

SUPREME COURT OF THE STATE OF MONTANA

Sayers v. Chouteau County

369 Mont. 98, 2013 MT 45 (2013) · No. DA 12-0340 · Decided February 27, 2013

SUMMARY

The Montana Supreme Court affirmed summary judgment for Chouteau County in a dispute over whether the entire length of Lippard Road constituted a public county roadway. Applying the framework from Reid v. Park County, the Court held that the record as a whole established the contested section of the road as public and found no evidence that the County had abandoned it.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Brian Morris; Brian Morris; Mike McGrath; Beth Baker; Michael E. Wheat; Jim Rice
JURISDICTION	Montana
DECIDED	February 27, 2013
DOCKET	DA 12-0340
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sayers appealed the District Court's order granting Chouteau County summary judgment in a declaratory-judgment action concerning whether the entire length of Lippard Road was a public roadway.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, applying the same standards as the district court under M. R. Civ. P. 56(c).
PRECEDENTIAL VALUE	published and precedential Montana Supreme Court opinion
PARTIES	Robert “Bob” Sayers v. Chouteau County

TOPICS

- real estate
- municipal law
- summary judgment
- appellate procedure
- civil procedure

PRACTICE AREAS

- real estate
- municipal law
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court properly applied the whole-record analysis from *Reid v. Park County* to determine whether Lippard Road constituted a public roadway.
2. Whether the District Court properly determined that the entire length of Lippard Road, including the contested section beyond the Section 26 and 27 intersection, constituted a public roadway.

HOLDINGS

1. The *Reid* analysis applies when the parties dispute whether a historically established county road was validly created and the public record is old, incomplete, or uncertain; the district court properly considered the record as a whole.
2. The entire contested section of Lippard Road extended past the Section 26 and 27 intersection to the railroad right-of-way and was established as a public county road.

KEY QUOTATIONS

“We instead determined that a court should evaluate “the record taken as a whole” to determine whether a public road had been created.” (¶26)

“A county road, once established, will remain public unless formally abandoned.” (¶38)

FACTUAL BACKGROUND

Sayers owns approximately 5,400 contiguous acres of mostly undeveloped farmland in Chouteau County, through which Lippard Road runs. Historical petitions, road-viewer materials, county notices, maps, surveys, and evidence of public use indicated that the County established Lippard Road in the 1910s and that the road extended beyond the Section 26 and 27 intersection toward Lippard Station and a railroad right-of-way. County personnel maintained the road, and members of the public used it to access locations near the Missouri River.

PROCEDURAL HISTORY

Sayers filed a 2010 complaint seeking a declaration regarding the public status of the portion of Lippard Road beyond the intersection of Sections 26 and 27. The Twelfth Judicial District Court, Chouteau County, applied the whole-record analysis from *Reid v. Park County* and granted summary judgment to Chouteau County. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Reid v. Park County*, 192 Mont. 231, 627 P.2d 1210 (1981)
- *State v. Butte-Silver Bow County*, 2009 MT 414, 353 Mont. 497, 220 P.3d 1115
- *Galassi v. Lincoln County Board of Commissioners*, 2003 MT 319, 318 Mont. 288, 80 P.3d 84
- *Warren v. Chouteau County*, 82 Mont. 115, 265 P. 676 (1928)

- Garrison v. Lincoln County, 2003 MT 227, 317 Mont. 190, 77 P.3d 163
- Prindel v. Ravalli County, 2006 MT 62, 331 Mont. 338, 133 P.3d 165
- Apple Park, LLC v. Apple Park Condominiums, 2008 MT 284, 345 Mont. 359, 192 P.3d 232
- State v. Fisher, 2003 MT 207, 317 Mont. 49, 75 P.3d 338
- McCauley v. Thompson-Nistler, 2000 MT 215, 301 Mont. 81, 10 P.3d 794

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