

SUMMARY STATEMENT

Fickenwirth v. Lanning

Docket No. 49488

This appeal involves a challenge to the district court's determination that a boundary by agreement fixed the boundary between two neighboring properties at a location other than what is shown in the deed of a neighbor's property. Kyle and Ashley Fickenwirth ("the Fickenwirths") and Amy Lanning ("Lanning") are the owners of the neighboring properties at the center of the dispute. The Fickenwirths own a gravel driveway that runs along the backside of Lanning's property. Lanning had previously maintained a decorative split-rail fence on her property a short ways from the Fickenwirths' driveway. Until recently, there was a small strip of grassy land between the Fickenwirths' driveway and the split-rail fence in Lanning's backyard. This dispute arose when Lanning removed the split-rail fence and erected a new fence running directly along the western side of the Fickenwirths' driveway.

The Fickenwirths sued to quiet title to the strip of land between the split-rail fence on Lanning's property and their driveway based on the theories of adverse possession or, alternatively, boundary by agreement. The district court concluded that the Fickenwirths had failed to prove their claims regarding their adverse possession claim and boundary by agreement at the location of the split-rail fence. However, the district court found that the Fickenwirths had proved a claim of boundary by agreement at the location of the new fence, near the side of the driveway. Lanning appealed this determination, claiming there was never an agreement that the boundary line was at the location of the new fence.

This Court affirmed the conclusion of the district court that the parties had consented to present a boundary by agreement claim to the district court. Having affirmed the determination that the Fickenwirths were able to bring their claim for boundary by agreement, this Court then held that the district court did not err in concluding that a boundary by agreement existed between the new Lanning fence and the Fickenwirths' driveway. Finally, this Court determined that neither party was entitled to attorney's fees on appeal, though costs were awarded to the Fickenwirths as a matter of right.

******This summary constitutes no part of the Court's opinion. It has been prepared by court staff for the convenience of the public.******