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1       **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **LYLE A. DETHLEFSEN and**  
3 **VERA A. DETHLEFSEN,**

4           Plaintiffs-Appellants,

5 v.

Nos. 33,540 & 33,660  
(Consolidated)

6  
7 **WILLIAM H. WEDDLE, ARDEEN J. WEDDLE**  
8 **Individually and as TRUSTEES OF THE WEDDLE**  
9 **FAMILY REVOCABLE TRUST, ROBERT COCHRAN**  
10 **SUSAN COCHRAN, DAN WARREN, VON EVA WARREN,**  
11 **and THE NEW MEXICO LAND CONSERVANCY,**

12           Defendants-Appellees.

13 **APPEAL FROM THE DISTRICT COURT OF SIERRA COUNTY**

14 **Kevin R. Sweazea, District Judge**

15 Jones & Smith Law Firm LLC

16 J. Brian Smith

17 Albuquerque, NM

18 for Appellants

19 William H. Weddle

20 Ardeen J. Weddle

21 Robert Cochran

22 Susan Cochran

23 Dan Warren

24 Von Eva Warren

1 Winston , NM

2 Pro Se Appellees

3 Domenici Law Firm , P.C.

4 Peter V. Domenici, J.R.

5 Albuquerque, NM

6 for Appellees The Weddle Family Revokable Trust

7 A. Blair Dunn

8 Alonzo Maestas

9 Albuquerque, NM

10 for Appellees New Mexico Land Conservancy and Amicus Curiae

11 **MEMORANDUM OPINION**

12 **VIGIL, Chief Judge.**

13 {1} This case comes before us for the second time. In the prior appeal, *Dethlefsen*  
14 *v. Weddle*, 2012-NMCA-077, ¶ 36, 284 P.3d 452, we affirmed the district court’s  
15 judgment “that an express, fifty-foot wide easement and road of some undetermined  
16 dimension burdens both the Dethlefsen and Warren Properties.” However, we  
17 concluded that “the recorded property documents are ambiguous with respect to the  
18 width of the road, the location of the road within—or separate from—the fifty-foot  
19 wide easement, the use, the nature, and purpose of the road, and the permissibility of  
20 a lockable gate.” *Id.* We therefore remanded “for admission and consideration of all  
21 relevant extrinsic evidence to determine the proper scope and use of the easement as  
22 intended by the common grantor, including a determination of the history and use of

1 a locked gate at Forest Service Road 157.” *Id.* For the reasons that follow, we affirm  
2 the district court.

### 3 **DISCUSSION**

4 {2} Following a bench trial of two-and-a half days of testimony, the admission of  
5 close to fifty exhibits, and a visit to the property, the district court determined: (1) the  
6 easement is fifty feet in width across the Dethlefsen and Warren lands; (2) the fifty-  
7 foot width of the easement is measured as twenty-five feet to either side from the  
8 centerline of Monument Creek that runs through the Dethlefsens’ property; (3) that  
9 “[w]ithin said easements, the size of the traveled and maintained roadway is the  
10 amount reasonably necessary for the uses that are intended, which is generally twenty  
11 feet, more or less, which may be slightly more around corners”; (4) that the Cochrans’  
12 easement includes ingress and egress and the movement of livestock; (5) that the  
13 Weddles’ easement is limited to ingress and egress, but not to a specific vehicle type;  
14 and (6) that a locked gate constitutes an unreasonable restriction on the easement and  
15 that the Dethlefsens cannot require that the gate remain locked at all times.

16 {3} The Dethlefsens appeal on three grounds: (1) that substantial evidence does not  
17 support the finding that the size of the traveled and maintained roadway is twenty feet,  
18 more or less, and that ingress and egress is not limited to a specific type of vehicle  
19 type and may include vehicles that are wider than the present existing gate; (2) that  
20 the district court erred in finding that a locked gate constitutes an unreasonable

1 restriction on the easement and that the gate must remain unlocked; and (3) that the  
2 district court erred in awarding the Weddles’ costs as “prevailing parties.”

3 {4} We address each argument in turn. Because this is a memorandum opinion, and  
4 because the parties are familiar with the facts and procedural history of the case, it is  
5 unnecessary for us to set them forth, except as required for our analysis.

6 **1. Substantial Evidence of Roadway Width and Vehicle Size**

7 {5} The Dethlefsens contend that “the road should be no more than fourteen feet in  
8 width as limited by the access gate and the historic width and uses of the road and  
9 what is reasonable and necessary for the uses of the road under the circumstances.”

10 The Dethlefsens contend that the judgment of the district court to the contrary is not  
11 supported by substantial evidence and is contrary to law. We disagree.

12 {6} In the prior appeal we determined that the recorded property documents are  
13 ambiguous with respect to the width and location of the road and the use, nature, and  
14 purpose of the road. Hence, the district court was faced with determining the meaning  
15 of the easements as questions of fact. *See Mark V, Inc. v. Mellekas*, 1993-NMSC-001,  
16 ¶ 13, 114 N.M. 778, 845 P.2d 1232 (“Once the agreement is found to be ambiguous,  
17 the meaning to be assigned the unclear terms is a question of fact.”); *see also*  
18 28A C.J.S. Easements § 189 (2015) (“The extent of the right of an easement is a  
19 question of fact[.]”).

1 {7} “Substantial evidence is such relevant evidence that a reasonable mind would  
2 find adequate to support a conclusion.” *State ex rel. King v. B & B Inv. Grp., Inc.*,  
3 2014-NMSC-024, ¶ 12, 329 P.3d 658 (internal quotation marks and citation omitted).  
4 “The question is not whether substantial evidence exists to support the opposite result,  
5 but rather whether such evidence supports the result reached.” *N.M. Taxation &*  
6 *Revenue Dep’t v. Casias Trucking*, 2014-NMCA-099, ¶ 20, 336 P.3d 436 (internal  
7 quotation marks and citation omitted). “We will not reweigh the evidence nor  
8 substitute our judgment for that of the fact finder.” *Id.* (alteration, internal quotation  
9 marks, and citation omitted). “In determining whether or not there is substantial  
10 evidence to support the trial court’s findings, we look only at the evidence favorable  
11 to the appellees.” *Robertson v. Carmel Builders Real Estate*, 2004-NMCA-056, ¶ 28,  
12 135 N.M. 641, 92 P.3d 653.

13 {8} The intent of the parties determines the existence and scope of an easement.  
14 *Mayer v. Smith*, 2015-NMCA-060, ¶ 11, 350 P.3d 1191, *cert. denied sub nom. Mayer*  
15 *v. Jones*, 2015-NMCERT-004, 348 P.3d 694. If the reservation or grant is ambiguous,  
16 “the parties’ intention must be determined from the language of the instrument as well  
17 as from the surrounding circumstances.” *Sanders v. Lutz*, 1989-NMSC-076, ¶ 8, 109  
18 N.M. 193, 784 P.2d 12. “[T]he scope of an easement, or right-of-way, is narrow and  
19 is measured by the nature and purpose of the easement.” *Walker v. United States*,  
20 2007-NMSC-038, ¶ 49, 142 N.M. 45, 162 P.3d 882 (internal quotation marks and

1 citation omitted). “The easement holder’s right to use the property is limited to the  
2 particular purpose for which the easement was created.” *City of Rio Rancho v. Amrep*  
3 *Sw. Inc.*, 2011-NMSC-037, ¶ 33, 150 N.M. 428, 260 P.3d 414. An easement holder  
4 “is entitled to make only the uses reasonably necessary for the specified purpose.” *Id.*  
5 (internal quotation marks and citation omitted); *see* 28A C.J.S. Easements § 215  
6 (2015) (“[A]n easement holder is only entitled to do what is ‘reasonably necessary’  
7 to fairly enjoy the rights that were expressly granted[.]”).

8 {9} The Dethlefsens do not dispute the existence of the fifty-foot easement or its  
9 location; the Dethlefsens only dispute the width of the roadway within the easement.  
10 According to the Dethlefsens, the road historically has been a two-track road—a  
11 single lane—where the width is eight to fourteen feet, unsurfaced. The Dethlefsens  
12 contend that the roadway should be no greater than the historic width of fourteen feet,  
13 which is reasonable and necessary for the uses under these circumstances. The  
14 evidence supports the district court’s findings to the contrary.

15 {10} The fifty-foot width of the easement is measured as twenty-five feet to either  
16 side from the centerline of Monument Creek that runs through the Dethlefsen  
17 property. Thus, the district court reasoned that the location and size of the road  
18 depends on the conditions of the ground and the environment. The road is intertwined  
19 with the creek bottom at specific sections and closely located near the creek in others.

20 Kristine Hawkins (Hawkins), the previous owner of the Cochran property for fourteen

1 years and the first person to purchase property from original grantor Kenneth Eng  
2 (Eng), testified that she would drive out of the creek for a sturdier surface when water  
3 was running through the creek. The water from the creek would change directions  
4 from one year to the next and Hawkins would need to move around depending on the  
5 flow of the water. Hawkins sometimes could not even drive on the road on certain  
6 occasions due to the water, declaring her access as impassable. Dan Warren, current  
7 owner of the Warren property, testified that such floods are not unusual in the area.  
8 Prior to the bench trial, another flood occurred.

9 {11} There is also evidence that other pathways have been developed on the original  
10 road, causing the road easement not to be a two-track road. William Weddle , current  
11 owner of the Weddle property, testified that certain areas within the creek had “well  
12 worn” paths when Weddle first observed the area. Hawkins gave further support by  
13 testifying that the roadway has dual pathways in which the two paths are the existing  
14 roadway. Eng testified in his deposition that he would not describe the road easement  
15 as a two-track road. The Dethlefsens even admitted that the current road has two  
16 pathways beginning at the gate at the time the district court judge conducted the  
17 second site visit. Additional testimony from Weddle demonstrates that the road that  
18 “come[s] off” Warren’s property in 1996 was approximately twenty-feet wide. A  
19 previous path on the road easement was sixteen-feet wide.

1 {12} Another natural element also impedes the property owner’s ability to access the  
2 road easement. Hawkins testified that she encountered overhanging trees with large  
3 branches on the road. Hawkins would need to cut the branches to avoid scraping her  
4 trailers. Other branches of such size would fall on the road easement, and Hawkins  
5 would need to remove them. Weddle testified that cottonwood branches and an oak  
6 tree had fallen on the road. Dethlefsen testified that he had removed branches from  
7 trees to give access to large equipment.

8 {13} The district court further noted that this road easement is not simply a two-track  
9 road due to its maintenance. Hawkins testified that she brought in a D-3 bulldozer to  
10 maintain the road. Robert Cochran, current owner of the Cochran property, testified  
11 that Weddle used his tractor to straighten the road after a flood destroyed the gate  
12 between the Dethlefsen and Warren property, causing significant debris to scatter  
13 across the area. Prior to the flood, Weddle laid a considerable amount of gravel on the  
14 easement. Weddle had also leveled the roadway in 2010 because he had had guests  
15 arriving on his property.

16 {14} Finally, the district court concluded that Eng intended to allow property owners  
17 to transport large vehicles—beyond the width of the gate—across the easement. The  
18 district court reasoned that the survey plat, done during a transaction between Eng and  
19 the Dethlefsens and identifying a fifty-foot wide easement, was Eng’s expression of  
20 his specific intent, which the Dethlefsens accepted. Eng provides support in his



1 deposition that the property owners could use the necessary amount of road in the  
2 easement to “move what they wanted to move across . . . in their normal business”;  
3 whether it was fifty, twenty, or five feet on the easement.

4 {15} Additional evidence shows the property owners’ need to travel in vehicles  
5 greater in width than the fourteen-foot wide gate. Hawkins testified that large storage  
6 tanks would need to be transported through the easement for ranching purposes, which  
7 would not fit through the fourteen-foot gate. Weddle testified that he currently plans  
8 to continue to live on his property and build a larger house. Weddle had wanted to  
9 transport a pre-fabricated building, located at Elephant Butte, that was fifteen feet in  
10 width across his property on a sixteen-foot wide vehicle. Because Warren objected to  
11 Weddle’s approach in transporting the building to his property, Weddle disassembled  
12 the building and moved the pieces on a flatbed trailer. Weddle had to make four trips  
13 with this trailer to transport all of the pieces onto his property. Dethlefsen himself  
14 admits that a D-9 bulldozer he used to build a private roadway from Monument Creek  
15 to his home, did not enter through the gate.

16 {16} The record demonstrates that the existence of natural elements create obstacles  
17 to ingress and egress, thereby generating different pathways for the road; that the  
18 roadway is maintained with mechanical vehicles, including bulldozers and tractors;  
19 and that Eng’s intent was to allow property owners who have the need, to drive  
20 vehicles greater than the width of the gate. We therefore conclude that there is

1 substantial evidence to support the district court’s findings that it is reasonably  
2 necessary that the road be twenty-feet wide, more or less, for the specific purposes of  
3 ingress and egress and to allow vehicle types to enter that are wider than the existing  
4 gate.

5 **2. Substantial Evidence That Gate is To Be Unlocked**

6 {17} The Dethlefsens next argue that the district court erred when it found that the  
7 locked gate at Forest Service Road 157 was an unreasonable restriction on the  
8 easement. We review whether substantial evidence supports the district court finding  
9 that the locked gate is an unreasonable restriction on the easement. *See Huff v.*  
10 *McClannahan*, 1976-NMCA-121, ¶¶ 6-7, 89 N.M. 762, 557 P.2d 1111 (stating that  
11 “[w]hether the gates unreasonably interfered with [the] plaintiffs’ right of passage was  
12 a question of fact”).

13 {18} The owner of a servient estate “may make any reasonable use desired of the  
14 land in which the easement exists.” *Dyer v. Compere*, 1937-NMSC-088, ¶ 13, 41  
15 N.M. 716, 73 P.2d 1356. “[T]he servient [estate, however], may not use [the] property  
16 in a way that obstructs the normal use of the easement.” 28A C.J.S. Easements § 234  
17 (2015). A locked gate is permitted as long as “it is necessary for the efficient use of  
18 the servient estate and it does not impose an unreasonable [restriction] upon the use  
19 of the easement.” 28A C.J.S. Easements § 240 (2015); *see Huff*, 1976-NMCA-121,  
20 ¶ 5 (“[T]he servient owner may maintain a gate across the way if necessary for the use

1 of the servient estate and if the gate does not unreasonably interfere with the right of  
2 passage.” (internal quotation marks and citation omitted)). We conclude that the  
3 evidence supports the district court’s finding and affirm on this point as well.

4 {19} Cochran described his difficulties of ingress and egress caused by the the locked  
5 gate at Forest Service Road 157. The locked gate was a problem at night, in the winter  
6 season, and during the evenings. Cochran said Forest Service Road 157 is a mile from  
7 his property. He has family, friends, and business associates who come and visit him  
8 on his property, and he tries to make arrangements to meet his guests if he knows they  
9 are coming. Otherwise, Cochran’s guests have to travel down the road and ask  
10 Cochran to open the gate. At times, Cochran himself, as well as his guests, have had  
11 to walk from the gate to Cochran’s property at night without a flashlight. Visitors have  
12 sometimes left because the gate was locked.

13 {20} Warren also testified about difficulties he had due to the locked gate at Forest  
14 Service Road 157. According to Warren, the security on the gate and the fences  
15 connected to that gate “isolate” about one acre of Warren’s land, which makes it  
16 difficult for Warren to access his own property. Warren testified that he feels his right  
17 to access his property has been constrained due to the gate, believing that his  
18 neighbors use his property as a “security buffer” for their more distant properties.  
19 After the district court asked what outcome he would desire from the court, Warren  
20 testified that he had a preference that there should not be a locked gate.

1 {21} The evidence also establishes that the property owners, who have the right of  
2 ingress and egress on the roadway, risk not having emergency vehicles travel across  
3 the easement due to the locked gate at Forest Service Road 157. According to a  
4 written statement by Nathan Pasos, Fire Chief of the Winton-Chloride Volunteer Fire  
5 Department, fire-trucks weigh at least 16.5 tons and therefore he “would not consider  
6 going off a dirt road to bypass a locked gate even . . . under optimum conditions.”  
7 Weddle testified that he had a conversation with Fire Chief Pasos and discussed fire  
8 protection for Monument Creek due to the number of fires in the area. Based on  
9 Weddle’s conversation with Fire Chief Pasos and this statement, Weddle concluded  
10 that the locked gate prohibits emergency vehicles from entering onto the road  
11 easement. Hawkins has had property burn in a fire, and she was worried about fires  
12 in this area because fire vehicles cannot pass through the locked gate.

13 {22} We conclude that the foregoing evidence supports the district court’s finding  
14 that the locked gate at Forest Service Road 157 is an unreasonable restriction on the  
15 easement. Cases and other authorities cited to us by the Dethlefsens do not persuade  
16 us otherwise, as they did not require any specific determinations involving locked  
17 gates on an easement. The district court here correctly applied the law to the question  
18 of fact: whether the locked gate is an unreasonable restriction on the easement.

19 **3. Weddle as the Prevailing Party**

1 {23} The Dethlefsens argue that the district court erred when it found that Weddle  
2 was the prevailing party pursuant to Rule 1-054(D)(1) NMRA. We review the district  
3 court’s finding under an abuse of discretion standard. *See Mayeux v. Winder*, 2006-  
4 NMCA-028, ¶ 41, 139 N.M. 235, 131 P.3d 85 (“The issue we must determine is  
5 whether the trial court abused its discretion in concluding [the d]efendant was the  
6 prevailing party.”) “An abuse of discretion occurs when a ruling is clearly contrary to  
7 the logical conclusions demanded by the facts and circumstances of the case.” *Benz*  
8 *v. Town Ctr. Land, LLC*, 2013-NMCA-111, ¶ 11, 314 P.3d 688 (internal quotation  
9 marks and citation omitted). “When reasons both supporting and detracting from a  
10 decision exist, there is no abuse of discretion.” *In re Camino Real Env’tl. Ctr. Inc.*,  
11 2010-NMCA-057, ¶ 23, 148 N.M. 776, 242 P.3d 343.

12 {24} Rule 1-054(D)(1) states “[e]xcept when express provision therefor[e] is made  
13 either in a statute or in these rules, costs, other than attorney fees, shall be allowed to  
14 the prevailing party unless the court otherwise directs[.]” “A prevailing party is  
15 defined as the party who wins the lawsuit—that is, a plaintiff who recovers a judgment  
16 or a defendant who avoids an adverse judgment.” *Mayeux*, 2006-NMCA-028, ¶ 41  
17 (internal quotation marks and citation omitted). A prevailing party can also be defined  
18 as “the party to a suit who successfully prosecutes the action or successfully defends  
19 against it, prevailing on the main issue, even though not necessarily to the extent of  
20 his original contention.” *Id.* (alteration, internal quotation marks and citation omitted).

1 {25} The issues that were tried and then remanded for resolution were: the width and  
2 location of the road; the use, nature, and purpose of the road; and the permissibility  
3 of the locked gate. *See Dethlefsen, 2012-NMCA-077, ¶ 36.* While Weddle was not one  
4 hundred percent successful on all of these issues, on the whole, Weddle prevailed on  
5 the overriding issues relating to the width of the road, whether to allow a locked gate,  
6 and use of the road for ingress and egress for any legal uses on the Weddle property.  
7 Under these circumstances, we cannot conclude that the district court committed an  
8 abuse of discretion in finding that Weddle is the prevailing party for purposes of  
9 awarding costs.

10 **CONCLUSION**

11 {26} For the foregoing reasons, we affirm the district court's findings.

12 {27} **IT IS SO ORDERED.**

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**MICHAEL E. VIGIL, Chief Judge**

15 **WE CONCUR:**

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**RODERICK T. KENNEDY, Judge**

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**J. MILES HANISEE, Judge**

19