

Filing # 98155034 E-Filed 10/31/2019 09:24:43 AM

IN THE CIRCUIT COURT
OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR LEVY COUNTY, FLORIDA

R CASE NUMBER: 38-2019-CA-000426
Circuit Civil Division

DAVID L VOGLER,
Plaintiff,

-vs-

DENNIS MITTELSTADT
DANIEL MITTELSTADT
DAVID MITTELSTADT,
Defendant.

**REPORT AND RECOMMENDATION OF THE GENERAL MAGISTRATE,
SUMMARY FINAL JUDGMENT QUIETING TITLE**


THIS CAUSE having come before the undersigned General Magistrate, and having reviewed the record and being otherwise fully advised in the premises, the Magistrate makes the following findings of fact:

- A. The General Magistrate and the Court have jurisdiction of the subject matter and the parties having consented to the Magistrate hearing this case.
- B. Plaintiff has standing to bring this action.
- C. Defendants Daniel C. Mittelstadt, David W. Mittelstadt and Dennis R. Mittelstadt were properly served and noticed.
- D. Defendants Willard Mittelstadt and Sandra Mittelstadt are deceased and this court is unable to enter an order quieting title as to these parties and therefore should be dropped from this action.
- E. The Magistrate has heard testimony and examined the affidavits filed herein and finds that Plaintiff is entitled to the relief set forth in the Final Judgment of Quieting Title attached hereto.
- F. All parties have waived the ten day period in which to file exceptions to the Report and

Recommendations of the General Magistrate.

IT IS THEREFORE RECOMMENDED that the Judgment of Quieting Title as to Defendants Daniel C. Mittelstadt, David W. Mittelstadt and Dennis R. Mittelstadt be entered by the Circuit Court.

REPORTED AND RECOMMENDED on Thursday, October 24, 2019.

38-2019-CA-000426 10/24/2019 08:42:04 AM

Katherine L. Floyd, General Magistrate
38-2019-CA-000426 10/24/2019 08:42:04 AM

Unofficial Copy

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**CASE NUMBER: 38-2019-CA-000426
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**DAVID L VOGLER,
Plaintiff,**

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**DENNIS MITTELSTADT
DANIEL MITTELSTADT
DAVID MITTELSTADT,
Defendant.**

SUMMARY FINAL JUDGMENT QUIETING TITLE

THIS CAUSE was before the Court on the Plaintiff's Motion for Quiet Title Summary Final Judgment ("the Motion"), and having carefully considered the Motion and reviewed the docket of this case, it is;

ORDERED, ADJUDGED, AND DECREED that:

1. In accordance with Article 5, §5(b), Florida Constitution, and §26.012(3)(a),(g), Florida Statutes, the Court has subject matter jurisdiction over the matters at issue in this case.
2. In accordance with the provisions of §48.016, Florida Statutes, the Court has personal jurisdiction over the Defendants, Daniel C. Mittelstadt, David W. Mittelstadt and Dennis R. Mittelstadt, in that due and legal service of process has been had upon said Defendants, Daniel C. Mittelstadt, David W. Mittelstadt and Dennis R. Mittelstadt, by valid publication in the Williston Pioneer 06/27/19, 07/04/19, 07/11/19 and 07/18/19. An Order Appointing Attorney Ad Litem was entered on June 26, 2019. Response by Attorney Ad Litem was entered on August 15, 2019. The allegations contained in the complaint have been proved by competent evidence.
3. Due and legal service of process was attempted by Sheriff's Service on Defendant, David W. Mittelstadt, on 06/10/19. Sheriff's Service was attempted on Defendant, Dennis R. Mittelstadt, on

06/14/19. Sheriff's Service was attempted on Defendant, Daniel C. Mittelstadt, on 06/15/19. All Sheriff's Services were returned "Unserviced".

4. The Court has jurisdiction of the Parties to this cause and of the subject matter thereof.

5. The equities of this cause are with the Plaintiffs.

6. The property that is the subject of this action is real property situate, lying, and being in Levy County, Florida, to-wit:

Those lands as described in Exhibit "A" attached hereto and made a part hereof by reference.

Tax Parcel Number:03078-000-00

7. That at the time of and prior to the commencement of this Plaintiffs were, and at all times thereafter have been and are the owners of, seized of, and possessed fee simple title to, the lands described in Paragraph 6 above and are entitled to bring this suit to quiet title to said lands; that on November 13, 2017, David L. Vogler and Barbara L. Vogler, purchased the lands described herein from Danny J. Shipp, Clerk of the Circuit Court, in and for Levy County, Florida, at tax sale, said Tax Deed being dated November 13, 2017, and recorded on November 14, 2017 in OR Book 1438, Page 938, Public Records of Levy County, Florida.

8. The Tax Deed from which Plaintiffs acquired title, as recorded in OR Book 1438, Page 938, public records of Levy County, Florida, is recognized as duly and properly issued and as a good and valid conveyance. 8. The lands contained and described herein in Paragraph 6 above are found to be the same lands as described in the Tax Deed from which Plaintiffs acquired title.

9. All the right, title or interest of the Defendants, and all persons claiming to have any right, title or interest in the lands since the filing of the Lis Pendens be, and the same are quieted, vacated, set aside, and canceled as clouds upon the title of the Plaintiffs in and to those lands, and it is forever quieted, cleared, and confirmed and forever fully and completely established as against all persons whomsoever claiming, by through, or under them, and all persons having or claiming to have any right, title or interest in the lands involved in this action since the filing of the Lis Pendens.

10. The Defendants, **Daniel C. Mittelstadt, David W. Mittelstadt and Dennis R. Mittelstadt**, and all persons claiming by, through, or under them, and all parties having or claiming to have any right, title or interest in the hereinabove described lands since the filing of the Lis Pendens are forever prohibited, enjoined, and restrained of and from executing any right, title, interest, claim or demand of any nature or kind whatsoever in, to, or against those lands of the Plaintiffs, or any part of them.

11. The Plaintiffs, **David L. Vogler and Barbara L. Vogler, husband and wife**, are decreed to be the owners, in fee simple, of said property which is the subject matter of the Complaint filed herein, and described in Paragraph 6 above; and the claims of the Defendants and each of them are declared to be inferior and subordinate to the right, title, interest and estate of the Plaintiffs in and to the same; and that the Defendants and each of them, and all persons claiming by, through, or under either of them since the filing of this Complaint, or any person whose claim or title arose or vested in them prior to the filing of the Complaint, are forever and perpetually enjoined and restrained from asserting or attempting to assert any right, title, interest or estate, claim or demand in and to the same, or any part thereof, adverse to said title of the Plaintiffs and those claiming by, through or under them.

12. All instruments of record requiring reformation or cancellation in order to perfect said fee simple title in Plaintiffs, if any, are hereby reformed or cancelled as the case may require.

DONE AND ORDERED in Bronson, Levy County, Florida on this Wednesday, October 30, 2019.

38-2019-CA-000426 10/30/2019 05:32:21 PM



Susanne Wilson Bullard, Circuit Judge
38-2019-CA-000426 10/30/2019 05:32:21 PM

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies have been furnished by U.S. Mail or via filing with the Florida Courts E-Filing Portal on Thursday, October 31, 2019 to the following:

RONALD W. STEVENS
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rwstevens2@yahoo.com

DENNIS MITTELSTADT
8824 BRADLEY ROAD
GASPORT, NY 14067

DANIEL MITTELSTADT
1115 N COUNTRY CLUB DRIVE
CRYSTAL RIVER, FL 34429

DAVID MITTELSTADT
1115 N COUNTRY CLUB DRIVE
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thegordonlawfirm.florida@gmail.com

38-2019-CA-000426 10/31/2019 09:00:29 AM



Ashley Hunlock, Administrative Secretary II
38-2019-CA-000426 10/31/2019 09:00:29 AM

A portion of Section 3, Township 17 South, Range 16 East, Levy County, Florida, being more particularly described as follows:

For a point of reference, commence at the NE Corner of the NW 1/4 of the SE 1/4 of said Section 3, proceed thence South 606.84 feet, thence West 233.06 feet to a point on the southwesterly right-of-way line of a 60 feet wide road, thence S 88°43' 30" W 174.86 feet to the Point of Beginning, thence continue S 88°43'30" W 110 feet, thence S 18°30'00" E 130.05 feet to the P.C. of a curve concaved Northeasterly, having a central angle of 72°46'13" and a radius of 27.14 feet, thence Southeasterly along the arc of said curve a distance of 34.47 feet to the P.T. of said curve, thence W 88°43'30" E 45.57 feet, thence N 1°16'30" W 143.32 feet to the Point of Beginning, said tract of land a/k/a Lot 10 of the GARDEN MALL SUBDIVISION an unrecorded subdivision.

NOTE: This is the separate property of the GRANTOR and is no portion of her CONSTRUCTIONAL HOMESTEAD nor is it CONTIGUOUS thereto.

EXHIBIT "A"