

STATE OF MICHIGAN
COURT OF APPEALS

ALBERT C. BISHOP, a/k/a ALAN BISHOP, a/k/a
ALLERT BISHOP,

UNPUBLISHED
September 16, 2010

Plaintiff/Counter-Defendant-
Appellant,

v

MICHAEL KNOX and JOAN KNOX,

No. 292486
Kent Circuit Court
LC No. 08-005843-CZ

Defendants/Counter-Plaintiffs-
Appellees.

Before: OWENS, P.J., and WHITBECK and FORT HOOD, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(10) in this action involving a lake access easement that defendants maintain was extinguished by adverse possession. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Summary disposition may be granted under MCR 2.116(C)(10) when "there is no genuine issue of material fact, and the moving party is entitled to judgment . . . as a matter of law." This Court reviews a trial court's decision on a motion for summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

"To establish adverse possession, the claimant must show that his or her possession was actual, visible, open, notorious, exclusive, hostile, under cover of a claim of right, continuous, and uninterrupted for the statutory period of 15 years." *Beach v Lima Twp*, 283 Mich App 504, 524; 770 NW2d 386 (2009), lv gtd 485 Mich 1036 (2010). "[U]se of an easement by the owner of the servient estate will not ripen into adverse possession unless such use is inconsistent with the easement, thus leading to application of a heightened level of scrutiny in regard to a claim of adverse possession of an easement." *Id.* (citation and internal quotation marks omitted).

Defendants presented undisputed evidence that a fenced, asphalt tennis court, which was built in the mid to late 1960s, completely blocks access to the easement at that location. The trial court determined that because the tennis court blocked access across the easement for a period well in excess of the statutory period of 15 years, "[t]he deeded easement could not be used for its intended purpose for the statutory period; therefore, it was adversely possessed." The court

noted that plaintiff had not presented any authority suggesting that an easement may only be partially extinguished.

On appeal, plaintiff does not offer any argument directed at the trial court's reasoning. Plaintiff summarily states that defendants failed to show that there was no genuine issue of material fact, but plaintiff does not identify a specific factual deficiency. The trial court found that the easement was extinguished by adverse possession because the fenced tennis court traversed the entire width of the easement at that location. The record establishes that there is no genuine issue of material fact concerning the location of the tennis court. Plaintiff notes that the current owners of lot 3 on which the tennis court is situated are not requesting termination of the easement, but he does not offer any argument or authority to indicate that this fact has any legal significance. Plaintiff also asserts that defendants rely solely on "Mr. Swain" who "has no knowledge that would justify termination of the easement," but the trial court's decision was not based on the testimony of either John or Jeff Swain. In short, plaintiff has not identified any factual or legal error in the trial court's reasoning.

An appellant is obliged to do more than simply announce a position or assert an error. He must discuss the basis of the trial court's ruling, *Derderian v Genesys Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004), and "adequately prime the pump" for the appellate well to flow by explaining the basis of his arguments, supported with citations to relevant authorities, *Goolsby v Detroit*, 419 Mich 651, 655 n 1; 358 NW2d 856 (1984). Plaintiff has not met this obligation and has ignored the basis of the trial court's ruling. Thus, plaintiff has not shown any reason for disturbing the trial court's decision.

Affirmed.

/s/ Donald S. Owens
/s/ William C. Whitbeck
/s/ Karen M. Fort Hood