstone*, for respondent.

Per Curiam. We are asked to prohibit the trial court from proceeding in this cause for the asserted reason that it is without jurisdiction of parties for want of valid service. The petition is denied on authority of *Twin City Lines, Inc., v. Cummings, Judge, ante*, p. 569, 206 S. W. 2d 438, decided by this court December 15, 1947. Cases are there cited in support of the rule that where in preliminary proceedings factual matters are presented for the trial court's determination, prohibition will not be predicated upon an alleged erroneous decision.
