

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Thurmond Guess, Sr.,

Civil Action No.: 2022CP40-1906

Plaintiff,

v.

ORDER GRANTING MOTIONS TO DISMISS

Pastor Darrell Jackson, Marshall Green,
Rose A. English, Alfred T. Guess, and
Marjorie Guess,

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Defendants.

FEB 09 2026

SC Court of Appeals

This matter comes before the Court on a Motions to Dismiss filed by Defendants Marshall Green, Alfred T. Guess and Marjorie Guess. A hearing on the Motions was held on January 5, 2026, in Richland County, South Carolina. Plaintiff, Thurmond Guess, Sr., was present. Counsel for Defendant Marshall Green, Abigail Rogers, was present. Counsel for Defendants Alfred T. Guess and Marjorie Guess, George C. Johnson, was present. Lastly, Ms. Madeline Green, daughter of deceased Marshall Green and Personal Representative of his estate was also present.

By way of background, it appears that Plaintiff alleges that Richland County fraudulently obtained an easement from Arthur Guess and Lila Mae Guess. Arthur Guess and Lila Mae Guess own 3004 Dell Drive which is located in Richland County. Richland County obtained the aforementioned easement from Lila Mae Guess to install a storm drain on her property on March 18, 1991. Arthur and Lila Guess are the parents of Thurmond Guess, Sr. and Defendant Alfred T. Guess. It appears that Arthur Guess died in the 1970s; Lila Guess died in 2008. Defendant Marshall Green died on September 07, 2024¹. On July 25, 2025, Defendant Alfred Guess died².

¹ Madeline Green was appointed Personal Representative for the Estate of Marshall Green on December 12, 2024.

²Marjorie Guess was appointed Personal Representative for the estate of Alfred Guess on November 13, 2025.

The Complaint was filed by Thurmond Guess, Sr. on April 13, 2022. On February 14, 2023, Judge Benjamin dismissed Defendants Darrell Jackson and Rosa English. She found that the statute of limitations had expired and she found that the Plaintiff did not allege sufficient facts to meet the nine elements of constructive fraud. On October 7, 2025, Plaintiff filed a Motion to Substitute parties³. Defendant Marjorie Guess filed three Motions to dismiss on November 10, 2025. On December 17, 2025 Ms. Green also filed three Motions to Dismiss.

After consideration of the Motions and arguments by the parties, this Court finds that all of the Motions to Dismiss should be granted. First, the statute of limitations has expired on this matter. The alleged injury to the Plaintiff occurred thirty years before he claims he learned of the easement and thirty-one years before he filed his complaint. The Plaintiff stated at the hearing held on January 5, 2026, that he learned of the easement in 2021 after Defendants Alfred and Marjorie Guess tried to get a loan using 3004 Dell Drive as collateral.

The discovery rule in constructive fraud cases allows potential plaintiffs no more than six years from the date of injury, or from the date they ought to have discovered the injury, to file a complaint. This Court finds that the Plaintiff did not conduct reasonable diligence to discover the alleged injury in the thirty years since the execution of the right-of-way easement. Had he simply inquired, he would have discovered the easement as it was filed in the Richland County Register of Deeds Office. Moreover, the County has been accessing the storm drain for over 30 years. Therefore, any form of reasonable diligence would have led to the discovery and existence of the easement. The six-year statute of limitations has expired. On this basis, the Court **GRANTS** Defendants' Motion to Dismiss.

³ Prior to hearing arguments on Defendants' Motions to Dismiss, the Court granted Plaintiff's Motion to substitute parties (see Rule 4 Order previously filed). Therefore, the Court viewed the Defendants' Motions to Dismiss to be brought on behalf of Marjorie Guess, The Estate of Alfred Guess and the Estate of Marshall Green.

Additionally, this Court finds that the Plaintiff has not alleged sufficient facts necessary to meet the nine elements of constructive fraud which include: (1) a representation; (2) its falsity; (3) its materiality; (4) either intent that the representation be acted upon; (6) the hearer's ignorance of its falsity; (7) the hearer's reliance on its truth; (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury. The Complaint is devoid of any specific allegations as to what part Marshall Green, Alfred T. Guess, or Marjorie Guess played in the alleged fraud. Although Defendants titled their Motions as Motions to Dismiss pursuant to Rule 12(b)(6), SCRCPP, this Court viewed their Motions as Summary Judgment Motions pursuant to Rule 56, SCRCPP. This Court **GRANTS** Defendants' Motion to Dismiss and dismisses Plaintiff's claims.

Lastly, the easement in question was obtained by Richland County from Lila Mae Guess to install a storm drain on property she co-owns with her husband, Arthur Guess. Although Lila Mae Guess and Arthur Guess, are deceased, the property in question is still owned by them. Their estates have never been probated nor has Plaintiff ever been appointed Personal Representative for their Estates. Therefore, Plaintiff has no legal interest in 3004 Dell Drive nor does he have the authority to bring an action for Lila Mae Guest or Arthur Guest. Plaintiff has no standing to bring an action based on an easement he was not a party to on land he doesn't own. This Court **GRANTS** Defendants' Motion to Dismiss and dismisses Plaintiff's claims.

Defendants Motions to Dismiss are granted as to Defendants Marshall Green n/k/a the Estate of Marshall Green, Alfred T. Guess n/k/a the Estate of Alfred T. Guess and Marjorie Guess.

IT IS SO ORDERED.

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Richland Common Pleas

Case Caption: Thurmond Guess Sr vs Darrell Jackson Sr , defendant, et al
Case Number: 2022CP4001906
Type: Order/Dismissal

So Ordered

Jocelyn Newman

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