

The Defendants in the above captioned matter were served by certified mail and publication. The record further contains no timely responsive pleadings.

On June 14, 2021, Parris Williams, one of the heirs of James Prioleau, filed an Answer alleging that none of the heirs had been properly served, and further this matter had been resolved by a quiet title action he had filed in another litigation. On June 21, 2021, Plaintiff filed a Notice of Motion and Motion to Strike the Answer of Parris Williams alleging that the Heirs of James Prioleau had been properly served by certified mail and by publication and no answer had been timely filed and the parties had been adjudged in default. On June 17, 2021, Stewart Middleton filed an Answer on the same grounds as asserted by the Defendant Parris Williams alleging that a quiet title action filed by him in a separate lawsuit determined his interest in the property and, further, that he had not been properly served. Plaintiff filed a Notice of Motion and Motion to Strike the Answer of Stewart Middleton on the same grounds as asserted in his response to strike the untimely answer of Parris Williams.

A virtual hearing was held in this matter on August 30, 2021 at which time Defendants Parris Williams and Stewart Middleton, by and through their attorney Willie B. Heyward, argued their motion before the court at a pretrial hearing. Plaintiff argued that the aforesaid Defendants were in default and each of their answers were untimely. Defendants thereafter made an oral motion to set aside the default entered on June 3, 2021. On September 27, 2021, Defendants' motions to set aside the default was denied and the answers filed by said Defendants stricken. The properties referenced in the purported Answers filed by Parris Williams and Stewart Middleton were not the same property referenced in Plaintiff's complaint and Plaintiff was not individually named in either of the lawsuits. In addition, service on the Heirs of James Prioleau were made to the address listed on the tax bill. In addition, Parris Williams was served as an

Heir of James Prioleau and acknowledged acceptance of the pleadings.

The Heirs of James Prioleau and Defendant Chrystal Adams were served with notice of the final hearing by certified mail on November 30, 2021. On December 21, 2021, Dan Middleton, Carl Middleton, Jr. and Carl Middleton, III, filed a motion to intervene in this matter on the grounds that they are Heirs of James Prioleau and the complaint filed by the Plaintiff adversely affected their respective interests. Plaintiff filed an Amended Return to Defendants' motion to intervene on December 11, 2021.

The Court acknowledges that the motion of the aforesaid intervenors have a right to intervene pursuant to SCRCF Section 24(a) because the subject matter of this action deals with real property; however, Section 24(a) requires a timely action. Further, pursuant to permissive right to intervene pursuant to SCRCF Section 24(b), any claim or defense to the main action in this matter which may have a common question of law or fact is properly represented by the court appointed GAL. The motion to intervene in this matter was made less than ten (10) days before the final hearing, and therefore, not timely filed. In addition, neither of the intervenors nor their attorney, Willie B. Heyward, appeared at the final hearing. Accordingly, the motion to intervene is denied.

Present in Court for the final hearing were Plaintiff and the Court appointed Guardian *ad litem*, Toya Hampton, Esquire who was appointed to represent any minors or incompetent persons who may have an interest in the present litigation. It appears that after a diligent search was made by the Guardian *ad Litem*, there are no such incompetent persons and further, that she had not been contacted by anyone in regards to this litigation. In addition, present at the hearing were Joe Nathan Prioleau and Karen Prioleau, heirs of James Prioleau.

Upon hearing this matter, the Court finds the following salient facts:

1. The real property which is the subject of this lawsuit is more fully and accurately described as follows:

ALL that piece, parcel or tract of land, situate lying and being on James Island, County of Charleston, State of South Carolina, known and designated as Tract B on a plat entitled, "PLAT OF JOHN RICHARDSON ESTATE, James Island Charleston County South Carolina" surveyed by A. Molinaroli and survey check and plat prepared by Tommy E. Ayers, May 1960, and recorded in the Register of Deeds Office for Charleston County in Plat Book M, page 149.

Tract B Measuring and Containing 3.4 acres. To establish a Point of Beginning, begin at a point established by an old axle at the intersection of an old road separating Tract C hereafter described from the lands now or formerly of Praleau; thence n generally a Southerly direction to the Southeastern right-of-way of the old road bounding on lands now or formerly of Praleau; in generally a Northeastern direction along the Southeastern side of the said old road on a line bearing N 20 degrees 03 minutes E, approximately 1,033.7 feet to a ditch separating the said Tract B from the lands now or formerly of Praleau, being the Point of Beginning; thence continuing along the old road on the aforesaid bearing 140 feet to a point; thence on a line bearing N 74 degrees 03 minutes E, 373.6 feet to a point on an old bank; thence S16 degrees 33 minutes E, along the old bank for a distance of 417.3 feet; thence N 83 degrees 48 minutes W, 294.7 feet to a point at the intersection of a ditch; thence N 57 degrees 56 minutes W, 270 feet to the Point of Beginning.

TMS No.: 334-10-00-021

2. The subject property was acquired by Plaintiff and his former wife, Wanda R. J. Scott by deed of Buist L. Hanahan on February 2, 1995, said deed being recorded in the Register of Deeds Office for Charleston County in Book A253 and page 286.

3. Buist L. Hanahan acquired the subject property pursuant to the Order of the Honorable Louis E. Condon, dated July 29, 1985 in Case No.: 85-CP-10-400, said deed being duly signed by Leroy Roper and Alfred Richardson on July 31, 1985 and recorded in the Register of Deeds Office for Charleston County in Book D147 at Page 066. Attached to the aforesaid deed was a Rider describing Tract B which was transferred to Buist L. Hanahan. The aforesaid Rider described the property purchased by the Plaintiff herein.

4. On June 17, 2004, Wanda R. J. Scott transferred her interest in the subject property to the Plaintiff, said deed being recorded in the Register of Deeds Office for Charleston County in Book E500 at Page 283.

5. Plaintiff has occupied the subject property without interference from February 2, 1995 to the present time. Shortly after acquiring the subject property, Plaintiff fenced in the property and the subject property remain fenced to this day.

6. The subject property was surveyed by Atlantic Surveying, Inc., on January 31, 2020 which showed that the boundary lines for lots with TMS Numbers 334-00-00-105 (Lot D), 334-00-00-106 (Lot 3), and 334-00-00-144 (Lot 1-A) each encroached on Plaintiff's property. Further, the subject survey showed that the boundary line for the Lot with TMS Number 334-00-00-116 (Lot 2b) had been corrected to remove the encroachment with Plaintiff's property, said encroachment having been caused by a Plat made by George A.Z. Johnson, Jr., surveyor, recorded in the Register of Deeds Office in Plat Book BO-058 on November 27, 1985. As a result of the aforesaid plat made by George A. Z. Johnson, Jr., lots with TMS Numbers 334-00-00-105 (Lot D), 334-00-00-106 (Lot 3,) and 334-00-00-144 (Lot 1-A) also incorrectly encroached on Plaintiff's property, and said encroachments shall be removed from the referenced plat.

7. The Court finds that the survey completed by Atlantic Surveying, Inc. on January 31, 2020, filed in the court as Exhibit 4 conforms to the description in the Rider describing Tract B of the land transferred by deed to Buist L. Hanahan in 1985, Plaintiff's predecessor in title. Therefore, the Court finds that Plaintiff is the sole owner of the property as depicted by the Atlantic Surveying, Inc., without any overlapping encroachment of the referenced lots and further that said Plat shall be recorded in the Register of Deeds Office for

Charleston County in order to correct the encroachment.

Therefore, it is hereby

ORDERED that Johnny Scott is the sole owner of the property described as TMS# 334-10-00-021 located on James Island, SC with the street address of 1779 Hazzard Lane, James Island, SC 29412, said ownership is by claim of right adverse to all other persons that may claim any interest in this tract with TMS Numbers 334-00-00-105 (Lot D), 334-00-00-106 (Lot 3), and 334-00-00-144(Lot 1-A); it is further

ORDERED that Johnny Scott is vested with good and marketable title in the property known as TMS# 334-10-00-021 located on James Island, SC and described herein in the plat of Atlantic Surveying, Inc., dated January 31, 2020, said plat to be recorded to correct any overlapping encroachments.

AND IT IS SO ORDERED this ____ day of _____, 2022 at Charleston, South Carolina.

Mikell R. Scarborough, Charleston
Charleston County Master in Equity



Charleston Common Pleas

Case Caption: Johnny Scott VS Nathaniel Smalls , defendant, et al
Case Number: 2020CP1004908
Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

Electronically signed on 2022-01-14 17:06:45 page 7 of 7