

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
COUNTY OF BEAUFORT ) CIVIL ACTION NO: 2017-CP-07-02110

CHARLES WILLIS GARDNER, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
TAYLOR REUBEN ADAMS, and )  
BEAUFORT COUNTY, SOUTH )  
CAROLINA, )  
 )  
Defendants.

**FINAL ORDER**

**RECEIVED**

**Jun 21 2024**

**SC Court of Appeals**

This case involves the ownership and use of certain real property located on and adjacent to Warsaw Island Road on St. Helena Island in Beaufort County, South Carolina. The matter was referred on March 15<sup>th</sup>, 2023. A trial was held before the undersigned on January 22-24, 2024, with additional testimony and arguments taken on February 5, 2024. Based upon the following, the Court concludes that Beaufort County (“the County”) is the owner of the subject 30-foot road and adjoining boat ramp at issue in the case. The Court dismisses the parties’ remaining causes of action and counterclaims and enters judgment in favor of the County.

**PROCEDURAL/FACTUAL BACKGROUND**

*a. Case history*

On October 12, 2017, Plaintiff Charles Willis Gardner (“Gardner” or “Plaintiff”) filed an action alleging trespass on property he claimed to own. Plaintiff further alleged that the Defendant, Taylor Reuben Adams (“Adams” or “Defendant

Adams”) was converting the Plaintiff’s property for his own use and requested an injunction and restraining order against Defendant Adams. Defendant Adams answered the Complaint and asserted a counterclaim alleging that he was the owner of the property that the Plaintiff was seeking to restrain him from using. Defendant Adams additionally asserted that Plaintiff had trespassed upon his property and sought an order restraining Plaintiff from further trespasses, as well as actual and consequential damages. Finally, Defendant Adams claimed that Plaintiff’s suit violated South Carolina’s Frivolous Civil Procedures Sanctions Act and requested attorney’s fees and costs.

Thereafter, Defendant Adams filed a motion for partial summary judgment requesting that the court confirm title to the subject property, which was described in said motion as “the 30’ road and property to the south of the 30 foot road.” In fact, the subject property referenced is a thirty-foot unpaved portion /extension of Warsaw Island Road, a public right of way, which leads to a boat ramp commonly referred to as the “Warsaw Island Boat Ramp.” Warsaw Island Road is located on St. Helena Island in Beaufort County.

A hearing was held before The Honorable Perry M. Buckner, III on Defendant Adams’s Motion for Partial Summary Judgment. The Circuit Court ultimately ruled in favor of Defendant Adams, determining that Adams owned “the thirty foot road, the boat ramp at the end of the thirty foot road and the property to the south of the road.” The Court further dismissed Plaintiff’s causes of action and allowed Defendant Adams’s counterclaims to proceed. Plaintiff filed a motion for

reconsideration in which he contended the County was the rightful owner of the road, which the Court denied.

Plaintiff then appealed the order granting partial summary judgement. On appeal, Plaintiff argued that Defendant Adams failed to show that he was the successor in interest to the predecessor in title; that a 1990 Quiet Title Order that was in dispute between the parties did not confer title in the road or boat ramp to Adams; and that questions of fact existed as to the ownership of the road and boat ramp.

In an opinion filed April 27, 2022, the South Carolina Court of Appeals held that “a factual dispute persists as to the road and boat ramp” and that “no interpretation of Judge Kemmerlin’s 1990 decree supports the Circuit Court’s conclusion that Adams owns the road and the boat ramp.” Gardner v. Adams, Op. No. 2022-UP-185 (April 27, 2022). The Court of Appeals additionally determined that Plaintiff was never granted the thirty-foot dirt road by his predecessor in title who “had no power to deed ownership of the unpaved county road.” Id. at \*9. However, the Court also explained that “this in no way places title to the road in Adams . . . [n]or does a review of the submitted materials support the circuit court’s conclusion that title to the road had been quieted in [Defendant Adams’s predecessor in title].” Id.

Furthermore, the Court determined that:

“A reasonable interpretation of the master-in equity’s 1990 order is that the ‘unpaved county road’ ‘unpaved Beaufort County road’ and ‘thirty (30) foot dirt road’ are all the same road. Neither Leroy Gardner, Sr. nor John Howard (predecessors in title of Plaintiff and Defendant, respectively) owned the road; thus neither Charles Gardner nor Adams (through his position in the Howard Property’s

chain of title) owns it now. The 1995 and 2013 plats indicate Leroy Gardner, Sr. claimed ownership of the boat ramp, and the issue of the boat ramp is not explicitly raised in the pleadings. As the record does not support the circuit court's findings that the Howard Property included the road or boat ramp, or that Adams now owns both, we vacate these findings."

Id. As a result, the Court of Appeals reversed the grant of partial summary judgment, vacated the circuit court's findings as to ownership of the road and boat ramp, and remanded for further proceedings consistent with its opinion.

On remand, the County moved to intervene based upon the Court of Appeals' conclusion that neither of the adjacent property owners to the road and ramp in question (Plaintiff or Defendant) had an interest in title, taking the position that the County owned the road and ramp. The Court granted the County's motion to intervene. Plaintiff also amended his pleadings to assert that he owned an easement over the subject road, seeking a declaratory judgment to this effect, and asserted claims for trespass, nuisance, and injunctive relief. During the pendency of the appeal, the Undersigned entered an order stating that, "[p]ending further Order of the Court, Defendant may not erect any permanent structure on the road, nor otherwise render the road permanently unusable."

The parties proceeded with limited discovery, and both Plaintiff and the County moved for summary judgment. Both motions were denied. The parties agreed that, because the crux of the case is competing claims of property ownership, mediation would be fruitless. Accordingly, the case was set for trial before the Undersigned beginning on January 22, 2024.

*b. Trial evidence*

The trial before the undersigned featured testimony from eight witnesses and the introduction of approximately forty exhibits. A summary of the evidence relevant to the Court's decision follows:

Plaintiff testified that the property at which he currently resides and adjacent property had been owned by the Gardner family for many years. He received his property via deed from his father, Leroy Gardner, after his mother, Ardel Gardner, passed away in 1983.<sup>1</sup> Plaintiff was under the impression that his property included the 30-foot dirt road for many years, as members of the community seeking to use it and the boat ramp had asked him for permission to do so. He testified that the "whole community" and "different groups" had used the road while he had lived on Warsaw Island.

Plaintiff testified that Defendant Adams moved to his property, which was located southeast of the 30-foot road, in 2015. Plaintiff recalled that Defendant Adams blocked the 30-foot road in 2015, which caused Plaintiff to tell Adams that Adams did not own the road, as Plaintiff believed it had belonged to Plaintiff's father, from whom he received it. Plaintiff testified that he understood that both the Circuit Court and the Court of Appeals determined he did not own the 30-foot road, and he acknowledged that he argued the County owned the road in his motion to reconsider the Circuit Court's determination. Plaintiff testified that he believed Defendant Adams had trespassed on his property and had built a fence on the

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<sup>1</sup> The evidence adduced at trial established that Ardel Gardner passed away in 1983, contrary to the language in several of the relevant deeds stating this occurred in 1982.

Plaintiff's side of the 30-foot road. He also stated that, while he could access his property without utilizing the 30-foot road, emergency vehicles could not do so due to the quality of the alternate road. On cross-examination, Plaintiff did not deny that he and others on and around his property had frequently played loud music and shouted at Defendant Adams, among other unneighborly behavior.

Ed Atkins, a local resident, testified that he had utilized the 30-foot road and adjacent boat ramp since he was 8 or 9 years old in 1959 or 1960. When Mr. Atkins began working several years later, he used the road and ramp to make a living, ultimately opening a bait business. Mr. Atkins testified he and other members of the community had used the road and ramp without any impediments until Defendant Adams arrived in 2015 and blocked access to the road. He testified this caused him hardship because he had to travel to another boat landing to conduct his business. Mr. Atkins admitted that he learned indirectly that Defendant Adams offered to allow him to use the ramp during daylight hours.

Another area resident, Richard Williamson, testified that he regarded the road and ramp as belonging to the Gardner family. He testified that he and others asked Plaintiff for access to the road and ramp.

David Youmans, a licensed surveyor, testified that he prepared a survey of the 30-foot road and boat ramp at Plaintiff's request in 2020. In so doing, he reviewed plats prepared by Rod Spann and Gasque and Associates, Inc. Mr. Youmans plotted the lines of Plaintiff's property located to the northwest of the subject road and of Defendant Adams's property located to the southeast of the road, with neither property containing road. Mr. Youmans plotted the midline of

the road and noted the presence of a drain field within the road adjacent to a wire fence at the edge of Plaintiff's property. Mr. Youmans testified that he believed the road was "erroneously" referred to as a county road in recorded documents, but he could not testify as to the legal effect of the 1990 Quiet Title Order or whether it was ever appealed. Mr. Youmans also testified that the dimensions of Defendant Adams's property did not indicate that he owned the road, even if any potential discrepancies were modified.

David Gasque testified that he prepared a plat of the lot recombination/reconfiguration for Plaintiff in 2013, as well as a boundary survey of the area being claimed by Defendant Adams in 2014, which was revised in 2017. The latter was marked as a "problem plat" by the Beaufort County Assessor's Office. Mr. Gasque believes the problem plat designation stemmed from discrepancies in the dimensions cited within the plat, and he disagreed with it because acreage was not as important to him as other factors in preparing such plats. In any event, Mr. Gasque could not and did not determine who owned the 30-foot road after his multiple examinations of the property, and he advised both Plaintiff and Defendant Adams to retain attorneys. He did testify that his best guess was that Defendant Adams owned it by process of elimination.

Defendant Adams testified that he received his property at 240 Warsaw Island Road comprised of 1.05 acres from the Dale A. Gabardy Trust via warranty deed in 2015. His predecessor in title was John Howard. Defendant Adams believed his property included the 30-foot road, and he admitted that he constructed a fence on the side of the road bordering Plaintiff's property and

blocked access to the 30-foot road from Warsaw Island Road. Defendant Adams also constructed a drain field for his septic system within the 30-foot road, opting to construct it himself rather than proceeding with a system recommended by DHEC in another location on the property due to cost concerns.

Defendant Adams testified that he received a letter in 2015 from Eric Klatt, who was serving as Right-Of-Way Manager for Beaufort County's engineering department, opining that Beaufort County did not maintain or own the section of Warsaw Island Road depicted as private on the Beaufort County Tax Map. Defendant Adams also introduced a list of public boat ramps produced by the County which did contain the Warsaw Island Boat Landing. Defendant Adams also received a letter in 2017 from Lolisa Daise, Real Property Records Clerk for Beaufort County, denying his request for a property line revision because the County's judgment rolls did not grant him ownership of the road.

Defendant Adams testified to numerous alleged instances of harassment that he and his wife experienced at the hands of Plaintiff and/or his associates. These included lewd words and gestures, loud music being played, and video surveillance, among other things. On cross-examination, Defendant Adams admitted he used racial slurs towards Plaintiff, repeating them on the stand. Beverly Adams also testified regarding the alleged harassment Plaintiff directed to her and her husband.

Finally, Lolisa Daise testified that she issued the aforementioned letter denying Defendant Adams's request for a property line revision because her review of the relevant title documentation demonstrated he did not own the road.

Ms. Daise specifically cited the “save and except” clause of Judge Kemmerlin’s 1990 Quiet Title Order stating that John Howard owned “the 1.054 acre portion of Lot 15 situate immediately below (southeast) the unpaved Beaufort County Road . . . .” Ms. Daise reviewed the relevant documentation on multiple occasions due to Defendant Adams’s frequent visits regarding the issue.

The documentary evidence submitted to the Court included deeds within the chain of title for Plaintiff and Defendant Adams; lease and permit application documents; various correspondence; plats and surveys; mortgage and tax documents; documents to and from DHEC; documents from the Beaufort County Sheriff’s Office to include incident reports; and court rulings, to include Judge Kemmerlin’s 1990 Quiet Title Order and the Court of Appeals’ opinion in the case. At the close of evidence, each party moved for a directed verdict and argued in opposition to the motions of the others. The Undersigned took the matter under advisement and now issues an Order based upon the following.

### **ANALYSIS**

As an initial matter, neither Judge Kemmerlin’s 1990 Quiet Title Order nor the Court of Appeals’ opinion in the present case were appealed by any party. Both parties’ predecessors in title were parties to the 1990 Quiet Title action, which involved the property at issue in the present case. As a result, the 1990 Quiet Title Order is a legally binding judgment as to the parties and the property at issue. The Court of Appeals’ opinion in this case interpreted the 1990 Quiet Title Order in reaching the conclusion that neither Plaintiff nor Defendant Adams owned the 30-foot road or adjoining boat ramp and remanding the case for further proceedings

consistent with the opinion. The Court of Appeals' opinion is the law of the parties' case, even after the County's intervention and the additional evidence entered into the record during discovery and at trial. Accordingly, the 1990 Quiet Title Order and the Court of Appeals' opinion are the lens through which the case must be viewed upon remand. It is axiomatic that "[o]ne claiming title by deed has no greater title than the original grantor in the chain of title upon which he relies." Hoogenboom v. City of Beaufort, 315 S.C. 306, 313, 433 S.E.2d 875, 880–81 (Ct. App. 1992) (citing Belue v. Fetner, 251 S.C. 600, 164 S.E.2d 753 (1968) (a deed cannot convey an interest which the grantor does not have)).

The evidence adduced at trial—including additional evidence submitted on remand—is consistent with the conclusions the Court of Appeals reached in its opinion. While Defendant Adams offered additional evidence regarding his predecessor in interest's title before the 1990 Quiet Title Order, it is insufficient to demonstrate that he owns any more than the 1.054 acres specified in his deed and described in the Order as lying immediately below the 30-foot road. The most plausible reading of the relevant documentation is that Plaintiff's predecessor in title owned the parcel of property situated to the northwest of the 30-foot road, Defendant Adams' predecessor in title owned the 1.054 acre parcel to the southeast of the 30-foot road, and the road itself was explicitly excluded from either's ownership. The road is referred to repeatedly as "the unpaved Beaufort County road" and "the unpaved county road," and the evidence indicates the road and adjoining boat landing were used by members of the community for recreation and to make their living until Defendant Adams blocked access to it in 2015.

While Defendant Adams relies on a letter from a Beaufort County employee stating his opinion as to the County's ownership or maintenance of the 30-foot road and ramp, as well as a list of public boat ramps that does not contain the subject ramp, neither is binding up on the County. Ownership of real property is a matter of law, and South Carolina's courts have held that a government employee's misrepresentation as to such matters does not bind the government body. See Carolina Chloride, Inc. v. Richland Cnty., 394 S.C. 154, 167–68, 714 S.E.2d 869, 875–76 (2011); Quail Hill, LLC v. Richland Cnty., 387 S.C. 223, 692 S.E.2d 499 (2010); Northernair Productions, Inc. v. Crow Wing Cnty., 309 Minn. 386, 244 N.W.2d 279 (Minn. 1976). The same is true for Ms. Daise's decision denying Defendant Adams's request for a property line revision—it is evidence for the Court's consideration, but not dispositive as to legal ownership of property.

Plaintiff now agrees, or has agreed during the course of the case, that the County is the owner of the 30-foot road and ramp. He seeks only an easement over the road, which he and his family have utilized for many years. Interpretations of deeds and the scope of easements are equitable matters. Eldridge v. City of Greenwood, 331 S.C. 398, 416, 503 S.E.2d 191, 200 (Ct. App. 1998); Slear v. Hanna, 329 S.C. 407, 496 S.E.2d 633 (1998); Smith v. Commissioners of Public Works, 312 S.C. 460, 441 S.E.2d 331 (Ct. App.1994). Equity considerations counsel not only the conclusions that the County owns the road and ramp, but also that the Plaintiff will have unencumbered access to the road and ramp, as shall every member of the public, and he does not require an easement. County ownership of the road and ramp yields the additional equitable result of legal

separation of the properties of Plaintiff and Defendant Adams' respective properties, something the evidence of unneighborly behavior between them demonstrates to be needed.

Because the County is the owner of the subject road and ramp, the Undersigned additionally finds that Defendant Adams violated the Court's order in installing a drain field within the bounds of the road and blocking access to it. Defendant Adams is therefore ordered to disconnect his drain field system, clearly identify it for purposes of removal, and bear the cost of removal, which the County has elected to pursue through a vendor. Defendant Adams is further ordered to remove the fence he erected on the side of the road bordering Plaintiff's property. The parties' additional claims are dismissed with prejudice and each party is to bear their own costs and fees incurred in pursuing the case.

### **CONCLUSION AND ORDER**

Based on the foregoing, the Undersigned finds that Beaufort County owns the subject 30-foot road and adjoining boat ramp. It is hereby **ORDERED AND ADJUDGED** that:

1. Judgment in favor of the County's ownership of the 30-foot road and adjoining boat ramp located adjacent to Warsaw Island Road on St. Helena Island in Beaufort County, SC, shall be entered;
2. Defendant Adams shall disconnect his drain field system and clearly identify all components thereof for purposes of removal within 30 days of this Order;
3. Defendant Adams shall bear the cost of removal of the drain field system as arranged by the County;

4. Defendant Adams shall remove any barriers to access of the 30-foot road and ramp at his own expense within 30 days of this Order;
5. Defendant Adams shall remove the fence situated on the side of the 30-foot road bordering Plaintiff's property at his own expense within 30 days of this Order;
6. Plaintiff's claim for an easement over the subject road is denied as moot;
7. Each party shall bear their own costs and fees incurred associated with the subject case; and
8. The parties' remaining claims are dismissed with prejudice.
9. The Court retains jurisdiction to enforce the Order and enter monetary judgments, if needed, related to the foregoing paragraphs 2-5.

**IT IS SO ORDERED.**

By: \_\_\_\_\_  
Marvin H Dukes III  
Master in Equity for Beaufort County

Beaufort, South Carolina

April \_\_\_\_, 2024.

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT  
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-07-02110

Charles Willis Gardner

Taylor Reuben Adams, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Master In Equity	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED** (*CHECK REASON*):  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other

**ACTION STRICKEN** (*CHECK REASON*):  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other

**DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):  
 Affirmed;  Reversed;  Remanded;  Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk : \_\_\_\_\_

<b>INFORMATION FOR THE PUBLIC INDEX</b>		
<b>Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.</b>		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:  		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

\_\_\_\_\_  
**Circuit Court Judge** 3069 Date  
**Judge Code**

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

G. Hamlin O’Kelley, III  
\_\_\_\_\_  
\_\_\_\_\_  
**ATTORNEY(S) FOR THE PLAINTIFF(S)**

Terry A. Finger  
Dylan Kidd  
Robert W. Achurch, III  
\_\_\_\_\_  
**ATTORNEY(S) FOR THE DEFENDANT(S)**  
\_\_\_\_\_  
**CLERK OF COURT**

**Court Reporter:**



Beaufort Common Pleas

**Case Caption:** Charles Willis Gardner VS Taylor Reuben Adams

**Case Number:** 2017CP0702110

**Type:** Order/Form 4

So Ordered:

s/Marvin H. Dukes III #3069