

THE SOUTH CAROLINA COURT OF APPEALS

Debbie D. Frazier, Plaintiff,

v.

Appellant Case No.: 2024-001725

The Heirs at Law of Fred Bolden, Denolis T. Polite, Adan Castillo Nava, Ivone Trejo Guevara, Ethel P. Brown, and all others unknown having or claiming to have any right, title, estate or interest in or lien upon the real property described in the Complaint herein, being designated collectively as John Doe and Sarah Rode; including all persons who may be deceased, minors, in the Armed Forces of the United State, Non Compos Mentis, and who may be wider any other disability, who might have or claim to have any right, title, estate, interest in or lien upon the real property described in the Complaint herein, Defendants,

of whom Racquel Bolden-Lott is the Appellant.

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SC Court of Appeals

FINAL INITIAL BRIEF OF APPELLANT

/s/ Racquel Bolden-Lott

Racquel Bolden-Lott, Pro Se, Appellant
1925 North Laura Street
Jacksonville, Florida 32206

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2. Where after the death of her ancestor Respondent Debbie D. Frazier did not occupy and possess the property for 21 months and 4 weeks months before commencing the action, the Special Referee erred in denying the motion for summary judgment and/or the motion to dismiss the action for adverse possession by tacking on the possession of ancestors because there was a break in the continuity of possession between ancestors and heir.

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STATEMENT OF THE CASE

A. Nature of the Case.

This appeal of the Special Referee for Beaufort County, Courts of Common Pleas's *Judgment and Final Order* dated September 13, 2024, arises from a *Complaint* filed by Respondent Debbie D. Frazier for adverse possession of real property owned by Appellant Racquel Bolden-Lott.

B. Course of Proceedings.

On September 14, 2022, Respondent Debbie D. Frazier filed a "three cause of action" *Complaint* for adverse possession regarding a portion of Appellant Racquel Bolden-Lott's 7.05 acres located in the Town of Bluffton, Beaufort County, South Carolina. (R: pp. 299 - 307)¹. Respondent Frazier sought to own to 1.78 acres of Appellant Bolden-Lott's 7.05 acres under the theory of adverse possession by tacking on possession of Respondent's ancestors, her father Jack Brown, Jr. and her mother Clareth Brown, both deceased. (R: p. 306, ¶¶ 23 - 25). On December 21, 2022, on behalf of Appellant Bolden-Lott, counsel filed *Answer of Racquel Bolden-Lott*. (R. pp. 308 - 309) On August 14, 2024, Respondent's counsel filed a *Stipulated Voluntary Dismissal of Defendant BEAUFORT*

¹References to the Record on Appeal are "R." "page numbers" and "paragraph numbers."

COUNTY ASSESSOR and First Cause of Action. (R. pp. 310 - 311)

On September 9, 2024, Curtis L. Coltrane, Special Referee of Beaufort County, presided over the Final Hearing on the Respondent Debbie Frazier's *Complaint* for adverse possession. (R: pp. 1 - 225). Before the final hearing, Special Referee Coltrane heard argument on Appellant Racquel Bolden-Lott's *Rule 12(b)(6) Motion to Dismiss* and *Rule 56(b) Motion for Summary Judgment*, both filed on August 30, 2024. (R. pp. 312 - 319; R. pp. 320 - 322; R. pp. 323 - 352 and R. pp. 353 - 355).

On the *Rule 12(b)(6) Motion to Dismiss*, Appellant Racquel Bolden-Lott argued that the *Complaint* failed to state a cause of action for adverse possession by tacking on the possession of ancestors because there were no allegations of Respondent Debbie Frazier continuing to occupy and possess the 1.78 acres after the deaths of both ancestors. (R. p. 313, ¶ 8). In fact, the *Complaint*, by attaching and incorporating a *Deed of Distribution* dated November 20, 2000, alleged that Debbie Frazier did not continually reside at, occupy nor possess the 1.78 acres because she continually resided at 5001 LaRoche Avenue, Savannah, Georgia 31404. (Emphasis applied) (R. p. 313, ¶ 9 and R. p. 317). Referee Coltrane denied the motion to dismiss. (R. pp. 9 - 13, lines 4-29).

On the *Rule 56(b) Motion for Summary Judgment*, Appellant Racquel

Bolden-Lott argued that there were no material issues of fact to be tried because the undisputed material facts showed that after the deaths of Jack Brown, Jr. on March 27, 1999, and Clareth Brown on November 25, 2020, respectively, there were breaks in the continuity of possession because Respondent Debbie Frazier never occupied or possessed the 1.78 acres before commencing the adverse possession action on September 14, 2022. (R. pp. 320 - 321, ¶¶ 3 - 6). Referee Coltrane denied the motion for summary judgment. (R. p. 13 - 18, lines 23-25 and R. p.19, lines 2-11). Thereafter, Referee Coltrane received witness testimony and documentary evidence during the final hearing.

On September 13, 2024, Special Referee Coltrane entered his *Judgment and Final Order* awarding Respondent Debbie Frazier the 1.78 acres by adverse possession. (R. pp. 356 - 365) On October 11, 2024, Appellant Bolden- Lott timely filed her *Notice of Appeal*. (R. pp. 366 - 377) On October 24, 2024, Appellant Bolden- Lott filed her *Amended Notice of Appeal*. (R. pp. 378 - 390)

C. Statement of Facts.

1. Debbie Frazier.

At the Final Hearing, Debbie Frazier testified that her stepfather Jack Brown, Jr. and her mother Clareth Brown did not occupy and possess the 1.78 acres at the time of Ms. Frazier's birth on June 15, 1959 in Bluffton, South

Carolina; at the time of her graduation in 1977 from H.E. McCracken High School, Bluffton, South Carolina and when she left Bluffton, South Carolina to serve 21 years in the United States Air Force until 1998 when she moved to Savannah, Georgia, her continuous, current residence of 27 years. (Emphasis applied) (R. p. 25, lines 21-25; R. p. 26-28, lines 2-20). In fact, Ms. Frazier testified that her current residence in Savannah, her place of employment in Savannah, her drivers license, her voter registration and her motor vehicle registration are all with the State of Georgia. (R. p. 44, lines 14-25 and R. p. 45, lines 2-4 and lines 15-20)

Debbie Frazier testified that her parents first moved unto Fred Bolden's property in 1994. (R. p. 30, lines 18-20; R. p. 226). Her stepfather Jack Brown, Jr. died on May 27, 1999. (R. p. 305, ¶ 18 and R. p. 30, lines 23-24) Her mother Clareth Brown died on November 25, 2020. (R. p. 32, lines 6 - 8; p. 140, lines 6 -8)

2. Darrell Thomas Johnson, Jr.

Darrell Johnson, an attorney and real estate expert witness, testified that on September 27, 1990, decedent Fred Bolden inherited the 7.05 acres from his mother Marie Bolden. (Transcript, p. 56, lines 9-25; p. 104, lines 2-17)

3. Racquel Bolden-Lott.

At the Final Hearing, Racquel Bolden-Lott testified that the 7.05 acres have been in here family since 1945 when it was owned and maintained by her great grandfather William Simmons, then her grandmother Marie Bolden, then her father Fred Bolden and then she inherited the property upon the death of her father on April 1, 2007. (R. p. 156, lines 21-25; R. pp. 157-161, lines 5-18).

Racquel Bolden-Lott also gave the following testimony:

“I am the daughter and heir of the late Fred A. Bolden, deceased. He died on April 1, 2007, in Bluffton, South Carolina. My father Fred A. Bolden and the late Jack Brown, Jr. were cousins. Jack Brown, Jr. died on May 27, 1999, in Bluffton, South Carolina. During his life, Fred A. Bolden was the owner of 7.05 acres of real property with the address of 2 Billy Simmons Drive Bluffton, Beaufort County, South Carolina 29910. This 7.05 acres is described in the Complaint filed in the above lawsuit. My father Fred A. Bolden gave permission to our cousin Jack Brown, Jr. and Clareth Brown, to put a mobile home on a small portion of the real property, approximately 1.78 acres, with the address of 2 Billy Simmons Drive Bluffton, South Carolina 29910. The 1.78 acres is also described in the Complaint filed in the

above lawsuit. After Jack Brown, Jr. died on May 27, 1999, my father Fred A. Bolden gave permission to Claretha Brown to continue to live in the mobile home on the 1.78 acres. Based on my knowledge, Debbie Frazier has never resided on a continuous basis with Jack Brown, Jr. and Claretha Brown, in the mobile home on the 1.78 acres. Based on my knowledge, Debbie Frazier has never resided on a continuous basis with her mother Claretha Brown, after Jack Brown, Jr.'s death, in the mobile home on the 1.78 acres. Based on my knowledge, at the time my father Fred A. Bolden gave permission to his cousin Jack Brown, Jr. and Claretha Brown, to reside in the mobile home on the 1.78 acres, Debbie Frazier resided in Savannah, Georgia. After the death of Fred Bolden in April 2007, I, Racquel Bolden-Lott, gave permission to Claretha Brown to continue to reside in the mobile home on the 1.78 acres. Based on my knowledge, in early March 2020 at the beginning of the Pandemic, Debbie Frazier moved her sick mother Claretha Brown to Savannah, Georgia. The mobile home has remained vacant from that time to the present. On November 25, 2020, Claretha Brown died in Savannah, Georgia while residing with her daughter, Debbie Frazier. After the

death of Clareth Brown on November 25, 2020, Debbie Frazier has never continuously resided in the mobile home. She continued to reside in Savannah, Georgia. After the death of my father Fred A. Bolden, I, Racquel Bolden-Lott, pay my cousin Joe Louis Green, Jr. to mow the lawn and remove trash from the entire 7.05 acres. From the date of my father's death to the present, I, Racquel Bolden-Lott, have paid annual property taxes for the entire 7.05 acres. I have attached as [Exhibit 1] a copy of the receipts showing my payment of property taxes over the years."

(R. pp. 151-155; R. pp. 272 - 297)

In conclusion, Racquel Bolden-Lott testified that her father Fred Bolden died on April 1, 2007. During his life as owner of the 7.05 acres, Mr. Bolden paid all annual property taxes regarding the entire 7.05 acres. Once she became owner of the property, Mrs. Bolden-Lott paid the property taxes. The tax receipts from paying the property taxes were received into evidence as Bolden-Lott Exhibit 1.

(R. pp. 142-143, lines 23-25; R. pp. 272 - 297) Mrs. Bolden-Lott also testified that because her father intended to sell the 7.05 acres, Fred Bolden obtained a survey of the 7.05 acres that also included the 1.78 acres. The survey was admitted into evidence as Bolden-Lott Exhibit 2. (R. p. 147, lines 23-25; p. and

R. pp. 148-149, lines 2-10; R. p. 298).

4. Joe Louis Green, Jr.

Mr. Joe Louis Green, Jr. testified that he is the cousin of the decedent Fred A. Bolden who died April 1, 2007, and the cousin of the decedent Jack Brown, Jr. who died May 27, 1999. Mr. Green has live in Bluffton, South Carolina all his 64 years and he lives approximately one-half mile from the 7.05 acres owned by Racquel Bolden-Lott. (R. p. 169, lines 5-25; R. p. 170, lines 2-9)

Joe Louis Green, Jr. also testified that during the time Jack Brown, Jr. and Clareth Brown resided in the mobile home on the 1.78 acres of the 7.05 acres, Debbie Frazier never resided at the 1.78 acres. (R. p. 171, lines 6-25; R. p. 172, lines 2-5; R. p. 173, lines 16-25) Mr. Green testified that during that time Debbie Frazier resided in Savannah, Georgia. (R. p. 174, lines 2-4). Mr. Green also testified that in March 2020, Debbie Frazier moved her sick mother Clareth Brown to Savannah, Georgia. No one has continuously lived in the mobile since March 2020. (R. p. 175, lines 4-11; R. p. 176, lines 2-22) Finally, Mr. Green testified that once Racquel Bolden-Lott inherited the 7.05 acres, she asked him to take up the grounds of the property and you maintained the property on her behalf. (R. p.173, lines 23-25; R. p. 174, lines 2-11)

SUMMARY OF ARGUMENT

Debbie Frazier has never continuously occupied or possessed the 1.78 acres of the 7.05 acres property owned by the decedent Fred A. Bolden and later owned by Appellant Racquel Bolden-Lott. On September 27, 1990, decedent Fred A. Bolden inherited the 7.05 acres from his mother Marie Bolden. On April 1, 2007, Mrs. Bolden Lott inherited the 7.05 acres from her father Fred A. Bolden.

Debbie Frazier did not continuously occupy or possess the 1.78 acres during her major life events which included: 1) her birth on June 15, 1959 in Bluffton, South Carolina; 2) her graduation in 1977 from H.E. McCracken High School, Bluffton, South Carolina; 3) her 21 years of service in the United States Air Force from 1977 to 1998 and 4) her 27 years of continuous residency at her home in Savannah, Georgia from 1998 to the present day.

Debbie Frazier's stepfather Jack Brown, Jr. died on May 27, 1999. In March 2020, Debbie Frazier moved her sick mother Clareth Brown to Savannah, Georgia. Clareth Brown died on November 25, 2020. After her mother's death, for 21 months and 4 weeks Debbie Frazier did not continuously occupy or possess the 1.78 acres before filing this adverse possession action on September 14, 2022. Consequently, there was a break in continuity of possession between the ancestor and heir preventing Debbie Frazier from proving adverse possession by tacking on

the possession of her mother Clareth Brown.

In summary, Debbie Frazier never continuously occupied or possessed the 1.78 acres of the 7.05 acres property owned by the decedent Fred A. Bolden and later owned by Racquel Bolden-Lott. Debbie Frazier's stepfather Jack Brown, Jr. lived on the 1.78 acres from 1994 until his death on May 27, 1999. After his death, Debbie Frazier did not continuously occupy or possess the 1.78 acres. Her mother Clareth Brown lived on the property from 1994 until her death on November 25, 2020. After her death, there was a break in continuity of possession when for 21 months and 4 weeks Debbie Frazier did not continuously occupy or possess the 1.78 acres before filing this adverse possession action on September 14, 2022. Consequently, the *Judgment and Final Order* awarding Debbie Frazier the 1.78 acres of the 7.08 acres owned by Racquel Bolden-Lott must be reversed denying Debbie Frazier ownership and title to the 1.78 acres.

ARGUMENT AND CITATION OF AUTHORITY

A. Standard of Review

The South Carolina Court of Appeals may “affirm or reverse the judgment of a Special Referee below, in whole or in part, as to any or all the parties and for errors of law or fact.” *Bowers v. Thomas*, 373 S.C. 240, 644 S.E.2d 751 (Ct. App. 2007); *Hadfield v. Gilchrist*, 343 S.C. 88, 92 -93, 538 S.E.2d 268,

270 (Ct. App .2000).

- B. Where after the death of her ancestor Respondent Debbie D. Frazier did not continuously occupy and possess the property for 21 months and 4 weeks before commencing the action, Respondent failed to prove adverse possession by tacking on the possession of ancestors because there was a break in the continuity of possession between ancestors and heir.**

SC Code § 15-3-340 (2024) provides that:

No action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action.

In South Carolina, party claiming adverse possession must prove open, notorious, exclusive, hostile, and continuous possession for the required period. *See Getsinger v. Midlands Orthopaedic*, 327 S.C. 424, 429 (S.C. Ct. App. 1997). Occasional and temporary use or occupation does not constitute adverse possession. *Id.* at 430. A party claiming title by adverse possession must show the extent of his or her possession. *Butler v. Lindsey*, 293 S.C. 466, 470 (S.C. Ct. App. 1987). The exclusive possession necessary to acquire title by adverse possession is not satisfied if occupancy is shared with the owner or with agents of the owner. *Id.* at 472.

A plaintiff fails to prove the claim of adverse possession by tacking on the

possession of ancestors where there is a “break in the continuity of possession” of the disputed property between the ancestor and heir. *Terwilliger v. White*, 222 S.C. 176, 183-184 (S.C. 1952) and *Epperson v. Stansill*, 64 S.C. 485, 488-489 (S.C. 1902).

In this appeal, after the death of her mother Clareth Brown on November 25, 2020, Debbie Frazier did not continuously occupy or possess the 1.78 acres before commencing this adverse possession action resulting in a “break in the continuity of possession” of the disputed property between her mother Clareth Brown and Debbie Frazier. Before and after November 25, 2020, Debbie Frazier continued to live and work in Savannah, Georgia. Consequently, the *Judgment and Final Order* awarding Debbie Frazier adverse possession of the 1.78 acres must be reversed.

- C. Where after the death of her ancestor Respondent Debbie D. Frazier did not occupy and possess the property for 21 months and 4 weeks months before commencing the action, the Special Referee erred in denying the motion for summary judgment and/or the motion to dismiss the action for adverse possession by tacking on the possession of ancestors because there was a break in the continuity of possession between ancestors and heir.**

Where the evidence as to adverse possession is susceptible of but one inference, then the question of whether there is, or is not, sufficient evidence of adverse possession becomes a question of law for determination by the court.

Butler v. Lindsey, 293 S.C. 466, 471 (S.C. Ct. App. 1987).

Again, in South Carolina, a plaintiff fails to prove the claim of adverse possession by tacking on the possession of ancestors where there is a “break in the continuity of possession” of the disputed property between the ancestor and heir.

Terwilliger v. White, 222 S.C. 176, 183-184 (S.C. 1952) and *Epperson v. Stansill*, 64 S.C. 485, 488-489 (S.C. 1902).

In this appeal, the undisputed evidence is that after the death of her mother Claretha Brown on November 25, 2020, Debbie Frazier did not continuously occupy or possess the 1.78 acres resulting in a “break in the continuity of possession” of the disputed property between the Claretha Brown and Debbie Frazier. This evidence is only susceptible to one inference: there was insufficient evidence of adverse possession by tacking on the possession of Jack Brown, Jr. and Claretha Brown when there was a “break in the continuity of possession” between ancestor and heir. The Special Referee’s denial of the *Motion to Dismiss* and the *Motion for Summary Judgment* must be reversed.

CONCLUSION

In conclusion, after the death of her mother Claretha Brown on November 25, 2020, Respondent Debbie Frazier did not continuously occupy or possess the 1.78 acres before commencing this adverse possession action on September 14,

2022, resulting in a “break in the continuity of possession” of the disputed property between the Claretha Brown and Debbie Frazier. Claretha Brown arguably occupied and possessed the property from 1994 until her death on November 25, 2020. However, after the death of Claretha Brown, there was a break in continuity of possession when for 21 months and 4 weeks Debbie Frazier did not continuously occupy or possess the 1.78 acres before filing this adverse possession action on September 14, 2022. Consequently, the *Judgment and Final Order* awarding Debbie Frazier the 1.78 acres of the 7.08 acres owned by Appellant Racquel Bolden-Lott must be reversed denying Debbie Frazier ownership and title to the 1.78 acres.

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY, pursuant to Rule 267, South Carolina Appellate Court Rules, that the font used in is Brief is Times New Roman and the word count 3644.

Respectfully Submitted,

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Dated: July 1, 2025

CERTIFICATE OF SERVICE

I hereby certify that the following person has been provided with the above document by Email and U.S. Mail to:

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