

SUPREME COURT OF MISSISSIPPI

Scott M. Favre v. Jourdan River Estates and Jourdan River Yacht Club, LLC

148 So. 3d 361 (Miss. 2014) · No. No. 2013-CA-01177-SCT · Decided October 9, 2014

SUMMARY

The Mississippi Supreme Court affirmed a chancery court judgment concerning easement rights, the width and public status of portions of Nicola Road, and injunctive relief against adjacent landowners. The court held that the disputed bottleneck remained within a sixty-foot right-of-way, that the road's 340-foot shared portion had been impliedly dedicated for public use, and that the injunction prohibiting gates and harassment was supported by the record.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Coleman, Justice; Waller, C.J.; Lamar, J.; Kitchens, J.; Chandler, J.; Pierce, J.; King, J.; Dickinson, P.J.; Randolph, P.J.
JURISDICTION	Mississippi
DECIDED	October 9, 2014
DOCKET	No. 2013-CA-01177-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment of the Hancock County Chancery Court determining the parties' easement and public-road rights in Nicola Road and granting injunctive relief against the appellants.
STANDARD OF REVIEW	The Court reviews a chancellor's factual findings under the manifest-error/substantial-evidence rule and will disturb them only if the chancellor abused discretion, was manifestly wrong or clearly erroneous, or applied the wrong legal standard.
PRECEDENTIAL VALUE	Published en banc opinion; precedential
PARTIES	Scott M. Favre, Jefferson Parker, Cindy Favre, Constance Parker, Hancock County, Mississippi v. Jourdan River Estates and Jourdan River Yacht Club, LLC

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QUESTIONS PRESENTED

1. Whether the Nicola Road right-of-way was 60 feet wide throughout the bottleneck area or only 43.87 feet wide.
2. Whether the chancery court properly granted injunctive relief against the individual defendants and whether the injunction was impermissibly vague or overbroad.
3. Whether any portion of Nicola Road, including the entire 340-foot right-of-way, had been dedicated for public use and accepted by Hancock County.

HOLDINGS

1. The right-of-way was 60 feet wide at all points, including the bottleneck. The chancery court did not commit manifest error by relying on the deed language, the surrounding circumstances, and the Stenum Realignment Survey.
2. The chancery court did not reversibly err by enjoining all defendants from obstructing the Nicola Road easements or from harassing, intimidating, or threatening JRE, its invitees, or its licensees.
3. Hancock County accepted the entire 340-foot right-of-way as a public road through implied dedication, and the Mississippi rule is that implied acceptance of part of a single street generally extends to the entire street offered for dedication.

KEY QUOTATIONS

“It is black-letter law that an “easement may be acquired by express grant, implied grant (implication), or prescription, which presupposes a grant to have existed.”” (§ 20)

“Skrmetta is the law in Mississippi.” (§ 53)

FACTUAL BACKGROUND

Jourdan River Estates and Jourdan River Yacht Club owned a 269-acre tract in Hancock County accessed by Nicola Road, which also served neighboring Favre and Parker parcels. Deeds originating with Cinque Bambini described a 60-foot right-of-way, including a shared approximately 340-foot portion and a private approximately 947-foot easement leading to JRE's tract, but a bottleneck and gates created disputes over the road's width and access. Hancock County paved and maintained part of Nicola Road, while the neighboring owners erected or maintained gates and opposed JRE's proposed development. The chancery court found that the entire 340-foot portion had been dedicated for public use and issued an injunction requiring removal of obstructing gates and prohibiting harassment and intimidation.

PROCEDURAL HISTORY

Jourdan River Estates and Jourdan River Yacht Club sought declaratory and injunctive relief concerning the status of Nicola Road, the scope of easements, and gates allegedly obstructing access to the development tract. The Hancock County Chancery Court determined that JRE shared a public 340-foot right-of-way with the neighboring landowners, held an additional private 947-foot easement, and enjoined the appellants from obstructing the road or harassing JRE. The appellants and Hancock County appealed, and the Mississippi Supreme Court affirmed, partly on grounds different from those used by the chancellor.

DISPOSITION

affirmed

CASES CITED

- Favre v. Hancock County Bd. of Supervisors, 52 So. 3d 463 (Miss. Ct. App. 2011)
- Biddix v. McConnell, 911 So. 2d 468, 474-75 (¶ 17) (Miss. 2005)
- Miss. State Tax Comm'n v. Med. Devices, Inc., 624 So. 2d 987, 989 (Miss. 1993)
- Denson v. George, 642 So. 2d 909, 913 (Miss. 1994)
- Huggins v. Wright, 774 So. 2d 408, 410 (¶ 8) (Miss. 2000)
- Dethlefs v. Beau Maison Dev. Corp., 511 So. 2d 112, 116 (Miss. 1987)
- Lanier v. Booth, 50 Miss. 410, 414 (1874)
- Warren v. Derivaux, 996 So. 2d 729, 736 (¶ 15) (Miss. 2008)
- Moran v. Sims, 873 So. 2d 1067, 1070 (¶ 15) (Miss. Ct. App. 2004)
- Grey v. Grey, 638 So. 2d 488, 492 (Miss. 1994)
- Banks v. Banks, 511 So. 2d 933, 935 (Miss. 1987)
- Love v. Barnett, 611 So. 2d 205, 208 (Miss. 1992)
- Georgia Pac. Corp. v. Armstrong, 451 So. 2d 201, 207 (Miss. 1984)
- Morgan v. U.S.F.G., 191 So. 2d 851, 854 (Miss. 1966)
- Stinson v. Barksdale, 245 So. 2d 595, 597 (Miss. 1971)
- Secretary of State v. Gunn, 75 So. 3d 1015, 1020 (¶ 14) (Miss. 2011)
- Am. Legion Post # 134 v. Miss. Gaming Comm'n, 798 So. 2d 445, 454 (Miss. 2001)
- Moore v. Kuljis, 207 So. 2d 604 (Miss. 1968)
- Skrmetta v. Moore, 30 So. 2d 53, 56 (Miss. 1947)
- Chalkley v. Tuscaloosa County Comm'n, 34 So. 3d 667 (Ala. 2009)
- Johnson v. City of Niagara Falls, 230 N.Y. 77, 129 N.E. 213 (1920)
- Moore v. City of Chicago, 261 Ill. 56, 103 N.E. 583 (1913)
- Hall v. City of Meriden, 48 Conn. 416 (1880)
- City of Louisville v. Hull, 292 So. 2d 177, 179 (Miss. 1974)
- Hawkins v. Smith County, 954 So. 2d 526, 528-29 (Miss. Ct. App. 2007)
- Armstrong v. Itawamba County, 16 So. 2d 752, 757 (Miss. 1944)

- Jennings v. Patterson, 488 F.2d 436 (5th Cir. 1974)
- Luter v. Crawford, 92 So. 2d 348 (Miss. 1957)

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