

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER) CASE NO. 2015-CP-18-2381

Ronald Tucker, Jr. and Kenneth W. Tucker)
a/k/a Kenneth Tucker, Individually and as)
Co-Personal Representatives of the Estate of)
Mary H. Tucker, and Michael Allen,)

Plaintiffs,)

v.)

Lutricia Tucker Blakey, Gwendolyn)
Garretson, Priscilla Gray, Florie T. Hamilton,)
Jamika Tucker Jackson, Doris Tucker Jenkins,)
Alice C. Johnson, Pamela D. Tucker McKnight,)
Charlene Tucker Smalls, Abraham Tucker,)
Ashaunte Tucker, Bradley Tucker, Calvin)
Tucker, Clifford Tucker, Craig Tucker, Cynthia)
Marie Tucker, Cynthia Tucker, Dorothy Tucker,)
Dorothy Kitt Tucker, Frank T. Tucker, Gary C.)
Tucker, Hazel Tucker, Herman Tucker,)
Kenneth J. Tucker, Kenneth Tucker, Larry)
Tucker, Lillian A. Gregg Tucker, Mary Tucker,)
Maurice Tucker, Michael Anthony Tucker,)
Reubin Tucker, III, Ryan Tucker, Sadie)
Hutchinson Tucker, Shawn Tucker, Sheldon)
Tucker, Shontique Tucker, Sophronia Tucker,)
Spencer Tucker, Victor Leroy Tucker, Victoria)
Lorene Tucker, Deborah Tucker White,)
John Doe, a fictitious name used herein to)
designate the estates and unknown heirs at)
law, distributees, devisees, issue, personal)
representative, successors and/or assigns of)
Lawrence Herman Cuttino, Lula Tucker Cuttino)
Jerry Cuttino, Drayton W. Gray, Jr., Marion)
Tucker Gray, Alonza Tucker, Bernice Harrison)
Tucker, Carsedra Yvette Tucker, Charles)
Tucker, Donald Vaughn Quentin Tucker, Eliza)
Gallashaw Tucker, Emmie Richardson Tucker,)
Geraldine Tucker, Harry Tucker, Israel Tucker,)
Sr., James Tucker, Lucille Tucker, Lucius J.)
Tucker, Mary Ella Tucker, Nathaniel Tucker,)
Regimen Gerthrod Tucker, Reubin Tucker,)
Reubin Tucker, Jr., Ronald Tucker, Teselene)
Rivers Tucker, Theron Antonio Tucker, William)

DECREE AS TO TITLE

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SC Court of Appeals

After careful consideration of the testimony, representations and evidence presented, I find, conclude and rule as follows:

TRIFURCATION OF ORDER

This Court shall trifurcate its rulings as follows:

1. a determination of the ownership of the real properties involved in this matter;
2. an apportionment of the payment of attorneys fees and costs, which shall be held in abeyance pursuant to this Order;
3. the partition in kind of the 28.22 parcel as defined below, which shall be held in abeyance pursuant to this Order.

PROCEDURAL BACKGROUND

1. Plaintiffs, or their predecessors, initiated this action with the filing of a Civil Action Coversheet, Summons, Complaint and Seventh Amended Lis Pendens on April 24, 2014.

2. All of the Defendants were properly served with a copy of the Summons; Notice of Right to Purchase, Seventh Amended Lis Pendens; Order Appointing Guardian *ad Litem Nisi*; and Notice of Filing Summons, Complaint, Seventh Amended Lis Pendens, Notice of Right to Purchase and Petition and Order Appointing Guardian *ad Litem Nisi*, as evidenced by the various Affidavits of Service and Answers filed in the Court's file.

3. Thomas S. Worley, Jr., Esquire, was appointed as Guardian ad Litem *Nisi* for the Defendants identified as John Doe and Mary Roe, as evidenced by an Order filed February 2, 2015.

4. Further, Thomas S. Worley, Jr., as Guardian ad Litem, timely filed an Answer on May 12, 2016, joining in the Plaintiff's prayer for relief.

5. Orders of Default Judgment were entered as to various Defendants, as evidenced by the Court's file.

6. A proper Notice of Hearing was filed on September 6, 2018, which was amended on September 28, 2018, and properly served on all Defendants, as evidenced by a Certificate of Service filed on October 22, 2018.

7. A hearing was held on November 8, 2018, attended by James E. Reeves, Esquire, the attorney for the Plaintiffs, along with Plaintiffs, Ronald Tucker, Jr., Kenneth W. Tucker and Michael Allen. The Defendant, Lutricia Tucker Blakey, was also present, along with her attorney, Maria Brees.

8. Thomas S. Worley, Jr., as the Guardian *Ad Litem Nisi*, was not present at the hearing, but he represented to James E. Reeves, the attorney for the Plaintiffs that he continued to join in the Plaintiffs' prayer for relief, as stated in his Answer of May 12, 2016.

FINDINGS OF FACT

1. The real property that is the subject of this action is located in Dorchester County, South Carolina and is described as follows:

All that certain piece, portion or tract of land situated, lying and being in Dorchester township, Dorchester County in that State of South Carolina "being a portion of the Middleton Cypress tract" measuring and containing Thirty (30) acres, Butting and

bounding to the north by lands of Joseph Tucker, to the East by lands of the said George S. Tucker, to the South by lands of William Elmore, and to the West by lands of Levi A. Knight, Joe Myers and James Myers.

Being the same property conveyed to William Tucker by deed of George S. Tucker by deed dated February 27, 1943 and recorded in the Office of the Clerk of Court for Dorchester County, South Carolina in Book 32, Page 107.

TMS No.: 135-00-00-056.000

This property has been recently surveyed and is more accurately described as follows:

All that piece, parcel or tract of land, lying and being in the County of Dorchester, State of South Carolina and known and designated as containing 28.22 acres, as shown on that certain plat entitled "BOUNDARY SURVEY OF 28.22 ACRE TRACT OF LAND, TMS: 135-00-00-056, AS REQUESTED BY MICHAEL ALLEN" prepared by John David Bass, PLS dated February 11, 2014 and recorded March 25, 2014 in the Register of Deeds Office for Dorchester County in Plat Book M, page 25; said tract of land having such actual size, shape, dimensions, buttings and boundings as shown on said plat, reference to which is hereby made for a more complete description.

(hereinafter, the "28.22-acre parcel"); and

All that piece, parcel or tract of land situate, lying and being in Dorchester County, South Carolina and designated by Dorchester County as TMS No.: 143-06-00-017.000 formerly being a part of a 9.8 acre tract, more or less, as shown on a plat made by N.J. Smith, Registered Surveyor, dated January, 1949.

Being a portion of the same property conveyed to William Tucker by deed of Joseph Tucker dated January 24, 1949 and recorded in the Office of the Clerk of Court for Dorchester County, South Carolina in Book 95, Page 265.

TMS No.: 143-06-00-017.000

(hereinafter, "TMS No.: 143-06-00-017.000"); and

All that piece, parcel or tract of land situate, lying and being in Dorchester County, South Carolina and designated by Dorchester County as TMS No.: 143-06-00-051.000 formerly being a part of a 9.8 acre tract, more or less, and being more fully shown by plat made by N.J. Smith, Registered Surveyor, dated January, 1949.

Being a portion of the same property conveyed to William Tucker by deed of Joseph Tucker dated January 24, 1949 and recorded in the Office of the Clerk of Court for Dorchester County, South Carolina in Book 95, Page 265.

TMS No.: 143-06-00-051.000

(hereinafter, the " TMS No.: 143-06-00-051.000").

Collectively, these three parcels are referred to as the "Properties."

2. The Plaintiff, Ronald Tucker, Jr., has been living on, maintaining, and paying taxes on TMS No.: 143-06-00-017.000 in a continuous, hostile, open, actual, notorious and exclusive manner for a period of time in excess of ten years.

3. The Plaintiff, Kenneth Tucker, has been living on, maintaining, and paying taxes on TMS No.: 143-06-00-051.000 in a continuous, hostile, open, actual, notorious and exclusive manner for a period of time in excess of ten years.

4. The Plaintiffs, Ronald Tucker, Jr., and Kenneth Tucker, represented to this Court that if this Court declares Ronald Tucker, Jr. to be the sole owner in fee simple absolute of TMS No.: 143-06-00-017.000, and Kenneth Tucker to be the sole owner in fee simple absolute of TMS No.: 143-06-00-051.000 that they, in their individual capacities and in their capacity as Co-Personal Representatives of the Estate of Mary H. Tucker, will waive any rights to the 28.22 acre parcel.

CONCLUSIONS OF LAW

1. The possession and use of TMS No.: 143-06-00-017.000 by the Plaintiff, Ronald Tucker, Jr., is sufficient to establish his sole ownership in fee simple absolute of this parcel through the various theories of adverse possession recognized pursuant to South Carolina Law.

2. The possession and use of TMS No.: 143-06-00-051.000 by the Plaintiff, Kenneth Tucker, is sufficient to establish his sole ownership in fee simple absolute of this parcel through the various theories of adverse possession recognized pursuant to South Carolina Law.

3. The 28.22 acre parcel should be owned by the following Defendants in the percentages of ownership set forth next to their names, respectively:

Taking through Eliza Gallashaw Tucker

Florie T. Hamilton	1/12
Pamela D. Tucker McKnight	1/84
Doris Tucker Jenkins	1/84
Abraham Tucker	1/84
Michael Anthony Tucker	1/84
Maurice Tucker	1/84
Kenneth J. Tucker	1/84
Frank T. Tucker	1/84

Taking through Lula Tucker Cuttino

Alice C. Johnson	1/12
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Taking through Harry Tucker

Dorothy Kitt Tucker	2/99
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Taking through Reubin Tucker

Gary C. Tucker	4/297
Spencer Tucker	4/297
Sophonra Tucker	4/297
Hazel Tucker	1/297
Reubin Tucker, III	1/1188
Cynthia Marie Tucker	1/1188
Victoria Lorene Tucker	1/1188
Victor Leroy Tucker	1/1188
Herman Tucker	2/297

Taking through Charles Tucker

Heirs of Mary Ella Tucker	83/1188
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Taking through Marion Tucker Gray

Gwendolyn Garretson	83/2376
Priscilla Gray	83/2376

Taking through Alonza Tucker

Deborah Tucker White	83/1188
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Taking through Nathaniel Tucker

Sadie Hutchinson Tucker	91/1188
Clifford Tucker	91/5940
Calvin Tucker	91/5940
Lutricia Tucker Blakey	91/5940
Shawn Tucker	91/5940
Darryl Tucker	91/5940

Taking through Israel Tucker, Sr.

Charlene Tucker Smalls	1911/89100
Cynthia Tucker	1911/89100
Larry Tucker	1911/89100
Craig Tucker	1911/89100
Sheldon Tucker	1911/89100
Lillian A. Gregg Tucker	91/11880
Bradley Tucker	91/23760
Ryan Tucker	91/23760
Ashaunte Tucker	91/5940
Jamika Tucker Jackson	91/11880

Shontique Tucker 91/11880

Taking through Lucius J. Tucker

Dorothy Tucker 281/2376

Waiver of Shares of Mary Tucker, Ronald Tucker, Jr. and Kenneth Tucker

Heirs of William Tucker 1/24

Total 100%

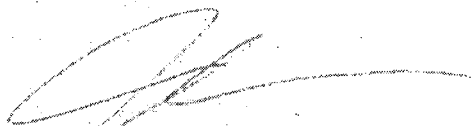
NOW THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

- A. The Procedural Background, Findings of Fact and Conclusions of Law listed above are hereby reaffirmed, adopted and made the Order, Judgment and Decree of this Court.
- B. Real property described as TMS No.: 143-06-00-017.00 is solely owned in fee simple absolute by the Plaintiff, Ronald Tucker, Jr.
- C. Real property described as TMS No.: 143-06-00-051.00 is solely owned in fee simple and absolute by the Plaintiff, Kenneth Tucker.
- D. The ownership of the 28.22 parcel is as described in paragraph 3 of the Conclusions of Law.
- E. Any and all interest of the remaining Defendants, their spouses, heirs, devisees, successors, assigns and anyone or anything in the whole world claiming under them, irrespective of the nature of such claim, has in and to the Properties are hereby terminated, except as stated herein, and they shall be barred from any future claims they may have in and to the Properties.

- F. This Court shall prepare a Deed conveying to Ronald Tucker as the sole rightful owner in fee simple absolute against any interest of the Defendants real property designated as TMS No.: 143-06-00-017.000.
- G. This Court shall prepare a Deed conveying to Kenneth Tucker as the sole rightful owner in fee simple absolute against any interest of the Defendants real property designated as TMS No.: 143-06-00-051.000.
- H. Pursuant to S.C. Code Ann. § 30-9-31 (1976), as amended, the Deeds of the Special Referee made pursuant to this Order should be indexed in the grantor index by the Register of Deeds Office in the name of the William Tucker, as well as in the name of the Special Referee for Dorchester County.
- I. Parties shall file with this Court within 30 days of this Order any applicable Affidavits for attorneys fees and costs.
- J. The Defendant, Lutricia Tucker Blakey, shall file with this Court within 30 days of this Order any applicable documents supporting her request for the partition in kind of the 28.22 acre parcel.

IT IS SO ORDERED.

Date: 4/22/19
St. George, South Carolina



Russell A. DeMott
Special Referee for Dorchester County