

SUPREME COURT OF THE STATE OF MONTANA

Wilkinson, LLC, and Jack Couch v. Scott and Cindy Erler, LLP, Scott Erler, individually, and Does 1-10

Wilkinson, 2021 MT 177 (Supreme Court of the State of Montana 2021) · No. DA 20-0582 · Decided July 13, 2021

SUMMARY

The Montana Supreme Court reviewed whether the Secret Gulch Road Easement was an easement appurtenant or an easement in gross. The court held that the easement was appurtenant, with Government Lot 3 as the servient estate and Government Lot 7 as the dominant estate, and concluded that Wilkinson had the right to use it. The court reversed the District Court's order denying injunctive relief and awarding costs and attorney's fees.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Laurie McKinnon; Justice Ingrid Gustafson; Justice Beth Baker; Justice Dirk M. Sandefur; Justice James Jeremiah Shea
JURISDICTION	Montana
DECIDED	July 13, 2021
DOCKET	DA 20-0582
DISPOSITION	reversed
PROCEDURAL POSTURE	Direct appeal from an order determining that the Secret Gulch Road Easement was an easement in gross, vacating a temporary restraining order, denying injunctive relief, and awarding costs and attorney's fees.
STANDARD OF REVIEW	Interpretation of an easement is a question of law reviewed de novo for correctness.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Wilkinson, LLC, Jack Couch v. Scott and Cindy Erler, LLP, Scott Erler, individually, Does 1-10

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QUESTIONS PRESENTED

1. Whether the Secret Gulch Road Easement was appurtenant to Government Lot 7 or was an easement in gross.
2. Whether the easement documents and subsequent conveyances identified the dominant and servient estates with reasonable certainty and conveyed the easement's benefit to Wilkinson.

HOLDINGS

1. The Secret Gulch Road Easement is appurtenant, not in gross, with Government Lot 3 as the servient estate and Government Lot 7 as the dominant estate.
2. Wilkinson, as successor owner of Government Lot 7, acquired the right to use the Secret Gulch Road Easement.

KEY QUOTATIONS

“An easement appurtenant is one that benefits a particular parcel of land . . . it serves the owner of that land and passes with the title to that land.” (§ 9)

“It is also ascertainable with reasonable certainty that Government Lot 7 is the dominant estate that the Secret Gulch Road Easement benefits.” (§ 13)

“Rather, this Court concludes the Secret Gulch Road Easement is appurtenant, with Government Lot 3 as the servient estate, and Government Lot 7 as the dominant estate.” (§ 17)

FACTUAL BACKGROUND

In 1988, Valley Mining granted Champion an easement across Government Lot 3 for Secret Gulch Road, limiting its use to Champion and its successors in connection with Champion's adjacent properties, including timber and forest-management activities. Government Lot 3, the servient property, was later conveyed to Erler, while adjacent Government Lot 7 was conveyed through successive owners to Wilkinson. After Wilkinson began using the road easement to access Government Lot 7 for construction improvements, Erler blocked the easement by locking its headgate.

PROCEDURAL HISTORY

Wilkinson sued after Erler blocked access to the Secret Gulch Road Easement and obtained a temporary restraining order. The District Court later denied preliminary injunctive relief, terminated the temporary restraining order, determined that the easement was in gross, and awarded Erler costs, damages, and attorney's fees. The District Court certified its October 2, 2020 order as final under Montana Rule of Civil Procedure 54(b)(1), and Wilkinson appealed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No specific remand instructions were stated; the District Court's determination that the easement was in gross was reversed.

CASES CITED

- Mary J. Baker Revocable Trust v. Cenex Harvest States, Coops., Inc., 2007 MT 159, ¶¶ 18-19, 338 Mont. 41, 164 P.3d 851
- Blazer v. Wall, 2008 MT 145, ¶¶ 22, 24, 26, 31, 343 Mont. 173, 183 P.3d 84
- Broadwater Dev., L.L.C. v. Nelson, 2009 MT 317, ¶ 34, 352 Mont. 401, 219 P.3d 492
- Whitefish Congregation of Jehovah's Witnesses, Inc. v. Caltabiano, 2019 MT 228, ¶¶ 26-28, 33, 397 Mont. 284, 449 P.3d 812
- Yorlum Props., Ltd. v. Lincoln County, 2013 MT 298, ¶ 18, 372 Mont. 159, 311 P.3d 748
- Benson v. Pyfer, 240 Mont. 175, 783 P.2d 923 (1989)