

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

Nelson Pigg, Brian Pigg, Sr., and Brian Pigg, Jr. v. Monroe Darrow Eads and Glenda T. Eads

Pigg v. Eads · No. 25-ICA-44 · Decided December 22, 2025

SUMMARY

The Intermediate Court of Appeals of West Virginia affirmed the Summers County Circuit Court's orders rejecting the Piggs' claim to a prescriptive easement across the Eads' property and awarding the Eads damages. The court held that the alleged right-of-way was used permissively, was not sufficiently identified, and was not shown to have been used for purposes beyond hunting access. The court also upheld the damages award because the Piggs did not refute the Eads' evidence of lost income and survey costs.

CASE DETAILS

COURT	Intermediate Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Judge Charles O. Lorensen; Judge Daniel W. Greear; Judge S. Ryan White
JURISDICTION	Intermediate Court of Appeals of West Virginia
DECIDED	December 22, 2025
DOCKET	25-ICA-44
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants below appealed from the Circuit Court of Summers County's final order following a bench trial and amended order denying their Rule 59 motion.
STANDARD OF REVIEW	The final order and ultimate disposition following a bench trial are reviewed for abuse of discretion; underlying factual findings are reviewed for clear error; and questions of law are reviewed de novo. A Rule 59 order is reviewed under the same standard applicable to the underlying judgment.
PRECEDENTIAL VALUE	Published memorandum decision; the opinion states that a memorandum decision is appropriate under Rule 21.
PARTIES	Nelson Pigg, Brian Pigg, Sr., Brian Pigg, Jr. v. Monroe Darrow Eads, Glenda T. Eads

TOPICS

prescriptive easements title disputes damages appellate procedure motion for new trial

PRACTICE AREAS

real estate property law civil procedure appellate procedure damages

QUESTIONS PRESENTED

1. Whether the Piggs established the elements of a prescriptive easement over the Eads' property.
2. Whether the circuit court erred in awarding the Eads damages for loss of use of their property and the cost of survey work.
3. Whether the circuit court erred in denying the Piggs' Rule 59 motion.

HOLDINGS

1. The Piggs failed to establish a prescriptive easement because the claimed right-of-way was used with permission, defeating the adversity requirement, and because they failed to identify the route precisely or establish qualifying use for the required period.
2. The circuit court did not err in awarding the Eads \$40,000 per year for two years and the cost of the Chambers survey because the Eads presented testimony supporting the damages and the Piggs did not object, cross-examine, or offer rebuttal evidence.
3. The circuit court did not err in denying the Piggs' Rule 59 motion.

KEY QUOTATIONS

“In reviewing challenges to the findings and conclusions of the circuit court made after a bench trial, a two-pronged deferential standard of review is applied. The final order and the ultimate disposition are reviewed under an abuse of discretion standard, and the circuit court’s underlying factual findings are reviewed under a clearly erroneous standard. Questions of law are subject to a de novo review.” (2)

“Permissive use of the right-of-way here defeats adversity.” (3)

“For the foregoing reasons, we find no error in the circuit court’s conclusions that the Piggs did not establish a prescriptive easement, and we find no error in the circuit court’s damages award to the Eads.” (4)

FACTUAL BACKGROUND

The Piggs acquired two parcels in Summers County, including what they believed was an 80-acre parcel. A later survey determined that the parcel contained 64.08 acres and that the Piggs' purported 11-acre parcel was located within the Eads' property, while another survey placed the 11-acre parcel nearly half a mile away. The Piggs claimed a prescriptive right-of-way across the Eads' property, but trial testimony indicated that prior use of the route was permissive and that the route was not precisely identified or used for purposes beyond hunting access. The circuit court also awarded the Eads damages based on testimony that the Piggs' conduct prevented cattle and other farming activities and caused \$40,000 in annual lost income.

PROCEDURAL HISTORY

The Eads filed an action to remove a cloud on title to an 11-acre parcel. The Piggs counterclaimed for a prescriptive right-of-way across the Eads' property. After a bench trial, the circuit court concluded that the Piggs failed to establish a prescriptive easement and awarded the Eads \$40,000 per year for two years, plus the cost of survey work. The circuit court denied the Piggs' Rule 59 motion, and the Intermediate Court of Appeals affirmed both orders.

DISPOSITION

affirmed

CASES CITED

- Public Citizen, Inc. v. First Nat'l Bank in Fairmont, 198 W. Va. 329, 480 S.E.2d 538 (1996)
- Wickland v. Am. Travellers Life Ins. Co., 204 W. Va. 430, 513 S.E.2d 657 (1998)
- O'Dell v. Stegall, 226 W. Va. 590, 703 S.E.2d 561 (2010)
- Teubert Family Farms, LLC v. Bragg, 242 W. Va. 445, 836 S.E.2d 412 (2019)
- Sammons Bros. Const. Co. v. Elk Creek Coal Co., 135 W. Va. 656, 65 S.E.2d 94 (1951)
- Spencer v. Steinbrecher, 152 W. Va. 490, 164 S.E.2d 710 (1968)
- Taylor v. Elkins Home Show, Inc., 210 W. Va. 612, 558 S.E.2d 611 (2001)