MISSOURI COURT OF APPEALS
WESTERN DISTRICT

KEVIN ROSENBOHM, TRUSTEE OF THE KEVIN AND MICHELE ROSENBOHM FAMILY TRUST DATED JULY 1, 2011 AND MATT ROSENBOHM AND NICK ROSENBOHM,	)	
Respondents,	)	
	)	**WD87720**
v.	)	**Consolidated with WD87756**
GREGORY STIENS, AND GREGORY STIENS, TRUSTEE OF THE ANTHONY STIENS TRUST,	)	**Filed: March 3, 2026**
Appellants.	)	

APPEAL FROM THE CIRCUIT COURT OF NODAWAY COUNTY
THE HONORABLE COREY K. HERRON, JUDGE

BEFORE DIVISION THREE: KAREN KING MITCHELL, PRESIDING JUDGE, LISA WHITE HARDWICK, JUDGE, AND JANET SUTTON, JUDGE

Gregory Stiens, individually and as trustee of the Anthony Stiens Trust, appeals the circuit court's judgment in favor of Kevin Rosenbohm, as trustee of the Kevin and Michele Rosenbohm Family Trust, Matt Rosenbohm, and Nick Rosenbohm (collectively, "the Rosenbohms") on the Rosenbohms' claims and Stiens's counterclaims for adverse possession and trespass. Stiens argues the court erred in (1) excluding evidence relevant

to his defense; (2) allowing the Rosenbohms to cross-examine him on an irrelevant topic; (3) refusing his proposed jury instructions on his permissive use defense; and (4) describing the two tracts of disputed property vaguely and imprecisely in the judgment. For reasons explained herein, the judgment is affirmed. The cause is remanded to the circuit court to amend the judgment to include legal descriptions of the property awarded to the Rosenbohms in their adverse possession claims. To fulfill this requirement, the court may conduct further proceedings if necessary.

FACTUAL AND PROCEDURAL HISTORY

In 1980, Stiens purchased real property in Nodaway County, referred to as the "Rock Quarry Farm," which he transferred to his son's trust, the Anthony Stiens Trust, in 1988. In 2000 and 2001, Kevin Rosenbohm,[1] his brother, and his father, Larry, bought two parcels of property: one parcel, referred to as the "Cowan Farm," on the north side of the Rock Quarry Farm, and another parcel, referred to as the "Frueh Farm," on the south side of the Rock Quarry Farm. Eventually, the Kevin and Michele Rosenbohm Family Trust became the sole owner of the Rosenbohms' two parcels. Kevin and Michele's sons, Matt and Nick, are tenants on the parcels.

In 2023, the Rosenbohms filed suit against Stiens individually and in his capacity as trustee of the Anthony Stiens Trust.[2] In their second amended petition, the

[1] To avoid confusion, we will occasionally refer to parties by their first names. No disrespect or familiarity is intended.

[2] The Rosenbohms named Anthony Stiens, Stiens's son and the beneficiary of Anthony Stiens Trust, as an interested party. Anthony filed a pro se appeal, but it was dismissed for failure to prosecute.

Rosenbohms alleged Stiens had made claim to a portion of the Cowan Farm and a portion of the Frueh Farm ("disputed tracts"). The Rosenbohms further alleged Stiens had contaminated the soybean crop they were growing in the disputed tracts, rendering them unable to sell the soybean crop for seed. The Rosenbohms asserted several claims, including adverse possession and trespass. In his answer, Stiens alleged the Anthony Stiens Trust owned the disputed tracts. Stiens also asserted several counterclaims, including adverse possession and trespass.[3]

A jury trial was held in August 2024. At trial, both parties presented testimony and evidence regarding the acquisition, farming, and maintenance of their properties, including the disputed tracts. Additionally, both parties presented testimony and evidence from surveyors to support their claims of ownership. The jury found in favor of the Rosenbohms on their adverse possession and trespass claims and assessed $6,000 in damages to them on their trespass claim. The jury found in favor of the Rosenbohms on Stiens's counterclaims for adverse possession and trespass. After the court entered judgment on the jury's verdict, Stiens filed a motion for new trial or to amend the judgment, which the court denied. Stiens appeals. Additional facts will be provided as necessary to address the points on appeal.

[3] Both parties asserted additional claims for quiet title, preliminary injunction, permanent injunction, and ejectment. The preliminary injunction and permanent injunction claims were disposed of by directed verdicts granted in favor of the opposing party during the trial. The only claims submitted to the jury were the parties' claims and counterclaims for adverse possession and trespass.

ANALYSIS

Stiens's first two points challenge the circuit court's rulings on the admission of evidence. We review the circuit court's decision to admit or exclude evidence for an abuse of discretion. *Bell v. Redjal*, 569 S.W.3d 70, 80 (Mo. App. 2019). We defer to the court's evidentiary ruling unless it is "clearly against the logic of the circumstances before the court and is so unreasonable and arbitrary that it shocks the sense of justice and indicates a lack of careful, deliberate consideration." *Id.* at 80-81 (citation omitted). If reasonable minds can differ on the ruling, no abuse of discretion occurred. *Id.* at 81. "The appellant has the burden of showing the abuse of discretion and the prejudice resulting therefrom." *Porter v. Dir. of Revenue*, 168 S.W.3d 147, 150 (Mo. App. 2005).

In Point I, Stiens contends the circuit court abused its discretion in excluding evidence of two letters he exchanged with Larry in 2004. Stiens argues the letters were relevant to his defense to the Rosenbohms' adverse possession claims. He insists that, because the contents of the letters were known well before trial, the Rosenbohms were not unfairly surprised when he untimely produced them.

Before trial, the Rosenbohms filed a motion in limine seeking to prohibit the introduction of any evidence that was not produced prior to the parties' May 1, 2024 discovery deadline. During the August 1, 2024 pretrial hearing on the parties' motions in limine, Stiens agreed not to introduce any evidence produced after the discovery deadline.

On Friday, August 23, 2024, at 4:54 p.m., four days before the Tuesday, August 27, 2024 trial date, Stiens produced two letters he had exchanged with Larry in 2004. At

the end of the first day of trial, outside the jury's presence, Stiens sought an anticipatory ruling from the court on the letters' admissibility. Stiens told the court that, in 2004, he sent Larry, who was deceased at the time of trial, a letter, and Larry responded by writing him a letter. Stiens argued the letters were "directly relevant to the issues, in that they talk about the boundaries and, you know, who's supposed to be farming what, et cetera." Stiens insisted Kevin knew about the letters because Kevin had testified in his deposition that Larry had sent a letter to Stiens in 2004 concerning the property line and advising that Stiens was farming on the Rosenbohms' property.

After confirming several times that the issue of the letters' admissibility was anticipatory and the letters had not yet been offered into evidence at trial, the court ruled the letters were covered by the motion in limine and, because they were not timely produced, would not be admitted. The letters were not mentioned again during the trial.

On appeal, Stiens contends the letters were "instrumental" to establish his defense to the Rosenbohms' adverse possession claim. "To acquire title by adverse possession[,] the possession must be: (1) hostile, that is, under a claim of right; (2) actual; (3) open and notorious; (4) exclusive; and (5) continuous for the necessary period of ten years prior to the commencement of the action." *Brownfield v. Heman*, 711 S.W.3d 386, 402 (Mo. App. 2025) (quoting *Watson v. Mense*, 298 S.W.3d 521, 526 (Mo. banc 2009)). Stiens argues that, in his letter to Larry, he asserted ownership of the disputed tract on the Cowan Farm and gave permission to the Rosenbohms to farm it, thereby negating the hostile possession element. To support this argument, Stiens quotes passages from the letter he sent to Larry.

Stiens failed to preserve this allegation of error for our review. As the circuit court made clear in its ruling, its decision that the letters were inadmissible was anticipatory or interlocutory in nature because Stiens had not yet offered them during the trial. After the court's interlocutory ruling, Stiens never attempted to introduce the letters at trial or to make an offer of proof, steps that "are normally required to preserve this issue." *Huett v. Branson*, 675 S.W.3d 514, 525 (Mo. App. 2023). "[A]n offer of proof must include: '(1) what the proffered evidence would be; (2) its object and purpose; and (3) all the facts necessary to establish its relevance and admissibility.'" *Westmoreland v. Midwest St. Louis, LLC*, 623 S.W.3d 618, 637 (Mo. App. 2021) (citation omitted). The purpose of requiring a definite and specific offer of proof is to ensure the circuit court is informed of "the content of the proffered evidence and to allow the appellate court to determine the prejudicial effect of the exclusion." *Id.* (citation omitted). "Failure to make an offer of proof preserves nothing for review." *Id.*

Stiens did not provide the actual letters for the court to review. His representation to the circuit court that the letters "talk about the boundaries" and "who's supposed to be farming what, et cetera" was too vague to inform the court what the letters actually said and did not advise the court that the letters could be relevant to negate the hostile possession element of the Rosenbohms' adverse possession claims. In challenging the exclusion of evidence, "the appellant is limited to the reason he gave at the time he made the offer of evidence . . . and cannot advance a theory of admissibility on appeal different from that advanced at trial." *Johnson v. Allstate Ins. Co.*, 262 S.W.3d 655, 668 (Mo. App. 2008) (internal quotation marks and citations omitted).

Moreover, because Stiens did not offer the letters into evidence in an offer of proof, the letters are not part of the record on appeal. Although Stiens included both letters in the appendix to his brief, "[t]he mere inclusion of documents in an appendix to a brief does not make them part of the record on appeal." *Sharp v. All-N-One Plumbing*, 612 S.W.3d 240, 244 (Mo. App. 2020) (citation omitted). "We cannot and will not consider documents outside the record." *Id*. (citation omitted). Point I is denied.

In Point II, Stiens contends the circuit court erred in allowing the Rosenbohms to cross-examine him on the subject of his management of the Anthony Stiens Trust. Stiens argues the evidence was not relevant to any element of the claims or counterclaims. He asserts the Rosenbohms' purpose for the cross-examination was to tarnish his image and confuse the jury.

On cross-examination, Stiens testified the Anthony Stiens Trust is the owner of the Rock Quarry Farm, that Anthony Stiens is the sole beneficiary of the trust, and that he, as trustee, is to administer the trust in the beneficiary's best interest. When the Rosenbohms asked Stiens if he is obligated to communicate with Anthony, provide Anthony an annual accounting, and, if appropriate, distribute trust assets to Anthony, Stiens objected on the basis of relevancy. The Rosenbohms explained these questions were relevant because, even though the Anthony Stiens Trust owns the property and Stiens sometimes farms it as the trustee, he also farms it in his individual capacity. The Rosenbohms argued Stiens's "pattern and practice of sliding back and forth" between farming it in his individual capacity and farming it on behalf of the trust was relevant as to who was controlling the property and to the continuous, open, and hostile requirements of adverse possession.

The court agreed and overruled the objection. The Rosenbohms continued this line of questioning, eliciting from Stiens that "sometimes" he farms the property as the trustee and sometimes he farms it individually, based on "whatever" he decides; he never talks about the property, farm business, or trust with Anthony and does not provide Anthony any "concrete" information about the farm each year; and he does not keep records showing how many acres he farms each year, either in his individual or trustee capacity, because he throws them away.

To establish the Anthony Stiens Trust's counterclaims for adverse possession, Stiens had to demonstrate the trust had "exclusive possession" over the disputed tracts, which means the trust held the land for the trust only and not for another, for ten consecutive years. *Lancaster v. Neff*, 75 S.W.3d 767, 772 (Mo. App. 2002). While Stiens argues the periods he possessed the disputed tracts in his individual capacity could be "tacked on" to the periods he possessed the disputed tracts in his capacity as trustee, he was still required to prove there was a ten-year period of continuous possession during which all of the required elements of adverse possession were consistently met. *See id*. at 773. Thus, Stiens had to prove a ten-year period of "open and notorious" possession by himself individually and as trustee, demonstrated by "visible acts of ownership exercised over the premises, such as maintaining and improving the property." *Id*. at 772 (internal quotation marks and citations omitted). Stiens also had to prove a ten-year period of "actual" possession, as "determined by the nature and location of the property and a use by the possessor based upon and expected therefrom, including planting and mowing of grass." *Id*. (internal quotation marks and citations omitted). Questions to Stiens

regarding whether he had trust records or other evidence to support his claim that he, as trustee, maintained, improved, and farmed the disputed tracts were directly relevant to whether the trust did, in fact, openly, notoriously, and actually possess them. The court did not abuse its discretion in permitting this cross-examination. Point II is denied.

In Point III, Stiens contends the circuit court erred in refusing his proposed jury instructions on the defense of permissive use. Whether a jury was instructed properly is an issue of law that we review de novo. *Edgerton v. Morrison*, 280 S.W.3d 62, 65 (Mo. banc 2009). "Reversal for instructional error is appropriate when the instruction misdirected, misled, or confused the jury and resulted in prejudice." *Id*. at 66.

During the instruction conference, Stiens proposed a verdict director for the Rosenbohms' adverse possession claim concerning the Cowan Farm disputed tract. Stiens's proposed verdict director stated the jury must find in favor of the Kevin and Michele Rosenbohm Family Trust if it found each of the elements of adverse possession, unless the jury believed the Kevin and Michele Rosenbohm Family Trust was not entitled to recover by reason of Stiens's proposed Instruction B. Proposed Instruction B stated:

> Your verdict must be for Defendants Gregory Stiens and Anthony Leo Stiens Trust on Plaintiff Kevin and Michele Rosenbohm Family Trust's claim for adverse possession on the northern disputed "Cowan Farm" tract, if you believe that Gregory Stiens by words or conduct permitted plaintiff Rosenbohm Family Trust to take possession of the disputed property.

The Rosenbohms objected, arguing proposed Instruction B was not a proper converse instruction but was merely an affirmative converse directed at negating the

hostility element of their adverse possession claim. The court agreed and refused both of Stiens's proposed instructions.

Proposed Instruction B was an affirmative converse instruction. "An affirmative converse instruction begins with 'Your verdict must be for defendant if you believe' followed by a hypothesized ultimate issue which, if true, would defeat plaintiff's claim." *Crisp v. Mo. Sch. For Deaf, Dep't of Elementary & Secondary Educ.*, 681 S.W.3d 650, 664 (Mo. App. 2023) (citation omitted). An affirmative converse instruction is appropriate when "the verdict director assumes as true or omits a disputed ultimate issue." *Id.* (citation omitted).

Otherwise, the use of an affirmative converse instruction is "suspect." *Id.* In fact, "Missouri courts generally disfavor affirmative converse instructions." *Id.* (citation omitted). The Supreme Court explained that an affirmative converse instruction is "an accessory and unnecessary to the instruction package" because it "is often merely a resubmission of the issues found in the verdict director." *Hiers v. Lemley*, 834 S.W.2d 729, 735 (Mo. banc 1992). In addition to being an unnecessary accessory, "it has the propensity to violate the general premise of the approved instruction format by including unnecessary evidentiary details instead of ultimate issues." *Id.* at 736.

Here, the verdict director for the Rosenbohms' adverse possession claim regarding the disputed Cowan Farm tract required the jury to find all five elements of adverse possession, including hostile possession. The verdict director did not omit any element or assume as true any of the claim's ultimate issues. A true converse to this verdict director was also submitted to the jury. The true converse instructed the jury to find in

favor of Stiens on this claim unless it believed each and every element. Stiens was allowed to, and did, argue to the jury the defense of permissive use to negate the element of hostile possession. Proposed Instruction B was an unnecessary accessory to the instruction package because it merely resubmitted an issue in the verdict director. The circuit court did not err in refusing Stiens's proposed instructions. Point III is denied

In Point IV, Stiens contends the circuit court erred in describing the two disputed tracts vaguely and imprecisely in the judgment. With respect to the Rosenbohms' adverse possession claims, the judgment stated:

> [J]udgment is hereby entered as follows: for Plaintiffs Kevin and Michele Rosenbohm Family Trust on its claim for adverse possession of the northern disputed "Cowan Farm" tract to a point two (2) feet south of the berm against Defendant Gregory Stiens and the Anthony Leo Stiens Trust; for Plaintiffs Kevin and Michele Rosenbohm Family Trust on its claim for adverse possession of the southern disputed "Frueh Farm" tract to a point twenty-five (25) feet north of the northernmost power line pole against Defendant Gregory Stiens and the Anthony Leo Stiens Trust[.]

In his motion for new trial or to amend the judgment, Stiens argued the judgment failed to describe the new property boundaries with reasonable certainty. In its order denying Stiens's motion, the court explained:

> The Court further considers the alternative motion to amend the judgment as to the language used related to property boundaries. From the pleadings and throughout trial especially as related to the northern tract of land referred to by [the Rosenbohms] as the Cowan Farm[,] it was readily apparent both parties were claiming property described in their respective deeds. The respective legal descriptions in both parties' deeds included an "overlap" describing the same property[,] necessitating both parties to claim ownership of that "overlap" by means of adverse possession against the other. The jury determined which party prevailed over the other on that basis. No further legal description is necessary.

> As to the Southern "Freuh [sic] Farm[,]" though the dispute did not involve each party's legal description including the same overlapping tract[,] they each claimed ownership by adverse possession by reference to the same power pole. The jury determined the matter in favor of [the Rosenbohms]. The reference point is sufficient, and the issue of concern raised by [Stiens] would be the same if the jury had found in [Stiens]'s favor.

The property description in a judgment determining title to real estate must "describe with reasonable certainty the land adjudicated therein." *Brownfield*, 711 S.W.3d at 398 (quoting *Tillman v. Hutcherson*, 154 S.W.2d 104, 110 (Mo. 1941)). This requirement serves two purposes: finality and recording. *Id*. at 398-99. To qualify as final, a judgment determining title to property must "resolve[ ] all claims as to all parties and leave[ ] no room for debate amongst the parties about the location and description of the real property awarded" by adverse possession. *Id*.

We interpret the court's order denying Stiens's motion to amend as addressing the sufficiency of the property descriptions for purposes of finality. As the court noted in its order, the parties referred to the disputed tracts using the same landmarks throughout the trial. Additionally, the property descriptions in the judgment were the same property descriptions used, without objection, in the verdict directors for the Rosenbohms' adverse possession claims. The record before us "leaves no doubt that the parties know and understand the boundaries of the tracts as to which title has been determined." *Id*. at 398. The judgment adequately describes the affected property in a way that resolves all claims as to all parties and leaves no room for debate among the parties about the location and description of the property awarded.

That a property description is sufficient for finality purposes does not automatically make it sufficient for recording purposes, however. Section 511.320[4] requires a judgment determining title to any real estate to be recorded in the county in which the land is located within eight months after the judgment is entered, and if the judgment is not recorded, "it shall not be valid, except between the parties thereto and such as have actual notice thereof." A judgment "should be in a form so that it alone will be suitable for recording in real estate records." *Brownfield*, 711 S.W.3d at 399 (citation omitted). "At a minimum, . . . to be recordable, a document affecting title to real estate must contain a legal description of the property." *Id.* at 399-400 (citing § 59.330.2). The property descriptions in the judgment are not legal descriptions; and the judgment alone is not suitable for recording. The court erred in denying Stiens's motion to amend the judgment to include legal descriptions of the two disputed tracts. Point IV is granted.

CONCLUSION

The judgment is affirmed. The cause is remanded to the circuit court to amend the judgment to include legal descriptions of the two disputed tracts awarded to the Rosenbohms by adverse possession. To fulfill this requirement, the court may conduct further proceedings if necessary.



LISA WHITE HARDWICK, JUDGE

All Concur.

[4] All statutory references are to the Revised Statutes of Missouri 2016.