

DA 11-0702

IN THE SUPREME COURT OF THE STATE OF MONTANA

2012 MT 127N

JOSEPH ROBERTSON, individually, and
CARRI ROBERTSON, individually,

Plaintiffs and Appellants,

vs.

CHRISTINA M. STEELE, Personal Representative
of the Estate of William C. Remior, deceased,
TINA STEELE, individually, GEORGE ESSEX,
individually, and THE EARTH ANGEL HEALTH
MINE,

Defendants and Appellees.

APPEAL FROM: District Court of the Fifth Judicial District,
In and For the County of Jefferson, Cause No. DV 09-36
Honorable Wm. Nels Swandal, Presiding Judge

COUNSEL OF RECORD:

For Appellants:

Joseph Robertson and Carri Robertson, self-represented, Basin, Montana

For Appellee:

Christina M. Steele, self-represented, Basin, Montana

Submitted on Briefs: May 30, 2012
Decided: June 12, 2012

Filed:

Clerk

Justice Brian Morris delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Appellants Joseph Robertson and Carri Robertson (Robertsons) appeal from the District Court's order denying their claims for damages based upon the alleged unlawful actions in blocking access along a road carried out by Appellees Christina M. Steele, personal representative of the Estate of William C. Remior, deceased, Tina Steele, and The Earth Angel Health Mine (Steeles). We affirm.

¶3 We previously addressed a dispute between Robertsons and Steeles in *Steele v. Robertson*, 2011 MT 172N, 362 Mont. 541, 272 P.3d 123. Our resolution of that dispute did not end the matter.

¶4 Robertsons hold a certificate of location for an unpatented mining claim in Jefferson County located on property owned by the Bureau of Land Management (BLM). Robertsons apparently also have a patented mining claim known as the Peacock. Robertsons claim that Steeles were blocking access to these mining claims. Robertsons filed a verified complaint on October 21, 2011, in which they sought damages, among other matters, for Steeles' actions in blocking the road that provided access to the mining claims.

¶5 The court held a trial in the matter and determined that the short portion of the road at issue already was open to the public and has been used by the public in the past to access part of Steeles' business. The court found that Robertsons have the right to maintain the

road and remove obstructions on the road in order to reach their mining claims on BLM property. In light of the fact that this access already exists and that the public road burdens Steeles' property, the court determined that Steeles could not claim any damages for Robertsons' use of the road. The court similarly denied Robertsons' claim for damages caused by Steeles' efforts at blocking the road. Robertsons appeal the District Court's denial of their claim for \$150,000 in damages.

¶6 Both parties appear pro se on appeal. We review for clear error a district court's findings of fact. *AAA Constr. of Missoula, LLC v. Choice Land Corp.*, 2011 MT 262, ¶ 17, 362 Mont. 264, 264 P.3d 709. We review for correctness a court's conclusions of law. *Performance Mach. Co. v. Yellowstone Mt. Club, LLC*, 2007 MT 250, ¶ 12, 339 Mont. 259, 169 P.3d 394. We have determined to decide this case pursuant to Section I, Paragraph 3(d), of our 1996 Internal Operating Rules, as amended in 2006, that provides for memorandum opinions. It is manifest on the face of the briefs and the record before us that substantial evidence supports the District Court's findings of fact and that the District Court correctly applied the law to those facts.

¶7 Affirmed.

/S/ BRIAN MORRIS

We Concur:

/S/ MIKE McGRATH
/S/ JAMES C. NELSON
/S/ PATRICIA COTTER
/S/ JIM RICE