

IN THE COURT OF
AT KNOXVILLE

APPEALS

FILED

March 10, 1999

Cecil Crowson, Jr.
Appellate Court
Clerk

DOROTHY ANN ELLIS SEVIER COUNTY
) 03A01-9806-CH-00204
Plaintiff - Appellant

v.) HON. TELFORD E. FORG
) CHANCELLOR

)
)
FLORA TRENTHAM, BUD
TRENTHAM, and JANICE
TRENTHAM)

)
Defendants - Appellee ~~AFFIRMED~~ AND REMANDED

DOROTHY ANN ELLIS, Pro Se
CYNTHIA RICHARDSON WYRICK OF SEVIERVILLE

O P I N I O N

Goddard, P. J.

This suit was originated by Dorothy
Flora Trentham¹ and Janice Trentham
connection with the parties' adjacent
relief:

¹ Flora Trentham died during the pendency of
her death being suggested, Fred Trentham, devisee
was substituted as a party Defendant in her stead

1 . That an injunction be issued against the defendants requiring them to remove the Old County Road and requiring that the dirt removed from the side of the Old County Road be placed back on it as it was in prior to removal of the dirt.

2 . That this Court perfect an easement for the plaintiff has obtained by prescription over the Old County Road, thus providing the plaintiff with access to her property;

3 . That the defendants be ordered to remove all trespasses on the plaintiff's property required to remove all improvements on the defendant thereto;

4 . That the plaintiff be awarded damages for unlawful trespass and the resulting damage to the plaintiff's dwelling due to said trespass on the Old County Road;

5 . That, in the event that this Court perfect an easement by prescription over the Old County Road, an easement be granted to the plaintiff under the provisions of Tenn. Code Ann. 54-14-103, such easement be sufficient to meet the needs and bounds and extent of the Old County Road as previously existing;

6 . That this Court grant all other relief to which the plaintiff is entitled and the costs of this cause.

The Trial Court found in favor of the plaintiff recognizing that his determination respecting the plaintiff's property becoming landlocked, noted that the provisions of Title 54, Chapter 14, of the Tennessee Code provide for a right-of-way over the Defendants' property for the Old County Road.

The Chancellor entered an order pursuant to the provisions of the Tennessee Rules of Civil Procedure.

d e t e r m i n a t i o n a n d r e s e r v e d t h e i s s u e r
p r o c e e d i n g .

T h e r e a f t e r , M s . E l l i s f i l e d a p e t
c o n d e m n a r i g h t - o f - w a y p u r s u a n t t o T . C

T h e c a s e w a s t h e r e u p o n c o n t i n u e d
u n t i l i t w a s s e t f o r t r i a l o n F e b r u a r y
d a t e M s . E l l i s f i l e d a m o t i o n s e e k i n g
h e r i l l h e a l t h a n d t o p e r m i t h e r t o o b
C h a n c e l l o r a l l o w e d h e r 3 0 d a y s t o r e t a
4 5 d a y s - - w h i c h i n c l u d e d t h e 3 0 d a y s - - t
t r i a l . H e t h e r e u p o n s e t t h e c a s e t o b
a n d a d v i s e d t h a t " n o f u r t h e r d e l a y s w i

O n t h e d a t e o f t r i a l M s . E l l i s a p
t h e C o u r t t h a t s h e h a d n o t r e t a i n e d c o
m e n t a l l y n o r p h y s i c a l l y r e a d y t o p r o c e
C h a n c e l l o r t h e r e u p o n d i s m i s s e d t h e a c t
h e r .

M s . E l l i s a p p e a l s r a i s i n g t h e f o l

1 . D i d t h e T r i a l C o u r t e r r i n d i s m i s
b e c a u s e I c a n n o t a f f o r d l e g a l c o u n s
\$ 1 2 5 p e r h o u r f o r t w o a t t o r n e y s f o r
s t i l l d o n o t h a v e a c c e s s t o m y p r o p
a b l e t o s t o p t h e e n c r o a c h m e n t o n t o
p r o p e r t y . I a m a t t e m p t i n g t o f i n d
f i n i s h t h i s c a s e c o n t i n g e n t o n c o l l

the people responsible for damaging
blocking my access .

2 . Did the Trial Court err in charging
Court Costs in this Action when Cha
Rainwater approved and signed my Un
Affidavit of Indigency on March 24 ,
proceeded as indigent in the last m
County Chancery Court . The Notice
certified by Sevier County Clerk an
McMahan on August 11 , 1998 , also sh

As to the first issue , there is a
dated February 24 , 1998 , which accompa
Ellis dated March 2 , both of which wer
doctor 's statement , which appears to b
hearing date , states the following :

February 24 , 1998

To : Judge Forgety
Re : Dorothy Ellis

Dear Sir ,

Please be advised that Ms . Dorothy
extremely ill over the past week an
office for treatment . Ms . Ellis ha
emergency room due to chest pain .

Respectfully ,

/ s / Frank H . McNiell , M . D .

Frank H . McNiell , M . D .

No doctor 's report was filed as t
date .

As to matters of a continuance, the court granted wide discovery rights. Wn 2 d
413 (Tenn. App. 1997); Creek Apartments. Wv. 2 dP o7
(Tenn. App. 1997). We cannot find under
which does not include a transcript of
Chancellor on April 21, that an abuse
shown.

As to the second issue, the statute
to provide pauper status from the
making a bond for court costs, but does
being operated with court costs if adj
and justified by the record.

The Defendants raise an issue asking
be found to be frivolous and that damages
T.C.A. 27-1-122.

Recognizing that lay persons might
that being granted pauper status would
of court costs, we are disinclined to
with attorney fees for counsel for the

Finally, we observe, as conceded by
Defendants, that the resolution of the
to the private condemnation feature of

t h e m e r i t s a n d M s . E l l i s i s s t i l l f r e e
p r e c l u d e d - - t o p u r s u e t h i s f a c e t o f h e

F o r t h e f o r e g o i n g r e a s o n s t h e j u d
C o u r t i s a f f i r m e d a n d t h e c a u s e r e m a n d
b e l o w . C o s t s o f a p p e a l a r e a d j u d g e d a

— — — — —
H o u s t o n M . G o d d a r d , P . J

C O N C U R :

— — — — —
H e r s c h e l P . F r a n k s , J .

_____ (N o t P a r t i c i p a t i n g)
D o n T . M c M u r r a y , J .