IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI
No.: 2010-CA-01154

DONALD GREENWOOD AND
CAROL GREENWOOD — APPELLANTS

V.

GERALD ALLEN YOUNG, SR.
AND MELODY ANN YOUNG — APPELLEES

YOUNG APPELLEES' PRINCIPAL BRIEF
(ORAL ARGUMENT NOT REQUESTED)

APPEAL FROM THE CHANCERY COURT FOR THE SIXTH JUDICIAL DISTRICT OF WINSTON COUNTY, MISSISSIPPI

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CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel of record to the Appellees certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order for the Justices of the Supreme Court and/or the Judges of the Court of Appeals to evaluate possible disqualification or recusal.

1. The Appellees, Gerald Allen Young, Sr. and Melody Ann Young.
2. The Appellants, Donald Greenwood and Carol Greenwood.
3. Donald Greenwood's trial counsel, Honorable Christopher M. Posey of the Edward A. Williamson Law Firm
4. Carol Greenwood's trial counsel, Honorable James Mayo of the Fair & Mayo Law Firm
5. The Appellees trial and appellate counsel, Honorable Terry Jordan of the Jordan & White Law Firm, and appellate counsel Caleb E. May.
6. Honorable J. Max Kilpatrick, Chancery Judge of the Sixth Judicial District.
7. Barbara G. Jones, Sue G. Livingston, and Tessie G. Higginbotham

Respectfully Submitted this the 4th day of April, 2011.

Gerald Allen Young, Sr. and Melody Ann Young

Caleb May

BY: CALEB E. MAY Attorney for the Appellees

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STATEMENT OF THE ISSUES

This adverse possession case involves the following issues on appeal:

1. Did the Trial Court err in overruling the Defendants'/Appellants', Don Greenwood and Carol Greenwood, *Motion in Limine* and standing objection seeking to exclude any evidence or testimony of adverse possession occurring prior to the date the Trial Court voided the *Warranty Deed* from Don Greenwood to the Plaintiffs/Appellees, Gerald Allen Young, Sr. and Melody Ann Young, as any acts of possession would have been adverse to Don Greenwood, the Grantor of said *Warranty Deed*?

2. Did the Trial Court err in holding that Gerald Allen Young, Sr. and Melody Ann Young proved by clear and convincing evidence that, by their specific actions, they maintained the exclusive, complete, actual, notorious, hostile, adverse, continuous, undisputed and peaceful possession, ownership and control of the disputed property, for 10 years, thus entitling them to title of the disputed property through adverse possession as provided and defined by Miss. Code Ann. § 15-1-13(1)?

STATEMENT OF THE CASE

I. Course of the Proceedings

On October 10, 2006, the Sisters (Barbara G. Jones, Sue G. Livingston, and Tessie G. Higginbotham) filed suit against the Youngs (Gerald Allen Young and Melody Ann Young) in the Chancery Court of Winston County, Mississippi. The Sisters' lawsuit is not the case on appeal today, however the Sisters' lawsuit was the first in the series of litigations over the Property that is the subject of this appeal.

The Sisters claimed to have been given a right of first refusal to the Property that is the subject of this appeal (hereinafter the "2 Acres"). Instead of seeking to enforce that right approximately 10 years after the 2 Acres had been transferred, the Sisters' sought to have the Warranty Deed, through which the 2 Acres were transferred, set aside because it passed homestead land without a spousal signature.[1] The Sisters' lawsuit ended on December 5, 2007 when the Trial Court entered an *Agreed Judgment Voiding Warranty Deed and Other Relief*, which as titled declared that the Warranty Deed was Void.[2]

The Youngs, now Grantees of a Void Deed and without title to the 2 Acres, filed a suit to *"Quite and Confirm title to Real Estate by Adverse Possession"* against Don Greenwood, Carol Greenwood, and the Sisters in the Winston County Chancery Court.[3] The Trial Court heard the Youngs suit on December 1, 2009. The Court and all Parties

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[1] On its face the Deed, which was dated July 12, 1996, stated that Don Greenwood granted the 2 acres to Gerald Allen Young, Sr. and Melody Ann Young. Carol Greenwood was on the date of the Deed Don's wife and the 2 acres were part of homestead property. The 2 acres described in the Deed is the subject of this appeal

[2] In addition to the Sisters, Gerald Allen Young, Sr., and Melody Ann Young, both Don Greenwood and Carol Greenwood had been made parties to the Sisters' case.

[3] On November 27, 2007, the Youngs filed their original *Complaint to Quite and Confirm Title to Real Estate by Adverse Possession*, but the Court Dismissed this original suit without prejudice for failure to serve the Defendants within 120 days of filing. The Youngs then filed their *Second Amended Complaint to Quite and Confirm Title to Real Estate by Adverse Possession* and from which this appeal now stems.

agreed to dismiss the Sisters from the suit and in return the Sisters received a right of first refusal. This agreement left Don Greenwood and Carol Greenwood as the only Defendants.

On the morning of the hearing, the Trial Judge overruled the Defendants' *Motion in Limine* to exclude any evidence of acts occurring prior to December 5, 2007 that supported the Youngs' adverse possession of the 2 Acres, December 5, 2007 being the date the Court voided the 1996 Warranty Deed. After overruling the *Motion in Limine* the Trial Judge heard six witnesses and admitted nine exhibits over two days of trial, with an inspection of the 2 Acres on the last day by the Trial Judge, Parties, and Lawyers.[4] After receiving the Lawyers' Findings of Fact and Conclusions of Law, the Trial Judge ruled that the Youngs owned the Property through adverse possession. Don and Carol Greenwood appealed the Trial Judge's decisions.

II. Facts

Don Greenwood negotiated with Charles W. "Dan" Greenwood for the conveyance of the 2 Acres to the Youngs; Melody Ann Young is the daughter of Dan Greenwood. (Tr. p. 313) In preparation for the conveyance the Youngs had the 2 Acres surveyed by Mr. Tom Gregory. (Tr. p. 66) After the first survey, a disagreement arose as to where the survey set the four corners of the 2 Acres. Another survey was conducted, and the Parties agreed upon the placement of the stake and fluorescent tape delineating the corners. Don Greenwood remembered the stakes and tape remained at the corners until "they rotted off," but before then the stakes and tape were clearly visible from the adjacent public road. (Tr. p. 67, 317, 318)

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[4] Gerald Allen Young, Sr. did not appear trial due to a work conflict. James C. Mayo, attorney for Carol Greenwood, did not attend the inspection of the property.

Also in preparation for the conveyance, Dan Greenwood and Melody Ann Young initiated and coordinated through the Noxapater Fire Department a controlled burning of the house that was on the 2 Acres and then Dan and Melody arranged for bulldozer work to clean up the debris. (Tr. p. 315-316) Melody Ann Young testified that she planned to eventually put a mobile home on the property. (Tr. p. 95) Melody Ann Young never made her primary residence on the 2 Acres.

On July 12, 1996, Don Greenwood executed the Warranty Deed conveying the 2 Acres to the Youngs. The Chancery Clerk's office filed the deed in the Winston County Land Records on July 25, 1996. Neither the Defendants nor the Sisters filed any legal action or gave any notice or claim contradicting the Youngs' ownership as stated in the Warranty Deed until August of 2006 when the Sisters notified the Youngs that there was a problem with the Warranty Deed.

A. <u>July 1996 – August 2006</u>

Testimony from the hearing revealed that Dan Greenwood and Ray Greenwood (Melody Young's brother) bush hogged the 2 Acres four times from July 12, 1996 through August 2006 at the instruction of Melody Young. Don Greenwood saw Dan Greenwood on his tractor which at the time was stuck in a ditch on the 2 Acres. (see R. p. 308 and Tr. p. 70, 104, 139, 140, 282, 283)

Melody Ann Young hired a man to bulldoze one acre of the 2 Acres to clear the property and remove debris from the controlled burn of the old house. Sometime later Melody Ann Young hired a man bulldoze a mobile home pad on the 2 Acres. (Tr. p. 70, 141, 283) In 1999 with the intentions of placing a mobile home on the property, Melody Young obtained a 911 address for the 2 Acres. (Tr. pg. 116 and Exhibits p. 15)

Don Greenwood made no improvements to the road that crossed the 2 Acres after July 12, 1996. Contract dirt haulers made all improvements to the road after that, but they made those improvements for the purpose of removing dirt. (Tr. p. 297) When Don removed dirt, he did not have any dirt removed from the 2 acres. (Tr. p. 74)

SUMMARY OF THE ARGUMENT

The bulk of the Appellants argument consists of a request for the Appellate Court to conduct *de novo* review and reweigh the evidence. Such review and reweighing is prohibited by the applicable Standard of Review. Even after review of the Trial Judge's decision and further review of the evidence contained within the record and trial transcript, there is not one apparent error committed by the Trial Judge in his decisions and final ruling. With no manifest error, the Appellate Court should not reverse the ruling and decisions of the Trial Judge.

In a leach to their main issue of appeal, the Appellants also argue that the Trial Judge erred in denying the Appellants' *Motion in Limine* which asked to the trial court to bar evidence of any possessory acts towards the 2 Acres taken by the Youngs before December 5, 2007 when the Warranty Deed for the 2 Acres was declared void. The Appellants are wrong in their interpretation of the law and present no definitive authority to show that the Trial Judge erred in his ruling.

I. STANDARD OF REVIEW

Although they state part of the applicable Standard of Review in their brief, which I will not repeat, the Greenwoods do not state what the Mississippi Supreme Court has provided as guidance in applying the Standard of Review. It is important to note this statement which the Court provided in the same case cited by the Greenwoods: "If substantial evidence supports the chancellor's fact-findings, this Court must affirm,

even though we "might have found otherwise as an original matter." *Nichols v. Funderburk,* 883 So.2d 554, 556 (Miss. 2004). The Court in providing further guidance stated: "It requires little familiarity with the institutional structure of our judicial system to know that this Court does not sit to redetermine questions of fact. Our scope of review is severely limited.... Suffice it to say that we have no authority to grant appellant any relief if there be substantial credible evidence in the record undergirding the determinative findings of fact made in the chancery court." *Johnson v. Black,* 469 So. 2d 88, 90 (Miss.1985)

The Appellants ask that the Standard of Review be ignored. In their first stated issue of appeal the Greenwoods introduce an unsupported claim of failure to abide by established case law. The purpose of this first issue is to misdirect the Appellate Court from the Greenwood's second issue of appeal in which they ask the Appellate Court to add credibility to testimony and weight to evidence that was favorable to their case. The Standard of Review restricts the Appellate Court from such *de novo* review of evidence. Approaching under the guiding light of the applicable Standard of Review, the Greenwoods' issues of appeal are seen for their true nature, a request for *de novo* review and a reweighing of the evidence by the Appellate Court.

II. THE TRIAL COURT DID NOT ERR IN OVERRULING DEFENDANTS'/APPELLANTS' *MOTION IN LIMINE* AND STANDING OBJECTION SEEKING TO EXCLUDE ANY EVIDENCE OR TESTIMONY OF ADVERSE POSSESSION ALLEGEDLY OCCURRING PRIOR TO THE DATE THE TRIAL COURT VOIDED THE WARRANTY DEED FROM DON GREENWOOD TO THE PLAINTIFFS/APPELLEES.

In their first issue on appeal the Greenwoods ask that the Appellate Court reverse the Trial Judge's denial of their *Motion in Limine.* The Greenwoods requested the exclusion of any evidence offered to prove adverse possession through acts occurring

before December 5, 2007, the date that the Winston County Chancery Court declared void the Warranty Deed that purported to pass the 2 Acres from Don Greenwood to the Youngs. The Greenwoods argued that the Youngs made no adverse or hostile claim against the 2 Acres because Don Greenwood had executed a void Warranty Deed. The Trial Court denied the *Motion in Limine* and allowed the Youngs to offer proof from all periods of time.

In support of the first raised issue of appeal, Greenwoods cite *Washington v. Crowson*, 222 So. 2d 137, 139 (Miss. 1969) and assert that possession is not adverse when a Grantee occupies property by virtue of a covenant in Deed. Because the Warranty Deed was void from the beginning, the Youngs received no property or rights, tangible or intangible, from the Warranty Deed. With no property or rights passed under a void Warranty Deed, any and all of the Youngs' past actions that affect the 2 Acres are adverse and hostile to the color of title and ownership that Don Greenwood held even after executing the void Warranty Deed. The Trial Judge correctly decided to reject the Greenwood's argument and allow evidence of adverse possession.

The Greenwoods further argue that the Trial Judge misinterpreted *Avera v. Williams*, 81 Miss. 714, 33 So. 501 (Miss. 1903). Although *Avera* is not needed to support the Trial Judge's decision (because a void Deed, in and of itself, is nothing, a nullity), the Greenwoods are reading into the blackletter of *Avera* a rule that is not there, i.e. that a deed for a homestead, in which a Grantor's wife did not join, though void, is available as color of title to sustain a claim by adverse possession as against third persons ***only***. ***Only*** is emphasized because the word does not appear in the law that was pull from the *Avera* opinion. In *Avera* the adverse possessor sought such possession against third parties and not the Grantor of the void homestead deed. *Avera*

did not shut the door on voided deeds being acceptable evidence of hostile claim of ownership as against the Grantor. The Court, in *Avera*, only sought to produce the law that fit the facts at for that specific case. The Greenwoods should not argue that when Grantors deed property to Grantees, whether the deed is void or not, there can be taken from that transaction a non-hostile intent on the part of the Grantees to keep the Grantor from continuing to exercise ownership over the deeded property. There is no evidence that Don Greenwood or the Youngs had any intent other than to have the Youngs take the property free and clear (that is until the Don Greenwood had his change of heart 10 years after the transfer). (Tr. p. 82) By Don Greenwood's mistake in not complying with homestead transfer procedure (a mistake that Carol Greenwood was not privy to until the lawsuits), the Youngs did not gain the property free and clear from Don Greenwood. If Mrs. Greenwood had also signed the Warranty Deed for the 2 Acres back in 1996, then the Greenwoods would have no grounds to claim ownership of the property, further evidencing the one side versus another side relationship between the Greenwoods and the Youngs over the 2 Acres. The Mississippi Supreme Court, since the *Avera* opinion, has stated: "the fact that claimant took possession under a deed is also admissible to show the hostile character of his occupancy." *Rawls v. Parker*, 602 So. 2d 1164, 1169 (Miss. 1992) (quoting the Corpus Juris Secondum (2A C.J.S. Adverse Possession Sec. 284 1972). The Greenwoods have taken the specific law conforming to the facts contained within *Avera* and distorted it to fit their argument and are wrong to attack the Trial Judge's ruling.

The Greenwoods also rely on the argument that hostile use is easily distinguished from "permissive" use. There is no argument from the Youngs that hostile and permissive are two opposite states, but granting a warranty deed is not the same as

giving permission to use property. Permission is able to be revoked. A warranty deed (when fully and legally executed) is meant to be a permanent transfer of rights. The Greenwoods cannot legally support their argument that a Void Deed actually means permission was given to use the land. Further, there has been no proof that either of the Greenwoods had a problem with the Youngs taking title to the land until the lawsuits were filed 10 years after the void deed was executed. (Tr. p. 168, 295) The Youngs' claims, actions, and possession of the 2 Acres were open and obvious to the Greenwoods for over 10 years and neither of the Greenwoods gave any indication that they did not agree with what the Warranty Deed (although void) was intended to do, that is to giveg the Youngs all rights to the 2 Acres with no rights retained by the Greenwoods.

III. THE TRIAL COURT DID NOT ERR IN HOLDING THAT THE PLAINTIFFS/APPELLEES PROVED BY CLEAR AND CONVINCING EVIDENCE THAT, BY THEIR SPECIFIC ACTIONS, THEY MAINTAINED THE EXCLUSIVE, COMPLETE, ACTUAL, NOTORIOUS, HOSTILE, ADVERSE, CONTINUOUS, UNDISPUTED AND PEACEFUL POSSESSION, OWNERSHIP AND CONTROL OF THE DISPUTED PROPERTY, FOR 10 YEARS, ENTITLING THEM TO TITLE OF THE DISPUTED PROPERTY THROUGH ADVERSE POSSESSION UNDER MISS. CODE ANN. SECTION 15-1-13(1).

In their second issue of appeal, the Greenwoods do not disguise their efforts to convince the Appellate Court to reweigh the evidence. The proposed issue plainly states that the Trial Judge ignored evidence and/or wrongly judged the credibility of each witness. After review of the trial transcript and Trial Judge's Opinion, there appears no manifest error on the Trial Judge's decision making as required to be shown under the Standard of Review. An accounting of all the actions taken by the Youngs in keeping up the property gave the Trial Judge all the evidence needed to decide that there had been adverse possession of the 2 Acres by the Youngs. (R. p. 300-318)

The general rules and the elements of adverse possession are adequately stated in the first paragraph of the General Rules section on page 21 of the Appellant's brief and also in other parts of the record. Those rules need not be repeated here.

There is also no need to repeat the meaning of clear and convincing evidence as compared to other burdens of proof.

UNDER CLAIM OF OWNERSHIP

After repeating their faulty interpretation of the *Avera* opinion (ample argument has been made against their interpretation), the Greenwoods emphasize that possession is not under an adverse claim of ownership when a grantee occupies property by virtue of a covenant in deed and cite the case *Washingtion v. Crowson*, 222 So. 2d 137 (Miss. 1969). *Washington* is distinguishable from the facts of this case. In *Washington*, the grantees to a deed were on notice that they could not hold the property indefinitely due to a covenant of reversion to the grantor. Warranty Deeds that pass the entire bundle of rights of property ownership from Grantor to Grantee create an adverse relationship in that the Grantee expects the Grantor to have no present and future connection or rights to the transferred property. In this case we have the nullity of a void deed and because there were no rights transferred all of the Youngs' actions as Grantees were adverse to the Greenwoods from the time of execution because Don Greenwood as Grantor was on notice that his rights were being acted against due to an agreed upon exchange. It is unfair and inequitable to say as a matter of law that a, deed voided because of lack of spousal signature, reverts to mere permission to that deed's Grantees when both Grantor's are visibly aware of actions taken adverse to their actual interests of ownership.

The Greenwoods request for the Appellate Court to reweigh the undisputed fact that the Youngs paid property taxes on the 2 Acres as evidence that the 2 Acres were under an adverse claim of ownership. (see Trial Exhibits pgs. 26-38) The Trial Court correctly weighed this evidence and did not overly rely on such evidence as the Greenwoods have implied. The Trial Court relied upon evidence of bulldozer work, the presence of the survey flagging, and bush hogging, that were all done for the Youngs under their direction. (pg. 366 Court Record). Combine these actions with the void deed being on file in the Winston County Chancery Clerk's Office and the Tax Payment Records, and the evidence shows that the Greenwoods knew that the Youngs were claiming the 2 Acres as their own. Again it is unfair and inequitable on its face that the Greenwoods should now be able to claim that the void deed represented their permission. There is no testimony on record that the Youngs believed that they merely had permission, and Don Greenwood testified that he believed the property to fully belong to the Youngs. (See Trial Transcript pgs. 103, 106, 144, 147, 295)

ACTUAL OR HOSTILE

The Greenwoods in arguing that the actual and hostile element was not met repeat the permissive versus adverse argument fleshed out under their first issue for appeal and restated in support of their Under Claim of Ownership element argument. Despite the claims of logic made by the Greenwoods, the argument that a Grantor of homestead property can receive full title to adversely possessed property if he executes a void deed is beyond fair and particularly devastating to the tenor and purpose of the adverse possession law. Ten years after he sold his property, Don Greenwood began feeling that he hadn't done right by his family and wanted his property back. (See Trial Transcript pg. 82) Further, Carol Greenwood lived in plain view of the Youngs' use of

the 2 Acres. The property was plainly visible to her whenever she rode by, and the property records and tax roll had not stated her name as the owner of the 2 Acres for more than 10 years after Don Greenwood executed the void deed. (See Trial Transcript pg. 164, 333 and also See Court Record pg. 26-38) Neither Carol nor Don Greenwood said one word to the Youngs concerning ownership of the 2 acres for over 10 years, that is until Don Greenwood had his feeling. (See Trial Transcript pg. 84, 168, 174, 295) Now the Greenwoods want to change what has been obvious to them all this time: the Youngs' possession of their property without their permission. Don cannot use the nullity of the void deed to defeat the actual and hostile element when it was his full intention to transfer all his rights to the property over to the Youngs. Carol Greenwood cannot be allowed to use the void deed (voided on her account for not signing) because of her lack of notice of the deed when she failure to act after seeing several changes being made to the property without her permission and the void deed and tax records were on file at the Winston County Courthouse. (Trial Transcript pg. 333)

Ending their argument over the actual and hostile element, the Greenwoods again request the Appellate Court to reweigh the evidence presented at trial. They ignore all the evidence used by the Trial Judge to support his decision and raise only that testimony favorable to their argument. The Trial Judge did consider all of the evidence that the Greenwoods now point to as "definitive," but the Trial Judge correctly gave that evidence its proper weight.

The bulldozing of the 2 Acres and the effects of such bulldozing were visible to all those who rode the public road adjoining the 2 Acres, and if the Greenwoods ever felt the urge to look out their windows while driving down their own driveway they saw the bulldozed 2 Acres. (See Trial Transcript pg. 65, 80, 70, 73, 164, 283, 300, 333) The

survey markers, although not placed on the property within the relevant statutory period, were seen for an extended period of time by several of the parties including Don Greenwood and Carol Greenwood during the relevant period. (See Trial Transcript pgs. 66, 67, 74, 165, 333) The record of the Youngs' payment of property taxes has always been available in the Winston County Courthouse. (See Court Record pg. 26-38) The Greenwoods flat refusal to acknowledge this undisputed proof of actual and hostile use and possession of the 2 Acres, is in keeping with their main request of asking for de novo review of the evidence with specific emphasis on only those facts supporting their case.

OPEN, NOTORIOUS AND VISIBLE

As developed in this brief and in the Greenwoods' brief and as shown by the testimony of all witnesses, it is undisputed that the actions taken by the Youngs or their agents and the results of those actions were seen by all parties and witnesses to this cause. It is therefore undisputed that the "clear indicators" relied upon by the Trial Court in its decision were open, notorious and visible.

CONTINUOUS AND UNINTERRUPTED USE FOR OVER TEN YEARS

[T]he character of the land determines the type possession necessary to acquire title by adverse possession. *Holliman v. Charles L. Cherry & Associates, Inc.,* 569 So. 2d 1139, 1146 (Miss. 1990) In *Davis v. Clement,* 468 So. 2d 58, 62 (Miss. 1985), the Supreme Court held:

> The rule is well settled that both the quality and quantity of possessory acts necessary to establish a claim under Sec. 15-1-13 may vary with the characteristics of the land. In the case of "wild" or unimproved lands, adverse possession may well be established by evidence of acts that would be wholly insufficient in the case of improved or developed

lands. *Kayser v. Dixon,* 309 So.2d 526, 529 (Miss.1975); *McCaughn v. Young,* 85 Miss. 277, 292-93, 37 So. 839, 842 (1904).

The 2 Acres are located in a rural part of Winston County, and when the old homeplace, located on the 2 Acres, was burned and bulldozed the 2 Acres became significantly unimproved and changed the nature of the possessory acts required to prove adverse possession. In this case the 2 Acres were being prepared for the eventual site of the Youngs' retirement home. (See Trial transcript pg. 95) The Youngs took steps in preparing the property for a retirement home; however, the Youngs have not retired. Contrary to the opinion of the Greenwoods, the law does not require that the Youngs erect a barrier around the property or to immediately build a home or other structure to constitute adverse possession. The undisputed acts of the Youngs or their agents, taken as a whole given the nature of the 2 Acres, were sufficient to fulfill the continuous and uninterrupted use for over ten years. It is undisputed that the Youngs had the property bulldozed, which was visible and seen by passers-by on the adjoining public road. It is also undisputed that survey tape was visible on the property, even in 2006. (See Trial Transcript pg. 217, 317) The Youngs have been the only persons to have the property surveyed.

EXCLUSIVE USE

The Appellate Attorney for the Greenwoods puts too much emphasis on actions taken by Don Greenwood on the 2 Acres. The Supreme Court has stated that when determining whether there is an actual claim of ownership: "The possessory acts of.....title owners of the property, are immaterial to this analysis." *Apperson v. White,* 950 So. 2d 1113, 1117 (Miss. App. 2007) Don Greenwood, Melody Young, and Ray

Greenwood (Melody's brother) all testified that the whole family had used an access road across the 2 Acres to dump trash that the access road had been used in the family for many years, through different title holders to the land. Don Greenwood used this same access road to hunt off of the property (See Trial Transcript pg. 134, 135, 145, 148, 296, 321) The Youngs, through third party agents, kept up the property and readied the property for their own development or disposal, which is much more exclusive use and ownership flag flying than continued use of an access road.

There is no element of "family relationships" found within Miss. Code Ann. Section 15-1-13, and although the Greenwoods have found this nugget of caselaw, they have not provided how this specific family relationship raises the Youngs burden of proof.

CONCLUSION

The Greenwoods say numerous times that the Trial Judge's rulings defy logic in the face of caselaw. The Trial Judge's rulings may defy the opinions of the Greenwoods, but they certainly not defy logic, and they definitely do not defy fairness and equity. The Void Deed executed by Don Greenwood did nothing. Through the Void Deed, Don Greenwood did not intend to give revocable permission to use. Don Greenwood intended to transfer all his rights to the property. Since the Deed was Void from the start, Don Greenwood was left in the same position as Carol Greenwood, the position of being the owners of property. Owners whose interests in the 2 Acres were being adversely acted against by the Youngs. Don Greenwood wants to use his mistake against the Youngs. To allow this and declare that a Void Deed defeats all adverse interest is inequitable under the facts of this case.

The Youngs proved every element required to prove adverse possession. The facts enumerated in the Trial Court's Opinion and further elaborated in this brief display clear and convincing proof that the Youngs have title to the 2 Acres through adverse possession. The evidence relied upon by the Greenwoods their brief were given the proper weight by the Trial Judge and found to be overshadowed by the undisputed evidence of the possessory acts of the Youngs. Accordingly, the Youngs request that this Honorable Court affirm the decision of the Trial Court.

Respectfully submitted, this the 4th day of April, 2011.

Gerald Allen Young, Sr. and Melody Ann Young

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of the *Young Appellees' Principal Brief* has been forwarded via first class mail to the following persons, postage pre-paid, to the following addresses:

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