

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

GEORGE E. MURPHY, ET AL.,

APPELLANTS,

v.

GLENDA A. HOLMAN,

RESPONDENT.

DOCKET NUMBER WD69340

DATE: June 9, 2009

Appeal From:
RAY COUNTY CIRCUIT COURT
THE HONORABLE KEVIN LEE WALDEN, JUDGE

Appellate Judges:
Division Two: DANDURAND, P.J., LOWENSTEIN and SMART, JJ.

Attorneys:
GEORGE S. SMITH, ESQ., COLUMBIA, MO, **for appellant.**

J.D. GORMAN, ESQ., RICHMOND, MO, **for respondent.**

**MISSOURI APPELLATE COURT OPINION
SUMMARY**

COURT OF APPEALS -- WESTERN DISTRICT

GEORGE E. MURPHY, ET AL.,

APPELLANTS,

v.

GLENDA A. HOLMAN,

RESPONDENT.

WD69340

Ray County

Before Division Two Judges: Dandurand, P.J., Lowenstein and Smart, JJ.

George E. Murphy filed a lawsuit against Glenda A. Holman requesting an order of ejectment in addition to damages for trespass and conversion over a disputed parcel of land. Holman filed a counterclaim to quiet title, alleging that she acquired title to the disputed parcel by adverse possession. Holman also sought an order of ejectment against Murphy and damages for trespassing on and removing trees from the disputed parcel. The trial court held that Holman acquired ownership of the disputed parcel by adverse possession and further determined that Murphy was liable for statutory trespass by entering on the disputed parcel and removing trees. The trial court awarded damages to Holman in the amount of \$3,090 as a result of Murphy's trespass. Murphy appeals from the trial court's judgment with

respect to Holman's counterclaims. No appeal was taken from the judgment with respect to Murphy's claims.

REVERSED AND REMANDED.

Division Two holds:

Because Holman did not prove actual possession of the disputed parcel, and a party claiming ownership by adverse possession must prove each and every element to establish adverse possession, Holman failed to prove adverse possession. *Shuffit v. Wade*, 13 S.W.3d 329, 335 (Mo. App. 2000). As Holman failed to prove ownership of the disputed parcel, no trespass by Murphy occurred. *Eime v. Bradford*, 185 S.W.3d 233, 237-38 (Mo. App. 2006). The judgment of the trial court is reversed, and the case is remanded with instructions to enter judgment for Murphy on Holman's claims for adverse possession and trespass.

Opinion by: Harold L. Lowenstein, Judge

June 9, 2009

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.

