

FINDINGS OF FACT

ONE: Plaintiff is the older brother of the Defendant. The parties grew up in the stick-built house located upon the one (1.0) acre Lot. Their Mother, Lydia Williams, lived in this house until her death in September, 1999. After their Mother's death, the house was intermittently vacant and/or occupied from time to time by members of the parties' extended family as needed, including Plaintiff. Defendant acquired the (1.0) acre Lot located on Long Point Road, Mount Pleasant, Charleston County, SC, together with the old stick-built house located at the front portion of the Lot near Long Point Road ("Subject Property"), from his aunt, Loretta Brown, in June, 2012. In 2013, Defendant initiated a civil action in the Court of Common Pleas for Charleston County, Case No. 2013-CP10-4058, to clear title to the Subject Property due to the deaths of certain predecessors-in-title and the absence of any probate of such deceased persons. Plaintiff was not named as a Defendant in the action, however, he was aware of the action and was present in the Courtroom at the time of the Final Hearing before this Court. A Master's Deed was issued to the Defendant on October 21, 2014 confirming title to the Subject Property in the name of Defendant. The Master's Deed was recorded in the Charleston County ROD on November 10, 2014, in Book 0440, at Page 008;

TWO: In 1996, Defendant cleared the rear portion of the Subject Property and moved a mobile home onto the property where Defendant, his wife and three (3) sons lived as their primary residence until 2019, when they relocated to Summerville, SC. The area where Defendant's mobile home was located was assigned an address of 935 Long Point Road, Mount Pleasant, SC, while the old stick-built house was assigned an address of 933 Long Point Road, Mount Pleasant, SC;

THREE: After acquiring the Subject Property in 2012, Defendant offered to allow Plaintiff to stay in the stick-built house located upon the Subject Property and provided Plaintiff a key to the house. Over the next few years Plaintiff mostly stayed at the house located upon the Subject Property although Plaintiff would go back and forth to his girlfriends' homes where he would stay for a few weeks at a time and was also intermittently incarcerated on driving related offenses. In Plaintiff's absence from the home, Defendant would use his key to gain entry to the home to make sure everything was in order. Although Plaintiff occasionally gave Defendant money for a portion of the real property taxes for the Subject Property, Defendant has primarily paid the real property taxes on the Subject Property since 2012. Plaintiff purchased a single-family residence in Camden County, Georgia in 2019 and occasionally stays in this home;

FOUR: In 2016, Defendant sought entry into the house located upon the Subject Property and discovered that Plaintiff had changed the locks. When Defendant inquired of Plaintiff as to why he had changed the locks, Plaintiff advised Defendant that his girlfriend was occasionally staying at the home and Plaintiff didn't want Defendant accidentally walking in on them or her in the event she was not properly clothed. Defendant accepted Plaintiff's explanation and did not insist on having a key to the house;

FIVE: On or about March, 2019, Defendant advised Plaintiff that he was contemplating razing the house where Plaintiff was staying to build a home for Defendant's sons to live and offered Plaintiff the opportunity to stay in Defendant's mobile home located at the rear portion of the Subject Property. Plaintiff angrily objected and stated to Defendant that "I'll kill you". Defendant promptly initiated an ejectment action in the local Magistrate's Court to have Plaintiff ejected from the stick-built house, however, Plaintiff retained an attorney and Defendant was

advised by the Magistrate that the matter needed to be heard in Circuit Court due to Plaintiff's challenge to defendant's title to the Property. Plaintiff initiated this action soon after the ejectment action was dismissed by the Magistrate.

CONCLUSIONS OF LAW

ONE: This Court has jurisdiction over the subject matter of this action and the parties hereto and venue is proper in Charleston County, SC;

TWO: To constitute adverse possession, which results in obtaining title to the disputed property, the possession must be continuous, hostile, open, actual, notorious, and exclusive for the requisite period. Getsinger v. Midlands Orthopaedic Profit Sharing Plan, 489 S.E.2d 223 (Ct. App. 1997). Possession is presumed to follow title and the burden is on the party alleging adverse possession to prove all facts necessary to establish that allegation. Stokes v. Murray, 87 S.E. 71 (1915). The claimant's possession must be hostile to not only the true owner, but also to the rest of the world so as to indicate his exclusive ownership of the property. Getsinger, supra at Page 226. Occasional and temporary use or occupation does not constitute adverse possession. Weston v. Morgan, 160 S.E. 436 (1931). Moreover, the mere possession of land does not, in and of itself, show hostility to the owner. Knight v. Hilton, 79 S.E.2d 871 (1954). In determining what amounts to hostility within the rule requiring adverse possession to be hostile from its inception, the relation which the party claiming adverse possession occupies with reference to the owner is determinative, as generally law presumes that exclusive possession of land by one who is a stranger to the holder of the legal title is adverse, but family or other relationship may be such as not to create such presumption. Knight, supra at Page 456. One claiming title to land

by adverse possession has the burden of proving adverse possession by clear and convincing evidence. Davis v. Monteith, 345 S.E.2d 724 (1986);

THREE: In South Carolina, adverse possession may be established under a ten (10) year statute of limitation with the necessary elements of adverse possession. Johnson v. Pritchard, 395 S.E.2d 191 (Ct. App. 1990). See Sections 15-3-340, 15-67-210 and 15-67-220, Code of Laws of South Carolina, 1976, as amended. The person claiming adverse possession under these statutes must have personally held the property for ten (10) years. Terwilliger v. White, 72 S.E.2d 169 (1952). In addition to the ten (10) year statute of limitations for adverse possession, South Carolina common law recognizes the twenty (20) year presumption of grant which is occupancy of the subject property continually, hostilely, openly, adversely, notoriously and exclusively for a period of twenty (20) years. Johnson v. Pritchard, 395 S.E.2d 191 (Ct. App. 1990);

FOUR: Plaintiff has failed to prove by clear and convincing evidence that his possession of the stick-built house located upon the front portion of the Subject Property was hostile, adverse, exclusive and continuous for a period of ten (10) years. After the death of the parties' Mother in 1999, the house was intermittently vacant and/or occupied from time to time by members of the parties' extended family, including Plaintiff. While Plaintiff intermittently stayed in the stick-built house, so did other members of Plaintiff's extended family when the need arose. Plaintiff presented no evidence that he occupied the stick-built house to the exclusion of these family members after his Mother's death until Defendant secured title in 2012, nor that his possession was hostile, open, adverse and notorious to the true owner of the Subject Property. After Defendant acquired legal title to the Subject Property in 2012, Plaintiff's occupancy of the stick-built house was not hostile, but was permissive with Defendant providing Plaintiff a key to

the stick-built house. It wasn't until 2016 when Plaintiff changed the locks to the stick-built house that there was any indication of hostility or that Plaintiff sought to occupy the house adverse to the legal title of Defendant. Even then, Plaintiff sought to justify changing the locks by telling Defendant that his girlfriend was occasionally staying at the home and Plaintiff didn't want Defendant accidentally walking in on them or her in the event she was not properly clothed. At no time in 2016 did Plaintiff tell or otherwise suggest to Defendant that Plaintiff was claiming the stick-built house adverse to the legal title of Defendant. It wasn't until 2019 when Defendant advised Plaintiff that he was contemplating razing the house where Plaintiff was staying to build a home for Defendant's sons to live and offered Plaintiff the opportunity to stay in Defendant's mobile home located at the rear portion of the Subject Property that Plaintiff's occupancy became hostile and adverse to Defendant's legal title to the Subject Property. This was confirmed by Defendant's action in Magistrate's Court to eject Plaintiff from the stick-built house shortly after the 2019 conversation between the parties.

NOW, THEREFORE, it is

ORDERED, ADJUDGED and DECREED as follows:

ONE: That Defendant's legal title to the Subject Property, including the stick-built house located at the front portion of the Subject Property near Long Point Road, shall be, and is hereby, confirmed by this Court free of any claims whatsoever of the Plaintiff; and

TWO: That the Plaintiff shall vacate the stick-built house, together with any personal belongings of Plaintiff located within or about the stick-built house, within thirty (30) days from the date of this Order.

AND IT IS SO ORDERED at Charleston, South Carolina.

SIGNATURE PAGE TO FOLLOW



Charleston Common Pleas

Case Caption: Stanley Williams VS Alton Williams

Case Number: 2019CP1005116

Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062