In the Missouri Court of Appeals
Eastern District

DIVISION ONE

ARTHUR F. DAUME, JR., and GAYLE C. DAUME,	)	No. ED113073
Appellants,	)	
v.	)	
THOMAS SZEPANSKI, ET AL.,	)	
Respondents.	)	FILED: February 3, 2026

Appeal from the Circuit Court of Montgomery County
The Honorable Jason H. Lamb, Judge

In this quiet title appeal, Arthur and Gayle Daume challenge the trial court's interpretation of a deed granting them an easement for ingress and egress over their neighboring property owners' private roadway.[1] The Daumes argue that the trial court misinterpreted the easement by (1) construing its "non-commercial purposes" limitation to prohibit agricultural use and (2) restricting its scope to the Daumes and their immediate family members. We reverse the trial court's judgment and, pursuant to Rule 84.14,[2] grant the relief that it should have given.

[1] Arthur F. Daume, Jr. died during the pendency of this appeal. For ease of reference, we still refer to the appellants collectively as "the Daumes."
[2] All rule references are to the Missouri Supreme Court Rules (2025).

Factual and Procedural Background

The parties own adjoining property in Montgomery County. The Daumes hold a deeded easement over an existing private roadway, known locally as "Mrs. Grey's Lane," which traverses portions of land owned by Thomas and Tracy Szepanski, James and Janet Keithly, and Jim Clemonds (collectively, "Respondents"). The easement, which the Daumes use to access their back pasture, provides, in pertinent part:

> All right, title, and interest in a right of way providing right of ingress and egress for non-commercial purposes over and across the Southeast Quarter of Section 9 and the West half of the Southwest Quarter of Section 10 in Township 47 North, Range 6 West of the Fifth Principal Meridian and more particularly described as follows: An existing private roadway having a minimum width of 12 feet beginning on the East line of the West half of the Southwest Quarter of said Section 10 and running in a generally Westerly and Southwesterly direction to the public road. Subject to all public and private roads and easements.
>
> To HAVE AND TO HOLD the same, together with all rights and appurtenances to the same belonging, unto the said party or parties of the second part, and to the heirs and assigns of such party or parties forever[.]

In September 2020, shortly after the Szepanskis bought their land, Thomas Szepanski informed Arthur Daume of his intent to install a gate where Mrs. Grey's Lane enters his property. Szepanski assured Daume that he would provide him with a gate key, and Daume did not object to the installation. Daume did, however, notify Szepanski of his easement over the roadway. Szepanski was unable to verify this claim but still gave the Daumes a key.

In the months that followed, Szepanski noticed strangers opening the gate. These individuals—later identified as friends and family of the Daumes—had received a key from the Daumes and used Mrs. Grey's Lane to access the Daumes' property for hunting, fishing, and camping. Respondents later discovered that the Daumes had also leased their land to a corporation for a cattle operation, having furnished a gate key to facilitate that use.

In response to these unwanted intrusions, Szepanski changed the lock on his gate and did not provide the Daumes with a new key. He later installed an additional gate at the entrance of Mrs. Grey's Lane without informing the Daumes or providing them with access. As a result, the Daumes could no longer use their easement.

The Daumes filed suit to quiet title, alleging that they hold an easement for non-commercial ingress and egress over Mrs. Grey's Lane. They further asserted that their longstanding use of Mrs. Grey's Lane to move large farm machinery to their back pasture established a prescriptive easement permitting agricultural use.[3] At trial, Szepanski conceded that the Daumes have an easement for non-commercial, personal use. Respondents nevertheless opposed any expansion of that use.

After hearing the evidence, the trial court entered a judgment finding that the Daumes possess an easement for "non-agricultural and non-commercial personal use" of Mrs. Grey's Lane. The trial court further ordered that such use is "for the personal benefit of [the Daumes], and their immediate family members, but excludes [the Daumes'] delegation or assignment of such personally granted private roadway usage easement rights to their agents, employees, assigns or other designated third parties." The trial court did not require Respondents to remove the two gates, "provid[ed] [the Daumes] and their immediate family members have unimpeded personal access use by utilizing keys or other immediate means" and the gates are opened and closed at the time of use. The trial court also rejected the Daumes' request for a prescriptive easement, finding their testimony to be "non-credible" and noting a lack of evidence supporting the required elements.

[3] The Daumes' petition also sought injunctive relief and the establishment of a private road, but they waived those claims at the end of the trial.

On appeal, the Daumes do not challenge the trial court's denial of a prescriptive easement and instead focus on the judgment's interpretation of their deeded easement on the quiet title count.

Standard of Review

In a court-tried case, the judgment of the trial court will be affirmed unless it is not supported by substantial evidence, it is against the weight of the evidence, or it erroneously declares or applies the law. *Murphy v. Carron*, 536 S.W.2d 30, 32 (Mo. banc 1976). The interpretation of a deed, like any contract, is a question of law that we review de novo and without deference to the trial court's interpretation. *Erwin v. City of Palmyra*, 119 S.W.3d 582, 584 (Mo. App. E.D. 2003).

Discussion

Agricultural Use

In their first point on appeal, the Daumes argue that the trial court erred in interpreting their easement to prohibit agricultural use. They contend that (1) the easement's limitation to "non-commercial purposes" does not preclude agricultural activities and (2) the easement is ambiguous and should therefore be construed in light of extrinsic evidence to permit such use. While we agree that the trial court's interpretation—which gratuitously reads the term "non-agricultural" into the easement language—is erroneous, we conclude the easement is not ambiguous, obviating the need to resort to extrinsic evidence.

"When interpreting an easement or deed affecting land, courts are to 'ascertain the intention of the grantor from the whole of the instrument[.]'" *St. Charles Cnty. v. Laclede Gas Co.*, 356 S.W.3d 137, 141-42 (Mo. banc 2011) (quoting *Blackburn v. Habitat Dev. Co.*, 57 S.W.3d 378, 386 (Mo. App. S.D. 2001)). As with interpreting contracts, only when easement language is "unclear and ambiguous" do courts turn to the rules of construction and consider extrinsic evidence. *Erwin*,

119 S.W.3d at 585. "[A]mbiguity arises when the terms are susceptible of more than one meaning so that reasonable persons may fairly and honestly differ in their construction of the terms." *Id.* (internal quotation omitted). "The plain and ordinary meaning of a word is found in the dictionary." *St. Luke's Hosp. of Kansas City v. Benefit Mgmt. Consultants, Inc.*, 626 S.W.3d 731, 746 (Mo. App. W.D. 2021) (internal quotation omitted). Courts have routinely turned to the dictionary in interpreting easements. *See, e.g.*, *Phelan v. Rosener*, 511 S.W.3d 431, 441 (Mo. App. E.D. 2017); *Predovic v. Empire Dist. Elec. Co.*, 684 S.W.3d 734, 738-740 (Mo. App. S.D. 2024); *Tenampa, Inc. v. Bernard*, 616 S.W.3d 327, 337-38 (Mo. App. W.D. 2020).

Here, the term "non-commercial" is not ambiguous. Webster's Dictionary defines "commercial" as "from the point of view of profit: having profit as the primary aim." WEBSTER'S THIRD NEW INT'L DICTIONARY 456 (2002); *see also King v. Laclede Gas Co.*, 648 S.W.2d 113, 115 (Mo. banc 1983) (noting that "commercial" means "that which has financial profit as a primary aim"). Accordingly, the easement's limitation to "non-commercial purposes" carries a plain and ordinary meaning: activities not undertaken with profit as the primary aim. Nothing in the easement language suggests that the grantor intended "non-commercial" to be synonymous with "non-agricultural," nor does the easement contain any indication that the grantor meant for agricultural use to be categorically prohibited. The easement simply permits use of Mrs. Grey's Lane as long as the purpose, agricultural or otherwise, is not undertaken primarily for profit.

When an easement uses "clear and unequivocal language, it must be enforced as written." *Morgan v. City of Rolla*, 947 S.W.2d 837, 841 (Mo. App. S.D. 1997). Because the easement's unambiguous limitation to "non-commercial purposes" does not support a categorical prohibition of agricultural use, the trial court erred in interpreting the easement to include such a restriction. Point I is granted.

Limitation on Who May Use Easement

In their second point, the Daumes challenge the trial court's conclusion that only they and their immediate family members may use the easement, contending that this interpretation contradicts the easement's plain language. We agree.

"Generally speaking, there are two types of easements, easements appurtenant and easements in gross." *Wallace v. Byrne*, 672 S.W.3d 96, 107 (Mo. App. E.D. 2023). "An easement appurtenant creates a benefit to a dominant estate and burdens a servient estate." *Id.* It also "run[s] with the land," meaning it passes with the conveyance of the dominant estate. *Id.* at 108. "Words such as heirs, assigns, perpetual, and permanent indicate a desire to create an easement appurtenant[.]" *Phelan*, 511 S.W.3d at 438. An easement in gross, on the other hand, has no dominant estate and instead benefits a specified person. *Id.* "The existence of a dominant [estate] resolves any doubt as to whether an easement appurtenant or an easement in gross was intended, as an easement in gross has no dominant [estate]." *Id.* (quoting *Three-O-Three Invs., Inc. v. Moffitt*, 622 S.W.2d 736, 739 (Mo. App. W.D. 1981)). Further, "[a]n easement will never be presumed to be a mere personal right, when it can fairly be construed to be appurtenant to some other estate." *Id.* (quoting *Engelhardt v. Gravens*, 281 S.W. 715, 718 (Mo. 1926)).

The easement here is clearly appurtenant—it burdens Respondents' properties, the servient estates, for the benefit of the Daumes' property, the dominant estate. There is no language in the easement indicating the grantor intended it to only benefit the Daumes and their immediate family members. Rather, the easement expressly identifies the grantees' "heirs and assigns," confirming that it is appurtenant rather than personal. *See Phelan*, 511 S.W.3d at 438; *see also Beiser v. Hensic*, 655 S.W.2d 660, 662 (Mo. App. E.D. 1983) (explaining that, although words such as

"heirs," "assigns," and "forever" are not required, their presence indicates an intent that use of the roadway be a "perpetual" incident of possession).

While *Gowen v. Cote*, 875 S.W.2d 637 (Mo. App. S.D. 1994), involved an easement for recreational access to a boat ramp, its discussion of the law of roadway easements is instructive. In *Gowen*, the court recited the general rule that an appurtenant easement for ingress and egress "may be used by those who own or lawfully occupy any part thereof, and by all persons lawfully going to or from such premises, whether they are mentioned in the grant or not." *Id.* at 641 (internal quotation omitted). The additional limitation imposed in *Gowen*—that guests could only use the boat ramp if the easement holder was "physically participating"—arose from the distinct nature of the recreational access right and does not apply to a roadway easement, where access by visitors is inherent in the easement's purpose. *Id.* at 641-42. As the court explained, "a roadway is the necessary means of ingress and egress by all visitors and those lawfully needing access to a property." *Id.* at 641. Third parties, such as guests and invitees, are "among those whose use of a road or way permitting access to a property would normally be, in the absence of a specific restriction, considered incidental to the ownership or use of property." *Id.*

In light of these principles, the trial court's finding that the Daumes' easement is personal to them and their immediate family members cannot stand. The Daumes may authorize third parties to use Mrs. Grey's Lane for ingress and egress in connection with their property, so long as such use remains consistent with the easement's non-commercial purposes. *See id.* Point II is granted.

Conclusion

"When disposing of a case on appeal, Rule 84.14 requires this Court to give such judgment as the trial court ought to give and dispose finally of the case, unless justice otherwise requires."

Mallard Pointe Lot Owners Ass'n, Inc. v. Flynn, 680 S.W.3d 566, 574 (Mo. App. E.D. 2023) (internal quotation and alterations omitted). Where, as here, the material facts are not in dispute, "[j]ustice does not require us to remand the case for further proceedings because no purpose would be served by additional proceedings[.]" *Id.* Because the Daumes are entitled to judgment as a matter of law, Rule 84.14 requires us to enter judgment in their favor without remanding to the trial court. *See id.*

The judgment is reversed insofar as it erroneously found that the easement is limited to "non-agricultural use" and restricted use to only the Daumes and their immediate family members. The judgment is amended as follows: The easement's limitation to "non-commercial purposes" prohibits uses that are undertaken with profit as the primary aim. The easement is appurtenant, runs with the land, and permits the Daumes to allow third parties to use Mrs. Grey's Lane for non-commercial ingress and egress.



MICHAEL E. GARDNER, Judge

Robert M. Clayton III, Presiding Judge, concurs.
Lisa P. Page, Judge, concurs.