

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS  
Case No.: 2017-CP-04-02296

Brent Murdock, individually and )  
as agent for Charles Bruce Murdock )

Plaintiff, )

vs. )

Anderson County and Diamond W. )  
Farm, LLC and Wallace B. Wood )

Defendants. )

**RECEIVED**

APR 01 2019

SC Court of Appeals

**ORDER**

The Court held a non-jury trial in the above-captioned matter on January 8, 2019. Plaintiff Brent Murdock (“Plaintiff” or “Murdock”) appeared and was represented by Michael F. Mullinax of Mullinax Law Firm, P.A. Defendant Anderson County (“County”) was represented by Leon C. Harmon, Anderson County Attorney.

**BACKGROUND**

The instant lawsuit is a road closure case in which Murdock seeks to close a County road known as George Brock Road, also identified as County road C-17-51. George Brock Road runs northwest from its intersection with Troy Murdock Road and Alewine Road to Highway SC-284, also known as Trail Road. The Anderson County Council’s most recent Resolution passed on May 2, 2017, regarding George Brock Road expressed opposition to closure of the road..

**FINDINGS OF FACT**

After carefully considering the evidence presented at trial, including observing the testimony of witnesses testifying at trial and the demeanor of the witnesses, I make the following findings of fact:

1. George Brock Road is a paved County Road slightly less than one (1) mile in length that has been a public road for many years. It presently has some potholes and drainage issues during heavy rain, but is relatively straight with wide shoulders. The County maintains the road.

2. Murdock does not live on George Brock Road, nor does he own property titled in his name on George Brock Road. Murdock lives on Trail Road and has a greenhouse complex near his home for genetic research with plants.

3. Murdock does utilize property on the SC 284 (Trail Road) end of George Brock Road which is titled in his brother's name and in his mother's estate (collectively "Murdock Property") for conducting plant genetic research, including research on seedless watermelons. Murdock's business involving genetic research has the potential for foreign investment in his business. The Murdock property is on both sides of George Brock.

4. The property on both sides of George Brock Road below the Murdock Property is owned by Diamond W. Farm, LLC and Wallace B. Wood. This property contains a tenant house and a barn with an apartment, both of which are occupied by residents. Mr. Wood testified that he wanted George Brock Road closed.

5. From time to time, Murdock has experienced acts of vandalism and observed trash or litter on the Murdock property. These conditions interfere with the genetic plant research Murdock conducts on the Murdock property.

6. There are alternate routes of travel to reach various parcels of property if George Brock Road were to be closed. A number of residents who live in the area use George Brock Road for various purposes, including access to farm property in the area. A number of individuals

responding to notices regarding the proposed closure of George Brock Road expressed opposition to closure of the Road.

7. The Ebenezer Fire Department and the County EMS Service utilizes George Brock Road from time to time in providing fire protection and emergency services to residents in the area. George Brock Road provides a more direct and timely route for emergency vehicles dispatched from the Ebenezer to reach certain parcels of property on George Brock Road in the vicinity of George Brock Road, including Rube Ashley Road, Alewine Road, and Troy Murdock Road.

8. Based upon the testimony of the Ebenezer Fire Department Chief, Jamie Hanks, George Brock Road also provides an alternate route to certain locations in the vicinity of Rube Ashley Road, particularly during storms which can limit access on roads due to downed trees and electric utility lines.

#### **CONCLUSIONS OF LAW**

The Court concludes the following as a matter of law:

1. Abandonment or closing of streets, roads, or highways in South Carolina is controlled by S.C. Code Ann. §§ 57-9-10, et. seq. (1976).

2. The standard for closure of a road or street in South Carolina is that "it is to be in the best interests of all concerned that such street, road or highway be abandoned or closed." S.C. Code Ann. § 57-9-20 (1976). Under this statute, the controlling consideration is "the best interest of all concerned." *First Baptist Church of Mauldin v. City of Mauldin*, 308 S.C. 226, 229, 417 S.E. 2d 592, 594 (S.C. 1992); *Hoogenboom v. City of Beaufort*, 315, S.C. 306, 319, 433 S.E. 2d 875, 884 (S.C. App. 1992).

3. Under this statute, a public road or street may not be closed for the sole purpose of benefiting an abutting property owner. *Town of Kingstree v. Chapman*, 405 S.C. 282, 747 S.E. 2d 494 (S.C. App. 2013).

4. After careful consideration, the Court finds that the Plaintiff has failed to prove by a preponderance of the evidence that the closure of George Brock Road is in the best interests of all concerned in accordance with the statute. While there is ample evidence that it is in the Plaintiffs' best interests for the road in question to be closed, the Court places greater weight on the effect that the closure of George Brock Road would have on the availability of fire and emergency protection to the residents of the area. The Court places great weight on the testimony of the Fire Chief on this issue, particularly his description of recent storms limiting road access in the area. The Court recognizes that these type cases often involve significant disagreement between the residents of the communities affected. Accordingly, no weight is being given in this decision to any petitions or opinions expressed by political bodies regarding this action. The Court is sympathetic to the situation of Mr. Murdock. He appears to have a tremendous opportunity with foreign investment in his business. He also has suffered from vandals and other criminal activity on George Brock Road. However, in these cases, the Court must balance the rights of and benefits to the individual with the well-being of the community at large. The possibility that George Brock Road, however poorly-maintained it is, would be the quickest and best way to provide fire and/or emergency services to the residents of the area below Rube Ashley Road is enough to tip the balance of the evidence to the Defendant.

AND IT IS SO ORDERED.

Anderson, SC  
February \_\_\_\_, 2019

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Honorable R. Scott Sprouse  
Circuit Court Judge



Anderson Common Pleas

**Case Caption:** Brent Murdock , plaintiff, et al VS Anderson County , defendant, et al  
**Case Number:** 2017CP0402296  
**Type:** Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

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