

**RECEIVED**

**Aug 21 2023**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

---

**APPEAL FROM JASPER COUNTY  
COURT OF COMMON PLEAS  
CARMEN T. MULLEN, JUDGE**

---

**CASE NO. 2022-CP-27-00115**

**Court of Appeals Case No. 2023-001092**

---

**T.C. Realty of the Lowcountry.....Respondent**

**Vs.**

**Teresa Brink, Steven Brink and Frank Swartz.....Appellants.**

---

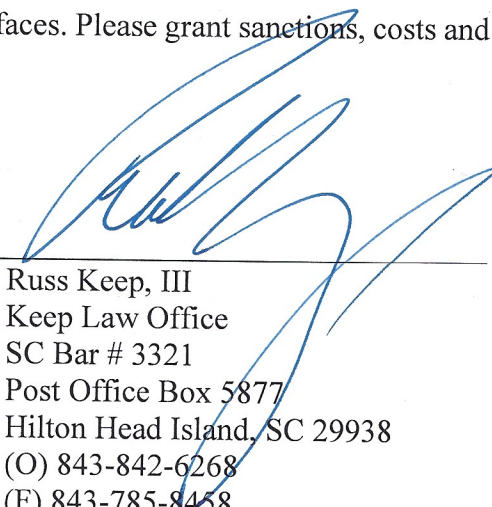
**RETURN TO MOTION FOR AN EMERGENCY STAY**

---

1. Defendants’ Motion for an Emergency Stay “In The Court of Appeal” (sic) is not “duly sworn.” It is not even signed and includes no address.
2. The Defendants demand “as soon as possible. (sic) to grant preliminary relief requested in the Complaint.” This the Court of Appeals cannot do, at least at this juncture of the Appeal. The Defendants have gotten mixed up and think they are the Plaintiffs.
3. The easement issue is the subject of an Order dated July 19, 2022. The easement is res judicata as it was not appealed – “it was off the table,” in the words of Judge Mullen.
4. There was no “hearing” at the Defendant’s property by Judge Mullen. Nobody said a word to the Judge without the Defendants being present, and then only, “yes, judge.”

5. The Defendants' Motion is essentially an Appellate Rule 241 Stay and Supersedeas in Civil Actions. Unfortunately, for the Defendants, Appellate Rule 241(b)(8) lists the following exception to the general Rule of automatic stays; "An Appeal from an Order granting injunction or temporary restraining order." This is an Order granting Permanent Injunction.
6. Attached is the Order Establishing Easement (not ending case) filed July 19, 2022 that was not appealed by the Defendants.
7. Attached is the Order for a Permanent Injunction filed June 12, 2023.
8. The learned trial judge, Carmen Mullen, never ordered or said anything like "that's not (y)our property anymore." The Defendants don't seem to understand what an easement is.
9. Defendants are continuing to put obstacles/debris on the easement and need to be ruled in tn common pleas court, as per the Order of Permanent Injunction dated June 12, 2023.
10. Please dismiss this frivolous Pro Se Motion and the Appeal itself as, frankly, both are senseless, hateful and totally without merit on their faces. Please grant sanctions, costs and attorney fees against the Defendants.

August 21, 2023



---

Russ Keep, III  
Keep Law Office  
SC Bar # 3321  
Post Office Box 5877  
Hilton Head Island, SC 29938  
(O) 843-842-6268  
(F) 843-785-8458  
thehhlaw@gmail.com  
COUNSEL FOR THE RESPONDENT

STATE OF SOUTH CAROLINA )  
COUNTY OF JASPER )  
T.C. REALTY OF THE )  
LOWCOUNTRY, INC. )  
Plaintiff, )  
-versus- )  
TERESA BRINK, STEVEN BRINK and )  
FRANK SWARTZ, )  
Defendants. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT  
CASE NO. 2022-CP-27-00115

**ORDER ESTABLISHING EASEMENT  
(NOT ENDING CASE)**

**PROCEDURE**

The Plaintiff filed a Summons and Second Amended Complaint on March 23, 2022. All three (3) Defendants were served with the Summons and Second Amended Complaint via Jasper County Sheriff’s Department on April 1, 2022. Plaintiff filed an Affidavit of Default against all three (3) Defendants on May 5, 2022.

**FACTS**

1. The Plaintiff is a South Carolina Corporation incorporated with the South Carolina Secretary of State and licensed to do business in the state of South Carolina.
2. The Defendants are citizens and residents of Jasper County, South Carolina.
3. This court has jurisdiction over the subject matter of this case and the Parties hereto.
4. The Plaintiff owns land that it leases to tenants next door to the Defendants’ land and the parties share a common easement.
5. In May of 2002, the Plaintiff, T.C. Realty of the Lowcountry, Inc. sold “Parcel A” with an easement to the Plaintiff, his heirs and assigns over “Parcel C,” TMS# 050-00-05-004 to the Westons.

6. On December 30, 2008, the Westons transferred an easement across “Parcel A” and “Parcel C,” TMS#050-00-05-004 to access “Parcel B,” to a loan company.
7. On 1/11/2011 the Jasper County Tax Collector gave Tom Johnson a Tax Deed to .14 acres, TMS# 050-00-05-021 “(f/k/a portion of TMS#050-00-05-004)” for \$300.00.
8. In 2019 Tom Johnson sold “Parcel C,” TMS# 050-00-02-021 to the Defendants for \$1,900.00. The Defendants apparently believe that they can block the easement across “Parcel C” and harass anyone who attempts to travel over the easement on “Parcel C.”

**CONCLUSION OF LAW**

9. The Defendants are in default.

**ORDER**

WHEREFORE, an easement is recognized, declared and granted to the Plaintiff and its tenants and devisees over the Defendants’ land, Parcel C, to access its lands.

**IT IS SO ORDERED!**

\_\_\_\_\_  
**JUDGE BENTLEY PRICE**

Jasper County, SC  
June \_\_\_\_\_, 2022



Jasper Common Pleas

**Case Caption:** T.C. Realty Of The Lowcountry, Inc. VS Teresa Brink , defendant, et al  
**Case Number:** 2022CP2700115  
**Type:** Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766



Court witnessed the condition of the subject property, the photographs of which are labeled Exhibits 1 through 8 and attached to this order.

#### LAW AND FACTS

“A servient estate may limit access across an easement if the limitation: 1) does not unreasonably interfere with the right of passage of the dominant estate; 2) is necessary for the preservation of the servient estate; and 3) is necessary for the use of the servient estate.” *Davis v. Epting*, 317 S.C. 315, 318, 454 S.E.2d 325, 327 (Ct. App. 1994) (citing *Brown v. Gaskins*, 284 S.C. 30, 324 S.E.2d 639 (Ct. App. 1984)). In *Davis v. Epting*, the Court ordered Epting to remove barricades from the easement because the “obstructions eliminate [the] right to vehicular access, and impede the right to access on foot.” 317 S.C. at 319, 454 S.E.2d at 327. In the present matter, the Court directly observed the conditions of the easement and witnessed the obstructions in the subject easement, including but not limited to, steel rebar stakes, wooden limbs, yard debris, cement blocks or brick, and fencing which clearly obstruct vehicular access and the right to access on foot through the easement. This is not only a concern for the private individuals who have a right to access the easement, but also for the emergency services vehicles who may need to access the easement to respond to emergency service calls. Further, there is no evidence that the steel rebar stakes, fencing, gates, and other ground materials and figures are otherwise necessary despite the resulting unnecessary interference with the easement. *See Davis* at 319, 454 S.E.2d at 327-28.

Based upon the witness testimony, the arguments of counsel and pro se Defendants, the site visit, and the case record, this Court orders the following:

All parties to this action are permanently enjoined from placing any objects in the roadways or easement at the subject property so as to obstruct the traffic of property owners, tenants, invitees, and emergency services vehicles, unless otherwise permitted by this Court.

All parties are prohibited from harassing, intimidating, or otherwise threatening any individual that has a right to use the easement, including owners of real property, tenants, landlords, and invitees.

The Defendants are ordered to remove, within thirty (30) days of the entry of this order, all items and related materials as pictured in the attached Exhibits 1 through 8, which include, but are not limited to: the wooden structure containing multiple custom signs at the roadway; all items nailed or otherwise attached to trees and plants within the easement; all rebar steel posts, spikes, and fencing within the easement; and all yard waste and debris blocking access to the easement.

If the Defendants fail to remove the items within thirty days as ordered by this Court, the Plaintiff is permitted to remove the items at its own cost.

Failure of any party to comply with any term of this order will result in the party being brought before this Court to show cause why they should not be held in civil contempt for violating the Court's order.

As to monetary damages the Plaintiff may be requesting, this determination will be held in abeyance for six months.

AND IT IS SO ORDERED.



Carmen T. Mullen  
Fourteenth Judicial Circuit

Ridgeland, South Carolina  
June 12, 2023



PENGAD 800-631-6980  
EXHIBIT  
1



PENGLAD 800-631-6666  
EXHIBIT  
2



PENGAD 800-831-6889  
EXHIBIT  
3



PENGAD 800-631-6669  
EXHIBIT  
4



PENGAD 800-831-6888  
EXHIBIT  
5



PENGAD 800-831-6080  
EXHIBIT  
6



PENGAD 800-831-8888  
EXHIBIT  
7



PENGAD 800-651-6888  
EXHIBIT  
8

**RECEIVED**

**Aug 21 2023**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

\_\_\_\_\_  
**APPEAL FROM JASPER COUNTY  
COURT OF COMMON PLEAS  
CARMEN T. MULLEN, JUDGE**

\_\_\_\_\_  
**CASE NO. 2022-CP-27-00115**

**Court of Appeals Case No. 2023-001092**

\_\_\_\_\_  
**T.C. Realty of the Lowcountry.....Respondent**

**Vs.**

**Teresa Brink, Steven Brink and Frank Swartz.....Appellants.**

\_\_\_\_\_  
**PROOF OF SERVICE**  
\_\_\_\_\_

**I certify that I have served the Return to Motion to Stay on Teresa Brink, Steven Brink, Frank Swartz and Judge Carmen Mullen by depositing a copy of the Return in the United States Mail, postage paid, on August 17, 2023, addressed to each Teresa Brink, Steven Brink and Frank Swartz at 4649 Firtower Road, Ridgeland, SC 29936 and Judge Mullen at Jasper County Court of Common Pleas, PO Box 248, Ridgeland, SC 29936.**

**August 21, 2023**

\_\_\_\_\_  
**C. Russell Keep, III  
Keep Law Office  
Post Office Box 5877  
Hilton Head Island, SC 29938  
843-842-6268**

**COUNSEL FOR THE RESPONDENT**