

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2025-CP-10-01165

JOSEPH W. KEATING,)
)
Plaintiff,)

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SC Court of Appeals

vs.)
)
)

HARRISON WILDER, JR., HOPE)
WILDER BROWN, ESTATE OF)
HARRISON WILDER .)

Defendants / Counterclaim Plaintiffs and)
Third Party Plaintiffs.)

ORDER ON MOTION TO DISMISS
AND/OR SUMMARY JUDGMENT

vs.)
)
)

JOSEPH W. KEATING d/b/a KEATING)
TREE SERVICE, and)
JAMES ISLAND PRESERVATION)
TRUST, JOSPEH W. KEATING, as)
TRUSTEE)

Third Party Defendants)

This matter came before the Court on October 13, 2025 on Defendants' Harrison Wilder, Jr. and Hope Wilder Brown, Motion to Dismiss and/or Summary Judgment pursuant to Rules 12 and/or 56 of the South Carolina Rules of Civil Procedure, filed September 17, 2025. The Court denies the Rule 12 motion to dismiss, but grants the Rule 56 motion for summary judgment regarding Plaintiff Joseph W. Keating's complaint for adverse possession, finding that Plaintiff has not met the elements of adverse of possession based upon Plaintiff's deposition testimony concerning a portion of property identified within Tax Map Number 331-05-00-001 along Old Sol Legare Road, Charleston County, South Carolina. Having considered the motion, the

evidentiary submissions and testimony filed of record, the pleadings, and applicable law, the Court finds there is no genuine issue of material fact that the Keating parties are entitled to judgment as a matter of law as they have not met the required elements for adverse possession.

Procedural Background and Parties

Plaintiff Joseph W. Keating filed a Complaint on March 3, 2025, *pro se*, asserting title to a portion of TMS 331-05-00-001 by adverse possession, seeking to quiet title and a receipt of a Master's Deed. The matter was thereafter referred to the Master in Equity for disposition and handling of equitable claims. Defendants Harrison Wilder, Jr. and Hope Wilder Brown are two of the numerous heirs to the property, but were the only individuals named by Plaintiff in his claim for adverse possession.

Legal Standard

Summary judgment shall be granted when the pleadings and evidence show no genuine issue of material fact and the movant is entitled to judgment as a matter of law. "The purpose of summary judgment is to expedite the disposition of cases not requiring the services of a fact finder." Curiel v. Hampton Cty. E.M.S., 401 S.C. 646, 649, 737 S.E.2d 854, 855 (Ct. App. 2012). "Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law. Rule 56(c), SCRPC. See Kitchen Planners, LLC v. Friedman, 440 S.C. 456 (2023). To prevail on adverse possession in South Carolina, a claimant must prove, by clear and convincing evidence, possession that is actual, open, notorious, hostile, continuous, and exclusive for the statutory period. Millvale Plantation, LLC v. Carrison Fam. Ltd. P'ship, 401 S.C. 166, 176, 736 S.E.2d 286, 291 (Ct. App. 2012).

Findings of Fact

1. The property Plaintiff claims is only a portion of TMS 331-05-00-001 described in his Complaint and depicted in "Exhibit A," which Plaintiff acknowledges may require professional surveying.
2. Defendants alleged in their verified answer that they have paid the real property taxes on the property, a fact which is not contested by the Plaintiff.
3. Plaintiff alleges he has "openly, notoriously, in a hostile manner, continuously, adversely possessed and used the above described property for access and storage purposes since 2008, that is for over 10 years."
4. Defendants, through an October 28, 2024 cease and desist letter, notified Plaintiff that he and Keating Tree Service were trespassing and dumping on Estate property (TMS No. 331-05-00-001) and demanded removal of equipment and items, citing County Ordinance #1115, Section 5-A, and requested a response within seven days. Mr. Keating replied to Defendant Hope Brown by response, "I have received your certified letter and will rectify the problem in 60 days. I hope that will be satisfactory."
5. On January 27, 2025, the Charleston County Sheriff's Office responded to the incident location for a report of trespass and illegal dumping. The responding deputy observed large concrete blocks, Conex storage containers, and abandoned vehicles on the land, including a vehicle bearing the name "Keating Tree Services." The complainant Marvin Johnson reported that an unknown party had been dumping large items and buckets with unknown liquids on his family's property, and that Plaintiff acknowledged placing items there and committed to remove them within 60 days. Removal did not occur within that period. Plaintiff told deputies he had agreed to remove the items and still intended to do so, asserted uncertainty regarding exact property boundaries, and claimed the road leading to the property belonged to him. Deputies advised Johnson regarding civil process and applicable criminal trespass laws and that if the road served as a right of way for the Johnson family, Plaintiff could not legally restrict access. The report notes Plaintiff committed to begin removing items and that no further action was taken at that time.
6. In his October 1, 2025 deposition, Plaintiff testified his activities along Old Sol Legare Road began in 2008, including clearing debris and building up the road with dirt, and that substantial clearing and fill activities occurred around 2011-2012. He admits placing cut trees/logs to block access, depositing asphalt and concrete, and placing concrete parking bumpers and a shipping container on the area; he also used the area for storage, parking, and bonfires according to his testimony. He acknowledged that some significant additions, including asphalt and the container, occurred within the last two years and that Charleston County initiated zoning enforcement actions at this River Road property in 2024. According to Mr. Keating's testimony, he agreed to cease his landscaping business operations on the River Road property to resolve his zoning citations with the County since the River Road property was not zoned for a landscaping business. At that time Mr. Keating transferred the materials from the River Road property to the property at Old Sol Legre Road.

7. Plaintiff testified "The goal was always to take the property," and stated he would have kept the Wilders from using their property and would not respect their boundary, and acknowledged when asked that he was trespassing on the Wilder property.
8. Plaintiff testified that at times, others dumped materials, that there were campers and hunters removed by police or DNR, and that the Wilders cut the chain and accessed the property within six months prior to his deposition.
9. A soils engineering report dated July 1, 2025 documents buried debris, fill soils, and other materials across portions of Parcel ID numbers including 331-05-00-001, concluding that surface soils in multiple test locations are unnaturally placed fill and that soils and mulch above the old road surface are fill, with thicknesses from four to forty-eight inches.
10. The Court notes Plaintiff filed this action on March 3, 2025, and the Complaint seeks quiet title and a Master's Deed by adverse possession regarding a portion of TMS 331-05-00-001.
11. On March 20, 2025 the Circuit Court entered an Order enjoining Mr. Keating from dumping any further on the Old Sol Legre property based upon the testimony of Hope Wilder Brown, Marvin Johnson, and Charleston County Sheriff's Officer Keith Jones, as reflected in the Order.

Conclusions of Law

To establish adverse possession, a claimant must prove his possession was actual, open, notorious, hostile, continuous, and exclusive for the statutory period. South Carolina courts require parties claiming adverse possession to establish their claim by clear and convincing evidence, a standard more demanding than the typical preponderance of evidence used in most civil matters. Jones v. Leagan, 384 S.C. 1 (2009); Getsinger v. Midlands Orthopaedic Profit Sharing Plan, 327 S.C. 424 (1997). The doctrine of adverse possession must be strictly construed in favor of the owner of the title to land. King v. Hawkins, 282 S.C. 508, 511, 319 S.E.2d 361, 363 (Ct. App. 1984). Applying the law to the facts of this case, the Court hereby finds as follows:

1. *Exclusivity*. Claimant's possession must be such as to indicate his exclusive ownership of the property. Not only must his possession be without subserviency to, or recognition of, the title of the true owner, but it must be hostile thereto and to the whole world. Mullis v. Winchester, 237 SC 487, 118 SE2d 61 (1961); Gregg v Moore, 226 SC 366, 85 SE2d 279 (1954); Lynch v. Lynch, 236 SC 612, 115 SE2d 301 (1960). Plaintiff's own admissions

demonstrate others' use and intrusions on the property during the claimed period, including third parties cutting gates and dumping, campers and hunters requiring law enforcement or DNR intervention, and the Wilders accessing the property within months of his deposition, defeating exclusivity as a matter of law.

2. *Continuity and Statutory Period.* In South Carolina, adverse possession may be established if the elements of the claim are shown to exist for at least ten years. S.C. Code Ann. § 15–67–210. Plaintiff claims possession “since 2008,” but also acknowledges that significant acts relied upon for his claim—including placement of asphalt, concrete, and a shipping container—occurred in the last two years, after Charleston County initiated zoning enforcement actions at another location on River Road in 2024, too recent to satisfy the statutory period for the activities forming the basis of the claim. The Charleston County Sheriff’s January 27, 2025 report also documents Plaintiff’s contemporaneous commitment to remove items and uncertainty about boundaries, further undermining any uninterrupted, continuous adverse claim. There is no continuity of possession ‘with him who enters only occasionally; he commits a petty trespass and disappears without scarcely leaving a mark behind’, or where ‘it may be done so secretly as to elude detection; and it would be monstrous to allow one man to filch away the land of his neighbor without the possibility of guarding himself against it. Mullis v. Winchester, 237 S.C. 487, 496, 118 S.E.2d 61, 65 (1961), therefore, these elements of time and continuity are not met.
3. *Hostility and Claim of Right.* While Plaintiff expressed an intent to “take the property,” he also expressly acknowledged trespassing and uncertainty about boundaries; a hostile claim must be established by conduct consistent with ownership, not intermittent dumping, access obstruction, or equivocal acknowledgments. The Court also notes that the

Defendants have paid the real property taxes on the property, and the Plaintiff has not. As he does not claim all the property, he must establish hostility, but has not.

4. *Openness and Notoriety.* Defendants' October 28, 2024 cease and desist letter placed Plaintiff on notice of trespassing and demanded removal. When confronted by the letter alleging trespassing and "dumping waste of unknown origin and unknown environmental impact," Plaintiff responded and said he would "rectify the problem." The ensuing Sheriff's response in January 2025 reflects that any activities were treated by owners and law enforcement as trespass and dumping, not open, notorious ownership, further weakening Plaintiff's claim. Accordingly, these elements are not met.
5. *Actual Possession and Use.* Acts of ownership of open land need only be exercised in a way consistent with the possible uses of the land and as the situation of the property permits, without actual residency or occupancy. Butler v. Lindsey, 293 S.C. 466, 471, 361 S.E.2d 621, 623 (Ct.App.1987). Jones v. Leagan, 384 S.C. 1, 12, 681 S.E.2d 6, 12 (Ct. App. 2009). Plaintiff expressly admitted during his deposition to bringing in and depositing materials such as dirt, trees, asphalt, and concrete on the Old Sol Legare Road property, including for the purpose of blocking access and storage of material. Keating also admitted that he never obtained a permit for any of these activities. The soils report and Plaintiff's admissions confirm placement of debris, fill, and equipment on the property; however, such unlawful dumping and intermittent obstruction of access do not constitute the type of actual, continuous, and exclusive possession consistent with ownership necessary under South Carolina law. Simply dumping material fails to demonstrate the exclusive ownership and permanent character of possession required for adverse possession. Occasional and

temporary use or occupation does not constitute adverse possession. Taylor v. Heirs of William Taylor, 419 S.C. 639, 651–52, 799 S.E.2d 919, 925 (Ct. App. 2017).

Plaintiff's own testimony, as to any one of the above the required elements, fails to meet the clear and convincing standard to prove adverse possession, and accordingly, summary judgment for Defendants is appropriate and warranted. Plaintiff Keating has not met virtually any of the elements required to prove adverse possession.

IT IS ORDERED that Defendants' Motion for Summary Judgment is **GRANTED**. Plaintiff's Complaint for adverse possession and to quiet title to any portion of TMS 331-05-00-001 is hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the lis pendens associated with Plaintiff's adverse possession claim, 2025LP1000176 filed with this action, shall be cancelled of record by the Clerk of Court.

IT IS SO ORDERED.

Mikell R. Scarborough

Master in Equity
Charleston, S.C.

_____, 2025



Charleston Common Pleas

Case Caption: Joseph W Keating , plaintiff, et al VS Harrison Wilder Jr , defendant,
et al
Case Number: 2025CP1001165
Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

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