

SUPREME COURT OF MONTANA

Stokes v. State ex rel. Montana Department of Transportation

338 Mont. 165 (2007) (Mont. 2007) · No. DA 06-0386 · Decided July 12, 2007

SUMMARY

The Montana Supreme Court affirmed summary judgment for the State in a tortious-interference action arising from a dispute over the scope of Stokes's easement. The court held that Stokes could not claim interference with a nonexistent right to expand the easement and failed to show that the State's conduct was improper.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Brian Morris; Karla M. Gray; W. William Leaphart; Jim Rice; James C. Nelson
JURISDICTION	Montana
DECIDED	July 12, 2007
DOCKET	DA 06-0386
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed the First Judicial District Court's order granting the State's cross-motion for summary judgment on their claim for tortious interference with an easement.
STANDARD OF REVIEW	Summary judgment is reviewed de novo under the same criteria applied by the district court under Montana Rule of Civil Procedure 56. All reasonable inferences are drawn in favor of the party opposing summary judgment.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Montana.
PARTIES	John P. Stokes, individually, Skyline Broadcaster, Inc., Z-600, Inc. v. State of Montana acting by and through the Montana Department of Transportation, Susan J. Rebeck, John Does 1 through 10

TOPICS

- easements
- real estate
- summary judgment
- standard of review
- appellate procedure

PRACTICE AREAS

tortious interference

easements

real property

civil procedure

summary judgment

QUESTIONS PRESENTED

1. Whether the District Court properly granted summary judgment because Stokes failed to establish interference with an existing easement right.
2. Whether the State's conduct in offering additional compensation for a right-of-way free of easements and advising the landowner to consult counsel was improper for purposes of a tortious-interference claim.

HOLDINGS

1. A plaintiff claiming tortious interference with an easement must establish that the defendant's acts actually interfered with an existing easement or other protected property right. Stokes could not establish interference with a right to expand the radio facility because the easement never included such a right.
2. A plaintiff asserting tortious interference with contractual relations must show that the defendant's acts were improper. The State's offer to pay more for a right-of-way shown to be free of easements and Rebeck's advice that the landowner consult an attorney were not improper as a matter of law on this record.
3. Summary judgment was proper because no genuine issue of material fact existed regarding the alleged tortious interference and the State was entitled to judgment as a matter of law.

KEY QUOTATIONS

"Stokes similarly alleges that Rebeck tortiously interfered with a property right that did not exist." (162 P.3d at 868)

"We agree with the District Court that it "certainly would not be improper, let alone unlawful, for an attorney in Rebeck's position to tell a landowner whose property is subject to being acquired by condemnation that he should consult with an attorney. . . ."" (162 P.3d at 869)

FACTUAL BACKGROUND

Stokes owned and operated a radio station and held an easement across adjoining property, with part of the radio facility located on that property. A prior decision established that the easement had always been limited to the facility's historic location and did not permit future expansion elsewhere on the adjoining land. During a highway improvement project, the State sought a right-of-way over the adjoining property, offered different compensation depending on whether Stokes's easement encumbered the right-of-way, and advised the landowner to consult an attorney. The landowner then filed an action concerning the easement, and Stokes claimed that the State's conduct tortiously interfered with his easement rights.

PROCEDURAL HISTORY

Stokes filed a complaint in the First Judicial District Court alleging that Susan Rebeck, acting for the State, tortiously interfered with his easement by inducing the adjoining landowner to pursue litigation concerning the scope or extinguishment of the easement. The parties filed cross-motions for summary judgment. The District Court denied Stokes's motion and granted the State's motion, concluding that Stokes had failed to establish a prima facie case. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Anderson v. Stokes, 2007 MT 166
- Bolz v. Myers, 200 Mont. 286, 651 P.2d 606 (1982)
- Grenfell v. Anderson, 2002 MT 225, 311 Mont. 385, 56 P.3d 326
- Germann v. Stephens, 2006 MT 130, 332 Mont. 303, 137 P.3d 545
- GRB Farm v. Christman Ranch, Inc., 2005 MT 59, 326 Mont. 236, 108 P.3d 507
- Watkins Trust v. Lacosta, 2004 MT 144, 321 Mont. 432, 92 P.3d 620