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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

THE HONORABLE MAITE MURPHY  
CASE NUMBER: 2020-CP-07-00829  
APPELLATE CASE NUMBER: 2023-001278

CAROL JENKINS JACKSON AND  
JUDY SHARON JENKINS WATKINS.....Appellants.

v.

MICHAEL F. RIVERS, R.M. LAPP, TRUSTEE FOR THE ST. HELENA ASSETT TRUST, HEIRS OF HARRISON RIVERS, HEIRS OF OPHELIA RIVERS, HEIRS OF HAROLD W. RIVERS, HEIRS OF RACHAEL CHISHOLM, HEIRS OF FLORENCE C. PARKER, HEIRS AT LAW OF REUBEN M. CHISHOLM, AND ALSO VERNELL I. SMASHUM, BARBARA MCCLARKING, BEVERLY J. SCOTT, AMOS WILLIAMS, CLIFFORD HUFF, SANDRA MACK-HUFF, TRUSTEE FOR THE MARGARET LOYD SUMPTER TRUST DATED AUGUST 30, 2002, JOSEPH A. MOORE ALL OF WHOM ARE BELIEVED TO BE ADJACENT LANDOWNERS AND ARE MADE DEFENDANTS IN THIS ACTION, AND ALSO ALL OTHER PERSONS UNKNOWN HAVING OR CLAIMING TO HAVE ANY RIGHT, TITLE, ESTATE, INTEREST IN OR LIEN UPON THE REAL PROPERTY OR ANY PART THEREOF DESCRIBED IN THE COMPLAINT HEREIN, AS JOHN DOE AND MARY ROE, INCLUDING ALL PERSONS WHO MAY BE DECEASED, MINORS, IN THE MILITARY SERVICE OF THE UNITED STATES WITH THE MEANING OF TITLE 50 UNITED STATES CODE, REFERRED TO AS THE SERVICEMEMBERS CIVIL RELIIVE ACT, AS AMENDED, PERSONS ON COMPOS MENTIS AND UNDER ANY OTHER DISABILITY.

OF WHOM MICHAEL F. RIVERS IS THE.....RESPONDENT.

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REPLY BRIEF

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Attorney for the Appellant

January 22, 2024

A party asserting adverse possession must establish the claim by clear and convincing evidence. Getsinger, et al. v. Midlands Orthopedic, 29 SE2d 223, 327 SC 424 (this writer was the winning attorney in that case).

Both plats (Khalid Plat, Exhibit 30 and the Youmans Plat, Exhibit 44) show the Appellants owning 4.31 acres. Other than the fence encroachment, they show nothing to establish any kind of claim by adverse possession or otherwise in the Respondents. The only testimony from persons who were familiar with the property throughout this time period (1933s to the present) came from Benjamin Jenkins and Luke Inabinett. Thus the only evidence supporting the Respondent's case is his own words and that of a former neighbor, Doris Holmes. This comes nowhere close to meeting the high standard of proof required for the successful presentation of an adverse possession claim (which was not even pled).

HISTORICAL FACT: Beaufort County was captured by the Union forces in the early days of the Civil War. It was later occupied and thereafter surveyed. The surveyors are showing CMF (corner marker found), that had been established for over 100 years prior to the commencement of this action.

The Appellants would respectfully assert that the Respondent has not met the standard of proof required for a case of this nature.

The Respondent takes no issue with the Appellants' claim that the Judge did not establish ownership of the surrounding premises or the boundaries. As such, this matter should at least be remanded back to the lower court for such a determination.

Respectfully submitted,

Law Office of R. Thayer Rivers, Jr.

  
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Attorneys for the Appellants

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OF WHOM MICHAEL F. RIVERS IS THE.....RESPONDENT.

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**PROOF OF SERVICE**

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I certify that I have served the Reply Brief on the Respondent, Michael F. Rivers, by depositing a copy of same in the United States Mail, postage prepaid, on January 22, 2024, addressed to his attorney of record, H. Fred Kuhn, Jr. Post Office Box 507, Beaufort, SC 29901.

Law Office of R. Thayer Rivers, Jr.

A handwritten signature in blue ink, appearing to read "R. Thayer Rivers, Jr.", written over a horizontal line.

R. THAYER RIVERS, JR.

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