

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Ninth Judicial Circuit

SEP 03 2025

SC Court of Appeals

The Honorable Marvin H. Dukes, III

Case No. 2017-CP-07-02110
Appellate Case No. 2024-001053

Charles Willis Gardner.....Respondent,

vs.

Taylor Reuben Adams, and Beaufort County, South Carolina, Defendants,

Of which Taylor Reuben Adams is the.....Appellant,

AND

Beaufort County, South Carolina is a.....Respondent.

RESPONDENT GARDNER'S
FINAL BRIEF

Mt. Pleasant, South Carolina

August 15, 2025

BUIST BYARS & TAYLOR, LLC

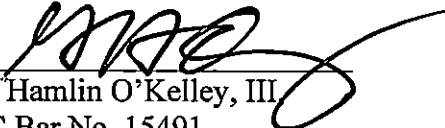

G. Hamlin O'Kelley, III
SC Bar No. 15491
652 Coleman Blvd., Suite 200
Mt. Pleasant, SC 29464
T: (843) 856-4488
F: (843) 856-0613
Hamlin.okelley@buistbyars.com
Attorney for the Respondent

TABLE OF CONTENTS

STATEMENTS OF ISSUES ON APPEAL 1

STATEMENT OF THE CASE..... 1

STATEMENT OF FACTS 7

STANDARD OF REVIEW 10

ARGUMENT 10

 I. THE TRIAL JUDGE CORRECTLY RULED THAT THE COUNTY HAS OWNERSHIP OF THE 30-FOOT ROAD LOCATED ADJACENT TO WARSAW ISLAND ROAD ON ST. HELENA ISLAND IN BEAUFORT COUNTY, SOUTH CAROLINA, BASED UPON THE 1990 DECREE OF THE HONORABLE THOMAS KEMMERLIN AND THIS COURT’S ORDER IN THE CASE OF *GARDNER V. ADAMS*, UP. OP. NO. 2022-UP-185 10

 II. THE TRIAL JUDGE CORRECLTY RULED THAT BEAUFORT COUNTY WAS NOT BOUND BY EMPLOYEE’S REPRESENTATIONS WHERE THERE HAS BEEN AN ORDER IN EFFECT SINCE 1990 RULING THAT THE ROAD IN QUESTION IS A COUNTY ROAD 13

 III. THE TRIAL COURT RULED CORRECTLY THAT THE APPELLANT ONLY TOOK TITLE TO THE ACREAGE IN HIS DEED AND NOT ACCORDING TO ANY RELIEANCE ON DEEDS, PLATS, OR OTHER TESTIMONY ATTEMPTING TO GIVE THE APPELLANT ADDITIONAL ACREAGE MEANING HE DOES NOT OWN THE ROAD OR BOAT RAMP 13

 IV. THE TRIAL JUDGE CORRECTLY RULED THAT THE APPELLANT WAS TO REMOVE THE FENCE BORDERING GARDNER’S PROPERTY AS WELL AS THE BARRIERS TO ACCESS THE 30-FOOT ROAD AND BOAT RAMP AND AT HIS OWN EXPENSE WITHIN 30 DAYS OF THE ORDER AND CORRECTLY DISMISSED THE APPELLANTS’ REMAINING CLAIMS 15

CONCLUSION..... 16

TABLE OF AUTHORITIES

Cases

<i>Carolina Chloride, Inc. v. Richland Cnty.</i> , 394 S.C. 154, 714 S.E.2d 869 (2011).....	13, 14, 15
<i>Eldridge v. City of Greenwood</i> , 331 S.C. 398, 503 S.E.2d 1991 (Ct. App. 1998)	10
<i>Gardner v. Adams</i> , Up. Op., No. 2022-UP-185.....	5
<i>Hardy v. Aiken</i> , 369 S.C. 160, 631 S.E.2d 539 (2006)	12
<i>Hoogenboom v. City of Beaufort</i> , 315 S.C. 306, 313, 433 S.E.2d 875, 88081 (Ct. App. 1992) ...	15
<i>Ingram v. Kasey's Assoc.</i> 340 S.C. 98, 531 S.E.2d 287 (2000).....	16
<i>Northernair Productions, Inc. v. Crow Wing Cnty.</i> , 309 Minn. 386, 244 N.W.2d 279 (Minn. 1976)	13
<i>Norton v. Matthews</i> , 249 S.C. 71, 152 S.E.2d 680 (1967).....	16
<i>Quail Hill, LLC v. Richland Cnty.</i> , 387 S.C. 223, 692 S.E.2d 499 (2010).....	13
<i>Smith v. Commissioner of Pub. Works</i> , 312 S.C. 460, 441 S.E.2d 331 (Ct. App. 1994).....	10
<i>Townes Assocs., Ltd. v. City of Greenville</i> , 266 S.C. 86, 221 S.E.2d 303 (1976)	10
<i>Wright v. Craft</i> , 372 S.C. 1, 640 S.E.2d 486 (Ct. App. 2006)	10

Rules

SCACR 268(d)(2)	11
-----------------------	----

STATEMENTS OF ISSUES ON APPEAL

- I. THE TRIAL JUDGE CORRECTLY RULED THAT THE COUNTY HAS OWNERSHIP OF THE 30-FOOT ROAD LOCATED ADJACENT TO WARSAW ISLAND ROAD ON ST. HELENA ISLAND IN BEAUFORT COUNTY, SOUTH CAROLINA, BASED UPON THE 1990 DECREE OF THE HONORABLE THOMAS KEMMERLIN AND THIS COURT’S ORDER IN THE CASE OF *GARDNER V. ADAMS*, UP. OP. NO. 2022-UP-185

- II. THE TRIAL JUDGE CORRECTLY RULED THAT BEAUFORT COUNTY WAS NOT BOUND BY EMPLOYEE’S REPRESENTATIONS WHERE THERE HAS BEEN AN ORDER IN EFFECT SINCE 1990 RULING THAT THE ROAD IN QUESTION IS A COUNTY ROAD

- III. THE TRIAL COURT RULED CORRECTLY THAT THE APPELLANT ONLY TOOK TITLE TO THE ACREAGE IN HIS DEED AND NOT ACCORDING TO ANY RELIEANCE ON DEEDS, PLATS, OR OTHER TESTIMONY ATTEMPTING TO GIVE THE APPELLANT ADDITIONAL ACREAGE MEANING HE DOES NOT OWN THE ROAD OR BOAT RAMP

- IV. THE TRIAL JUDGE CORRECTLY RULED THAT THE APPELLANT WAS TO REMOVE THE FENCE BORDERING GARDNER’S PROPERTY AS WELL AS THE BARRIERS TO ACCESS THE 30-FOOT ROAD AND BOAT RAMP AND AT HIS OWN EXPENSE WITHIN 30 DAYS OF THE ORDER AND CORRECTLY DISMISSED THE APPELLANTS’ REMAINING CLAIMS

STATEMENT OF THE CASE

This matter arises out of the ownership and use of a road and boat ramp, being certain real property off of Warsaw Island Road on St. Helena Island in Beaufort County. (ROA 67). Following trial on January 22 – 24, 2024, and February 5, 2024, the Honorable Marvin H. Dukes, II, ruled that Beaufort County is the owner of the road and the boat ramp at issue. *Id.*

This matter is before this Court on the appeal of Taylor Reuben Adams, (the “Appellant”), appealing the Final Order of the Honorable Marvin H. Dukes, III, dated April 5, 2024, entering judgment for the Respondents, Charles Willis Gardner, (“Gardner”), and Beaufort County, South Carolina, (“Beaufort County”), (Gardner and Beaufort County may collectively be referred to as

the “Respondents”), and dismissing all remaining claims against the Respondents following trial. (ROA 67).

This case commenced with the filing of a Summons and Complaint by Mr. Gardner on October 12, 2017. (ROA 199). Mr. Gardner filed an action against Mr. Adams for trespass, conversion, and declaratory and injunctive relief. (ROA 199-200). The Complaint sought to bar Mr. Adams from property which Mr. Gardner thought he and his family historically owned and which Mr. Adams was alleged to be converted to his own use. *Id.* Mr. Gardner also sought an injunction and restraining order against Mr. Adams. *Id.*

The Appellant filed an Answer and Counterclaim on December 13, 2017, asserting that Mr. Adams was the owner of the subject property and that Mr. Gardner had interfered with Mr. Adams’ use of the property. (ROA 207). Mr. Adams also asserted claims for a restraining order, trespass, actual and consequential damages as well as a claim that Mr. Gardner’s suit violated the South Carolina Frivolous Procedures Sanctions Act, S.C. Code Ann. §15-36-10, -100 requesting fees and costs. *Id.*

Mr. Gardner filed a Reply to the Counterclaim on December 18, 2017. (ROA 209).

In his Complaint, Mr. Gardner asserted a cause of action for trespass, conversion, and declaratory and injunctive relief to enjoin the Appellant from blocking and trespassing onto Gardner’s property located on Warsaw Island Road.

While this matter was pending, the Honorable Marvin H. Dukes, III, Master in Equity for Beaufort County, issued an order that stated no structures were to be placed on the property in question. (ROA 17)

Thereafter, the Appellant filed a Motion for Partial Summary Judgment on March 15, 2018. (ROA 86). That motion requested that the Court confirm Mr. Adams’ title contained “the 30’ road and property to the south of the 30’ road”. *Id.* A hearing was held on June 26, 2018, before The

Honorable Perry M. Buckner, III, and an Order Granting Partial Summary Judgment was filed on July 10, 2018, stating the 30-foot road right-of-way did not belong to Mr. Gardner and that a 1990 quiet title action and deed to Gardner from his father specifically excludes the 30-foot road and property south of the road. (ROA 3).

In the motion for partial summary judgment, Mr. Adams referenced a 1990 quiet title order that controls almost all aspects of this case, being a “Decree of Title Clearance” filed November 20, 1990, by the Honorable Thomas Kemmerlin, Master in Equity for Beaufort County. That case was captioned *Gardner v. Gardner*, Case No. 89-CP-07-879. Charles Gardner’s title and Reuben Adams’ title are from the same parties to that action, being Ardelle S. Gardner and John Howard. *Id.* Judge Buckner did not fully take into account the ruling of Judge Kemmerlin, and this Court remanded the case “for further proceedings consistent with this opinion.” (ROA 38).

In that Unpublished Opinion, this Court quoted directly from Page 11 of Judge Kemmerlin’s Order which stated:

(3) That the Plaintiff [Leroy Gardner, Sr.] by virtue of having acquired all the interest of the heirs of Ardelle S. Gardner, owns all of Lot 15, Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, more particularly described on that plat prepared for Ardelle S. Gardner by Rod C. Spann dated November 11, 1976, and recorded in Plat Book 28 at Page 21, *save and excepting, however, the 1.054 acre portion of Lot 15 situate immediately below (southeast) the unpaved Beaufort County road running in a generally southwest to northeast direction*, said portion of Lot 15 being more particularly shown on a plat prepared by Neils Christensen IV dated June 5, 1990, attached hereto and incorporated as a part hereof, said piece of Lot 15 being owned by the Defendant John Howard; and further save and excepting the portion of Lot 15 which consists of a triangle situate immediately below (southwest) *the unpaved county road running in a generally southeast to northwest direction* and shown on the 1989 Beaufort County Tax Maps as Parcel 5A, Map 9, District 300, the ownership of said triangle being unknown. This Section 12, 1S1W, Warsaw Island, St. Helena Township, Beaufort County, South Carolina from Dan Taylor to Ardelle S. Gardner, dated October 22, 1976, and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Deed Book 241 at Page 1637, *except as to the parcel of the unpaved county road (which belongs to John Howard)* and the triangular parcel southwest of the *unpaved county road*, the ownership of which is unknown reflected in the survey for Ardelle S. Gardner prepared by Rod C. Spann dated November 11, 1976,

and recorded in Plat Book 28 at Page 21. The 1.054 acre piece of Lot 15 shown on the plat for John Howard (attached hereto) was acquired by John Howard from Dan Taylor by way of deed dated July 24, 1960, and recorded in Deed Book 102 at Page 270. The Plaintiff is the only individual who could possibly contest John Howard's ownership of this 1.054 acre tract, and he as stipulated that John Howard owns this parcel in fee simple. *The unpaved county road separates the respective portions of Lot 15 owed by the Plaintiff and John Howard.*

(ROA 32-33)(emphasis added).

This Court further noted that in Judge Kemmerlin's Order, he quieted title to property owned by Leroy Gardner, Sr., including an 8.91 acre Warsaw island Road tract C (Tract C),

SAVE AND EXCEPT: The thirty (30) foot dirt road running in a generally southwest to northeast direction across Lot 15 and that 1.054 acre portion of Lot 15 immediately **below (southeast) the thirty (30) foot dirt road**, is owned by Defendant, John Howard; and the parcel constituting a triangle immediately below (northeast) the twenty (20) foot dirt road, the ownership is which unknown as reflected in the plat prepared by Rod C. Spann for Ardelle S. Gardner, just referenced.

(ROA 33)(emphasis added).

This Court found 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 owed the road; thus, neither Charles Gardner nor Adams (through his position in the Howard Property's chain of title) owns it now.

(ROA 38).

The case was remanded for further proceedings consistent with the Unpublished Opinion No. 2022-UP-15. *Id.*

On May 24, 2022, Gardner filed a Motion for a Temporary Injunction. (ROA 116).

On July 27, 2022, Beaufort County filed a Motion to Intervene and a Memo in Support of its Motion to Intervene on March 7, 2023. (ROA 122).

On March 8, 2023, Gardner filed the Affidavit of Richard Williamson and the Affidavit of Eddie Inabinett in support of his Motion for a Temporary Injunction. (ROA 116).

The parties consented to a Consent Order of Reference to the Master in Equity on March 15, 2023. (ROA 827)

On May 3, 2023, the Motion for Temporary Injunction and Motion to Intervene were heard before The Honorable Marvin H. Dukes, III. (ROA 116, 122). An Order granting Motion to Intervene was filed on May 12, 2023. (ROA 49). An Order denying Motion for a Temporary Injunction was denied and which allowed Gardner to file an Amended Summons and Complaint. (ROA 830)

Gardner filed an Amended Summons and Complaint was filed on May 10, 2023. (ROA 214).

In his Amended Complaint, Gardner asserted a cause of action for a Declaratory Judgment granting Gardner the right to use the 30-foot road, the boat ramp at the eastern end of the 30-foot road, and the property to the south of the road as he and his predecessors and interests have used historically. (ROA 216). Gardner also requested the court grant an Order stating the Appellant has access to his own property by way of Ashton Drive and that it is not necessary for him to trespass on Gardner's property to access his own. (ROA 219).

Gardner also asserted a cause of action for trespass, nuisance and a temporary and permanent injunction to enjoin Appellant from blocking access to his property and from prohibiting use of the road, which has been historically used by Gardner and his family and predecessors in interest, as well as the from blocking the road and boat ramp as the law of the case is that Appellant does not own the road nor does he own the boat ramp. (ROA 216-17).

This was ruled upon by the South Carolina Court of Appeals and which ruling was not overturned by the South Carolina Supreme Court, making it the law of the case. *Gardner v. Adams*, Up. Op., No. 2022-UP-185.

On May 18, 2023, Beaufort County filed a Summons and Complaint to Intervene. (ROA 220). Gardner filed an Answer, Counterclaim and Crossclaim on June 1, 2023. (ROA 226). Beaufort County filed a Reply on June 5, 2023. (ROA 233).

The Appellant failed to file an Answer to the Amended Complaint and an Affidavit of Non-Military Service and Affidavit of Default were filed with the Court on June 13, 2023. (ROA 842, 846)

The Appellant filed a Motion to Reopen Default and his Answer to Beaufort County's Complaint of Intervention on June 13, 2023. (ROA 238).

The Appellant filed his Answer to Gardner's Amended Complaint on June 15, 2023. (ROA 832)

On June 26, 2023, Beaufort County filed its Motion for Summary Judgment. (ROA 839) On July 24, 2023, Gardner filed his Motion for Summary Judgment. (ROA 140). Beaufort County filed its Memo in Support of its Motion for Summary Judgment on July 26, 2023. (ROA 184).

On July 27, 2023, an Order was entered Denying Beaufort County's Motion for Summary Judgment. (ROA 52).

Beaufort County filed a Motion to Reconsider on August 2, 2023, and it was denied by way of Order Denying Motion to Reconsider on August 25, 2023. (ROA 55).

A Notice of Hearing was filed on September 15, 2023, and Gardner filed a Notice of Trial Hearing on September 18, 2023. (ROA 847, 848)

Beaufort County filed its Memo in Opposition to Gardner's Motion for Summary Judgment on January 5, 2024, and on January 8, 2024, the Gardner's Motion for Summary Judgment was heard and denied by way of Form 4 C Order. (ROA 61).

A Notice of Hearing was filed on January 24, 2024, and a trial was held on January 22-24, 2024, with additional testimony taken on February 5, 2024. (ROA 244, 462).

The Final Order and Form 4 C Order were entered on April 5, 2024. (ROA 67).

The Appellant filed a Motion to Reconsider on April 11, 2024, and Beaufort County filed a Response on May 1, 2024. (ROA 193, 241).

An Order Denying the Appellant's Motion to Reconsider was filed on May 24, 2024. (ROA 84).

The Appellant filed a Notice of Appeal with the South Carolina Court of Appeals on June 21, 2024.

STATEMENT OF FACTS

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. (ROA 67).

Charles Gardner is the owner of real property located at 259 Warsaw Avenue, St. Helena Island, South Carolina. (ROA 266). The Gardner property consists of an 8.91 acre tract of land on Warsaw Island which he obtained through his family's long ownership of this property, inheriting his property through his father, Leroy Gardner. (ROA 289, 748). Mr. Gardner's deed from his father describes the property as containing that acreage "SAVE AND EXCEPT: The thirty (30) foot dirt road running in a generally southwest to northeast direction across Lot 15 and that 1.054 acre portion of Lot 15 immediately below (southeast) the thirty (30) foot dirt road, owned by John Howard. *Id.*

John Howard was the former owner of the 1.054 acre tract. *Id.* Mr. Adams is the owner of the 1.054 acre tract. At one point, Mr. Howard's property was sold for non-payment of taxes. (ROA 303-04, 764). The deed selling the property for non-payment of taxes references 1.054 acres. *Id.* That tax deed transferred the property to Dale Gabarday, as trustee of the Dale Gabarday Trust. *Id.* Mr. Gabarday, as Trustee, transferred the property to Reuben Taylor Adams by deed recorded January 23, 2015 in Book 3375 at 450 in the Office of the Register of Deeds for Beaufort County

(ROA 307-08, 773). The real property in the deed to Mr. Adams describes the property as being 1.05 acres, more or less. It also states that that for a more legal description, see Judgment Roll 82475, being the Decree of Title Clearance issued by the Honorable Thomas Kemmerlin, Master in Equity for Beaufort County, on November 20, 1990. (ROA 726).

After acquiring the property, Mr. Adams blocked off the road which is the crux of this matter. (ROA 268). Mr. Gardner informed Mr. Adams that he thought he and his family had always owned the road which Mr. Adams now claimed to be his by way of his deed. *Id.* In fact, his family entered into a lease agree with Alcoa South Carolina to use the road in their development of Dataw Island across Jenkins Creek from the Gardner property. (ROA 273).

During the pendency of this matter, Judge Kemmerlin's Decree of Title Clearance became known to Mr. Gardner. (ROA 273). That Decree arose out of a quiet title action by Mr. Gardner's father and various family members and John Howard who lived across the road at issue. (ROA 281-87, 727). In being asked about Judge Kemmerlin's Order, Mr. Gardner clarified that almost all parties thereto were related by blood or marriage, including Mr. Howard, Mr. Adams' predecessor in title. *Id.*

At trial, there was substantial testimony as to Mr. Gardner and his family's use of the road, the use by members of the community, and, even expert witness surveyors who thought the road belonged to the Gardner family. According to Mr. Gardner, he and his family thought they owned the road for years, which is why the Gardner family maintained the road. (ROA 382-83). Ed Atkins, Jr., a local shrimper and bait shop owner, testified that he used the road and boat ramp from the time he was 8 or 9 years old, since 1959. (ROA 414-15). Since Mr. Adams blocked the road he has to put in his boats at other landings. *Id.* at 415-16. He was never blocked form using the road or boat ramp until Mr. Adams moved into the scene. (ROA 423). Richard Williamson, who lives on Warsaw Island, also testified that he formerly used the road and boat ramp. (ROA

427). Mr. Williams contacted Mr. Gardner to use the boat and ramp for himself and people renting his house for short term rentals *Id.* at 428.

David Youmans, also a resident of Warsaw Island, and qualified as an expert witness without objection, also testified as to his knowledge of the road and boat ramp. He has lived on Warsaw Island for over twenty-five years. (ROA 439). He prepared a plat of the subject properties per Mr. Gardner's request. (ROA 795). Mr. Youmans testified that in his opinion Mr. Adams owns "a little over an acre on the south side of the road." (ROA 445). That is the same acreage in the tax deed, being 1.054 acres. (ROA 445, 764). Mr. Youmans also noted that Judge Kemmerlin's Order also contained a hand-written note stating that Mr. Adams' predecessor in title, John Howard, owned 1.054 acres "being below and southeast of the 30-foot dirt road." (ROA 455, 727).

David Gasque, another surveyor, qualified as an expert witness without object, also testified at trial. (ROA 253-88). Mr. Gasque also confirmed that the deed into Mr. Adams' predecessor, Mr. Gabardy, showed that there were 1.05 acres, more or less, and for a "more legal description see Judgment Roll 82475, Pat Book 28 Page 21" (ROA 477). He testified that he had conversations with Mr. Adams wherein he, Mr. Gasque, could not state the ownership of the road in question. (ROA 486). He also testified that a plat he prepared for Mr. Adams was labeled "Problem plat, see assessor." (ROA 488, 784-85). Even though it was recorded, the plat was to be disregarded. (ROA 489).

Mr. Adams also testified at trial. Most of his testimony concerned the constant bickering between himself and Mr. Gardner: foul, racially-tinged language, offensive terms, bad animus between the parties. (ROA 508, 512-13, 535, 549, 552, 561). Despite that testimony and the attempts to turn this matter into a "harassment" case, Mr. Adams admitted that he owns only the acreage in his deed and that he purchased 1.05 acres, more or less. (ROA 528, 555, 712-26). He further admitted that despite the Order of Judge Dukes early on in the case ordering that there be

structures on the road, he, Mr. Adams, erected a fence, effectively blocking the road. (ROA 553). Mr. Adams was aware of that Court's ruling in *Gardner v. Adams*, Up. Op. 2022-UP-185 concluded that neither Leroy Gardner, Sr., nor John Howard own the property. (ROA 557). Mr. Gardner's predecessor in interest was Leroy Gardner, Sr. (ROA 747-50). One of Mr. Adams' predecessors in interest was John Howard. (ROA 751-56, 764-65, 773-76). Neither Mr. Gardner nor Mr. Adams own the road.

STANDARD OF REVIEW

When legal and equitable actions are presented together in one suit, the court has a divided scope of review as each action retains its identity as legal or equitable of review on appeal. *Wright v. Craft*, 372 S.C. 1, 640 S.E.2d 486 (Ct. App. 2006) In an action at law tried without a jury the appellate court's review extends to the corrections of law and the lower court must be affirmed where there is evidence to reasonable support the judge's findings. *Townes Assocs., Ltd. v. City of Greenville*, 266 S.C. 86, 221 S.E.2d 303 (1976). In equitable actions, an appellate court may find facts in accordance with its own view of the preponderance of the evidence. *Id.* Interpretations of deeds and the scope of easements are equitable matters. *Eldridge v. City of Greenwood*, 331 S.C. 398, 503 S.E.2d 1991 (Ct. App. 1998); *Smith v. Commissioner of Pub. Works*, 312 S.C. 460, 441 S.E.2d 331 (Ct. App. 1994).

ARGUMENT

- I. THE TRIAL JUDGE CORRECTLY RULED THAT THE COUNTY HAS OWNERSHIP OF THE 30-FOOT ROAD LOCATED ADJACENT TO WARSAW ISLAND ROAD ON ST. HELENA ISLAND IN BEAUFORT COUNTY, SOUTH CAROLINA, BASED UPON THE 1990 DECREE OF THE HONORABLE THOMAS KEMMERLIN AND

THIS COURT'S ORDER IN THE CASE OF *GARDNER V. ADAMS*, UP. OP. NO. 2022-UP-185

As an initial matter, neither Judge Kemmerlin's 1990 Quiet Title Order nor the Court of Appeals' opinion in the present case were appealed, overturned, or modified. (ROA 30-39). Accordingly, Judge Dukes had no choice but to rule as he did in his Order of April 5, 2024.

Judge Dukes properly quoted directly from this Court's findings in *Gardner v. Adams*, Op. No. 2022-UP-185, which is the same quote here, *supra*, as follows:

[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 owed the road; thus, neither Charles Gardner nor Adams (through his position in the Howard Property's chain of title) owns it now.

(ROA 38).

Judge Dukes noted in his Order, that Mr. Adams testified that he received his property from Mr. Gabardy, which contained 1.05 acres of land. (ROA 31-33). That is consistent with the deed and the tax deed and the testimony offered at trial.

Judge Dukes properly relied on this Court's Unpublished Opinion No. 2022-UP-185 dated April 27, 2022. SCACR 268(d)(2) provides that unpublished orders may be cited in proceedings in which they are directly involved. There is no dispute that Unpublished Opinion was in this very proceeding as the case came before Judge Dukes only after "remand for further proceedings consistent with this opinion." (ROA 38). The findings in that Opinion quoted directly from Judge Kemmerlin's 1990 Decree and Judge Dukes quoted both the Opinion and the Decree consistent with Unpublished Opinion as required to do by this Court.

In his Order, under the section entitled "b. Trial evidence", Judge Dukes went through a thorough history of Mr. Gardner's association with the Property, the use of the 30-foot dirt road, and the use of the boat ramp (ROA 71-72). Judge Dukes also recounted the testimony of Ed Atkins,

Richard Williamson, David Youmans, David Gasque, and Reuben Adams. (ROA 72-74). More than just “any evidence” Judge Dukes set forth significant evidence for the basis of his ruling, which should be upheld accordingly. *Hardy v. Aiken*, 369 S.C. 160, 631 S.E.2d 539 (2006). Judge Dukes recounted the deeds, the plats, the testimony of the parties, the fact witnesses, and the two expert witnesses for five (5) pages detailing the evidence presented to him in a full record at trial (ROA 71-75).

As Judge Dukes noted, the documentary evidence included the following:

1. Deeds within the chain of title;
2. Lease and permit application documents;
3. Correspondence;
4. Plats and surveys;
5. Mortgage and tax documents;
6. Documents to and from DHEC;
7. Plats and surveys;
8. Documents from the Beaufort County Sheriff's Office to include incident reports;
9. Court rulings to include Judge Kemmerlin's 1990 quiet title order;
10. The Court of Appeals Unpublished Opinion.

(ROA 75).

Contrary to the Appellant's assertion, Judge Dukes' “thoroughly reviewed the evidence on the ownership of the property instead of relying solely on the unpublished Opinion.” (Appellant's Brief, p. 9)

Both parties' predecessors in title were parties to the 1990 Quiet Title Action, which involved the property at issues in the present case. (ROA 281-87). As this Court found in *Gardner v. Adams*, Unpublished Opinion Number 2022-UP-185, all the parties to this matter obtained their titles by deeds from parties to the 1989 quiet title action. (ROA 31). At the trial of this case, Mr. Adams' attorney was “...happy to stipulate that this order says what it says.” (ROA 287). The matter should end there, accordingly.

II. THE TRIAL JUDGE CORRECTLY RULED THAT BEAUFORT COUNTY WAS NOT BOUND BY EMPLOYEE'S REPRESENTATIONS WHERE THERE HAS BEEN AN ORDER IN EFFECT SINCE 1990 RULING THAT THE ROAD IN QUESTION IS A COUNTY ROAD

Mr. Adams' reliance on a letter from a Beaufort County employee was misplaced and not enough to overcome the rulings by Judge Kemmerlin in his 1990 quiet title decree. Mr. Adams improperly claims that a letter from Eric Klatt, a list of boat ramps, and the County GIS are enough to bind the County. That is not the law in this state. 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) Mr. Adams' reliance is misplaced. That he claims the cases cited by Judge Dukes are related to zoning is a red herring. The law is clear: relying on a governmental mistake or misstatement is not enough to bind the governmental entity. "To hold otherwise would impose an impossible burden on the County (and taxpayers) to act, in effect, as an insurer of all information given by County employees under all circumstances." *Carolina Chloride*, 394 S.C. at 168. Mr. Adams had no right to rely on the five (5) alleged representations of the County, one of which is clearly hearsay.

III. THE TRIAL COURT RULED CORRECTLY THAT THE APPELLANT ONLY TOOK TITLE TO THE ACREAGE IN HIS DEED AND NOT ACCORDING TO ANY RELIEANCE ON DEEDS, PLATS, OR OTHER TESTIMONY ATTEMPTING TO GIVE THE APPELLANT ADDITIONAL ACREAGE MEANING HE DOES NOT OWN THE ROAD OR BOAT RAMP

Judge Dukes thoroughly recited the evidence he relied on as to title and ownership of the road and boat ramp and Mr. Adams' property. The only evidence from the deeds, plats, and testimony showed that Mr. Adams only has title to the acreage he was deed, being 1.054 acres,

sometimes described as 1.05 acres, more or less. He offered no evidence that he owned more than he was deed. In fact, Mr. Adams confirmed by his own testimony the acreage in his deed. (ROA 310). That same acreage was confirmed by both Mr. Youmans and Mr. Gasque. (ROA 446, ROA 455, 477).

As Judge Dukes correctly wrote:

[i]t 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)).

Mr. Adams cannot have more acreage than in his deed from Mr. Gabardy as the Trustee of his Trust.

The property description in the deed from Mr. Gabardy is as follows:

ALL that certain piece, parcel or lot of land, situate, lying and being on St. Helena Island, Beaufort County, South Carolina, a portion of land Lot 28 & 29, Section 12, Township 1, South Range 1, West containing 1.05 acres, more or less. For more legal description see Judgment Roll 82475 and Plat Book 28 at Page 21. Said property is further referenced in the Office of the Beaufort County Assessor as R300 009 000 010A 0000.

(ROA 712-26, 773-75).

The property description references Judgment Roll 82475, being the Decree of Title Clearance which is stamped “JR 82475” on its face, meaning that Mr. Adams’ property description references the findings in Judge Kemmerlin’s Decree. (ROA 73-74, 773-75).

Mr. Adams received 1.05 acres by his deed. That is all he owns, even by his own admission. (ROA 528, 555, 773-75). He did not acquire the road or additional acreage. The burden is not on the County to establish its title, but, instead on Mr. Adams to establish his. *Hoogenboom v. City of Beaufort*, 315 S.C. 306, 313, 433 S.E.2d 875, 880–81 (Ct. App. 1992). He cannot.

Mr. Adams further relies on hearsay statement to one of Mr. Gardner's expert witnesses is enough to bind the County so that the County does not own the road. That is in contradiction to Judge Kemmerlin's Order and this Court's unpublished opinion in *Gardner v. Adams* (ROA 67-79). Mr. Gasque's testimony of hearsay of a county employee is not enough to bind the county. (ROA 471-90); *Carolina Chloride*, 394 S.C. at 168.

IV. THE TRIAL JUDGE CORRECTLY RULED THAT THE APPELLANT WAS TO REMOVE THE FENCE BORDERING GARDNER'S PROPERTY AS WELL AS THE BARRIERS TO ACCESS THE 30-FOOT ROAD AND BOAT RAMP AND AT HIS OWN EXPENSE WITHIN 30 DAYS OF THE ORDER AND CORRECTLY DISMISSED THE APPELLANTS' REMAINING CLAIMS

During the pendency of this case, Judge Dukes ordered that "[p]ending further Oder of the Court, Defendant [Mr. Adams] may not erect any permanent structure on the road, nor otherwise rend the road permanently unusable." (ROA 22, 67). However, Mr. Adams testified and admitted that he did erect a fence despite the Order of Judge Dukes, Mr. Adams, erected a fence, blocking the road and rendering it unusable during the pendency of the matter and without further Order of the court. (ROA 553).

Because the County is the owner of the subject road and ramp, the Judge found that the Appellant violated the Court's Order in installing a drain field within the bounds of the road and blocking access to it. The Appellant was correctly 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 where he does not own the land and is in violation of two (2) orders, the first of which was never appealed

Judge Dukes correctly dismissed the Appellants counterclaims, which were never pled in response to the Amended Complaint. Mr. Adams' hands are not clean and he cannot recover due to his actions. *Ingram v. Kasey's Assoc.* 340 S.C. 98, 531 S.E.2d 287 (2000). He who seeks equity

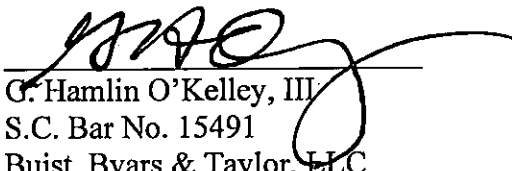
must do equity. *Norton v. Matthews*, 249 S.C. 71, 152 S.E.2d 680 (1967). Mr. Adams' testimony confirmed that it is he who was the aggressor and harassing party. Most of his testimony concerned the constant bickering between himself and Mr. Gardner: foul, racially-tinged language, offensive terms, bad animus between the parties. (ROA 508, 512-13, 535, 549, 552, 561). Mr. Adams admitted to filming Mr. Gardner and his guests on a regular basis (ROA 536, 550-51). Mr. Adams admitted to calling Mr. Gardner the most racially harmful epithet in the English language. (ROA 549, 552, 561-62). It was Mr. Adams who moved to the neighborhood, stole land which he did not own, and began to be in direct conflict with his neighbors.

CONCLUSION

Judge Dukes correctly ruled that the road ownership belongs to Beaufort County, the fencing and drain field should be immediately removed, and he should be affirmed in his decision.

Mt. Pleasant, South Carolina
August 15, 2025

Respectfully submitted:


G. Hamlin O'Kelley, III
S.C. Bar No. 15491
Buist, Byars & Taylor, LLC
652 Coleman Blvd., Suite 200
Mt. Pleasant, SC 29464
(843) 856-4488
Hamlin.okelley@buistbyars.com
Attorney for the Plaintiff

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

SEP 03 2025

APPEAL FROM BEAUFORT COUNTY
In the Court of Common Pleas for the Ninth Judicial Circuit SC Court of Appeals

The Honorable Marvin H. Dukes, III

Case No. 2017-CP-07-02110
Appellate Case No. 2024-001053

Charles Willis Gardner,.....Respondent,

v.

Taylor Reuben Adams, and Beaufort County, South Carolina, Defendants,
of which Taylor Reuben Adams is the.....Appellant,

AND

Beaufort County, South Carolina is a.....Respondent.


**CERTIFICATE OF COUNSEL
PURSUANT TO RULE 211 (b) SCACR**

SIGNATURE BLOCK ON FOLLOWING PAGE

I certify the Respondent's, Charles Willis Gardner, Final Brief and that it is in compliance with Rule 211 (b) SCACR in that no changes were made excepting references to the Record on Appeal and correction of typographical errors and misspellings.

Mt. Pleasant, South Carolina
August 26, 2025

BUIST BYARS & TAYLOR, LLC



G. Hamlin O'Kelley, III,
SC Bar No. 15491
652 Coleman Blvd., Suite 200
Mt. Pleasant, SC 29464
(843) 856-4488
Hamlin.okelley@buiстыars.com