

VIA ZOOM

BOISE, THURSDAY, NOVEMBER 6, 2025, AT 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 52229

JAMES HERBERT and LINDA	)
HERBERT, TRUSTEES OF THE	)
HERBERT FAMILY REVOCABLE	)
LIVING TRUST,	)
	)
Plaintiffs-Respondents	)
	)
v.	)
	)
CASEY KIRK,	)
	)
Defendants-Appellants	)
	)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Barry McHugh, District Judge.

Bistline Law, PLLC; Arthur M. Bistline, Coeur d'Alene, for appellant.

Lake City Law Group, PLLC; Laura Aschenbrener, Coeur d'Alene, for respondents.

This case involves a property dispute between James and Linda Herbert and Casey Kirk over a road running along the boundary of their properties. Charles Myers originally owned both parcels. In 1976, Myers conveyed one parcel (the Kirk property) to Michael Weston and, in 1977, conveyed the second parcel (the Herbert property) to the Herberts. Later, Weston sold the Kirk property to the Tormozovs, who in 2021 sold it to Kirk. In 2023, Kirk built a fence that blocked part of the disputed road and restricted the Herberts' access. The Herberts filed a claim to quiet title, asserting they had an implied easement by prior use. In Kirk's answer, she denied the allegations but raised no affirmative defenses. After the Herberts moved for summary judgment, Kirk sought to amend her answer to assert a statute of limitations defense. The district court granted summary judgment in favor of the Herberts, finding they had an implied easement by prior use. The district court also denied Kirk's motion to amend, finding the request and accompanying documents untimely. Kirk appeals the district court's decisions granting the Herberts an implied easement by prior use and denying Kirk's motion to amend.