

IN THE SUPREME COURT OF THE STATE OF MONTANA

Case No. DA 23-0008

THE ESTATE OF MATEO MAGNIA CHAVEZ,

Plaintiff / Appellee,

v.

THE ESTATE OF ALFRED CHAVEZ, JR.,

Defendant / Appellant,

APPELLANT'S OPENING BRIEF

On Appeal from the Montana Twenty-First Judicial District Court, Ravalli County
DV-20-470, The Honorable Howard Recht, Presiding

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STATEMENT OF THE ISSUES

Whether the district court erred when denying appellant Alfred Chavez Estate his constitutional right to a jury trial?

1. When Respondent Mateo Chavez Estate sued the Appellant Alfred Chavez and ultimately his Estate to evict Appellant Alfred Chavez Estate from land Alfred Chavez claimed to adversely possess since 1969 was Montana's Constitutional right to a jury trial, MT Const. art. II § 26, invoked affording Appellant Alfred Chavez Estate the right to trial by jury?

2. When the Alfred Chavez Estate possessed real property and improvements claimed as an estate asset by Respondent Mateo Chavez Estate did the Alfred Chavez Estate have a possessory interest to claim a right to jury trial on its adverse possession claims in a quiet title counterclaim prior to eviction?

3. Is an adverse possession claim a legal claim or mixed claim of law and equity that affords the litigants a right to jury trial where the title holder seeks to dispossess the non-title holder from the property?

STATEMENT OF THE CASE

The Mateo Chavez Estate brought this lawsuit to gain possession of real property in Ravalli County the heirs claimed titled to under a will.¹ Mateo Chavez

¹ Dkt. 1 ¶ 1

was named on the legal title.² He selected three of his many siblings as his sole heirs.³ Through the Personal Representative Ted Chavez, the Mateo Chavez Estate sued Mateo's then living younger brother Alfred Chavez for declaratory and injunctive relief.⁴

Alfred Chavez had occupied the homestead house and land since 1969.⁵ He did everything a possessory landowner would do including paying the taxes for years.⁶ Mateo abandoned the property for approximately twenty-five years, knowing Alfred had taken over without Mateo's permission.⁷ Mateo returned in 1994 with Alfred's help where he occupied a decrepit old hotel he moved onto the Western portion of the property while Alfred continued to occupy the homestead home and controlled other improvements Alfred had developed.⁸ Alfred and his Estate continued to make tax payments. Mateo Chavez abandoned the property again in 2020 and was living with an heir at the time of his death.⁹ In its Complaint, Mateo's Estate prayed for a declaratory order that Alfred Chavez could not prove title by adverse possession and for an injunction "to eject Defendant and his family

² Dkt. 35, Exhibit 1

³ Dkt. 13, Page 3

⁴ Dkt 1 ¶ 3

⁵ Dkt. 33 ¶ 2

⁶ Dkt. 33 ¶ 6

⁷ Dkt. 25 ¶ 10; Dkt. 32 ¶ 5; Dkt. 33 ¶ 9

⁸ Dkt. 34 ¶ 12

⁹ Dkt. 31 ¶ 16; Dkt. 33 ¶ 11

and personal property from of [sic] the real property”.¹⁰

Alfred Chavez answered the Complaint and Counterclaimed to quiet title to the property in his name through adverse possession and other theories.¹¹ Alfred Chavez died during the pendency of the litigation and his Estate substituted in as the real party in interest.¹² Both parties moved for partial summary judgment.¹³ The district court found triable issues of fact on the adverse possession claims.¹⁴ The district court set the matter for jury trial and entered a Jury Trial Preparation Order.¹⁵ At the pre-trial conference, Mateo Chavez Estate questioned Alfred Chavez Estate’s expectation of a jury trial.¹⁶ The parties discussed the issue at the hearing without any ruling and then the District court entered an “Order Following Hearing” citing *Getter v. Beckman*, 236 Mont. 377, 381-382, 769 P.2d 714, 717 (1989) indicating the district court was considering a bench trial of the disputed issues.¹⁷ Ultimately, the district court struck the jury trial and intended to proceed with a bench trial, which Alfred Chavez Estate opposed.¹⁸

Now the matter comes before this Court on appeal of the orders affixed at

¹⁰ Dkt. 1

¹¹ Dkt. 3 ¶ 1.6

¹² Dkt. 17 ¶ 2

¹³ Dkt. 13, Dkt. 22

¹⁴ Dkt. 54

¹⁵ Dkt. 55

¹⁶ Dkt. 63

¹⁷ Dkt. 60

¹⁸ Dkt. 64; Dkt. 65; Dkt. 66

Appendix A: “ORDER RE JURY TRIAL” dated 10/18/22 and “ORDER RE MOTION TO SET ASIDE” dated 10/31/22. Alfred Chavez moved for reconsideration of the ruling vacating the jury trial on November 3, 2022, and the district court finally denied reconsideration orally at the pre-trial conference on December 28, 2022. The district court then entered an order certifying its orders for interlocutory review on December 29, 2022. **App. B** The district court also stayed trial of Alfred Chavez Estate’s adverse possession claims and Mateo Chavez Estate’s declaratory and injunctive actions pending this appeal. **App. C.**

The district court ordered a bench trial citing *Getter* for the proposition that a quiet title action sounds in equity where there is no right to a jury trial. Alfred Chavez Estate objected pointing out this case sounds in law, not just equity, because Mateo Chavez Estate seeks to evict Alfred Chavez Estate from the land occupied by Alfred Chavez and his Estate since 1969. Alfred Chavez Estate explained that disputes over possession of property are in rem actions at law in which the litigants have a right to a trial by jury.

The district court disagreed. The trial court’s decision to decide the admittedly disputed factual issues in this case from the bench should be rejected and a jury seated to hear the case.

STATEMENT OF THE FACTS

Mateo Magnia Chavez and Alfred Chavez, Jr. were two of fifteen children

born to Alfred Chavez, Sr. and Julia Chavez.¹⁹ In 1967, Alfred Chavez, Sr. passed away from a tragic electrical accident.²⁰ In 1968, in order to support her large family, Julia Chavez used money from her late husband's accidental death to purchase Lot 1, Block 3, Corvallis Tract, in Ravalli County, which the Chavez family commonly referred to as the "Ranch."²¹ The Chavez family Ranch consisted of 15.5 acres.

Even though Mateo Chavez paid nothing for the Ranch, Julia Chavez placed her oldest son on the title as "joint tenants with right of survivorship" (not as "tenants in common").²² After one season of farming, Mateo relocated to Missoula and then opened a restaurant.²³ When the restaurant failed in 1971 and Mateo was in legal trouble, Mateo moved to Texas where he lived for over twenty years.

In 1994, after being gone for 25 years over to escape his legal troubles, Mateo asked Alfred to help him financially so that he could move back to Montana.²⁴ Although he returned to Montana, Mateo showed little or no interest in the Ranch or its operations.²⁵ Mateo resided in a decaying old hotel that he moved onto the westerly portion of the property from which he peddled junk.²⁶ In 2002, Julia Chavez gifted to Mateo her ownership interests without any apparent consideration,

¹⁹ Dkt. 3, ¶ 2.2

²⁰ *Id.*, ¶ 2.1

²¹ *Id.*, ¶ 2.3

²² Dkt. 35 (Mell Decl., Ex. 1)

²³ Dkt. 35 (Ex. 18, pg. 26)

²⁴ *Id.*

²⁵ Dkt. 34, ¶ 11, 13

²⁶ Dkt. 34, ¶ 12

which she appears to have done so that Mateo could file a homestead exemption, which he did the same day.²⁷ By that time, Julia and Mateo's interests were encumbered by Alfred's possessory rights to the Ranch. Months prior to Mateo's death on September 24, 2020, Mateo's heirs removed him from the Ranch and kept him in one of their homes until he passed.²⁸

Beginning in 1969, with Mateo gone, Alfred took care of the family and operated the Ranch to the exclusion of Mateo.²⁹ His mother had similarly long ago abandoned the Ranch and lived in Superior before her passing. Alfred supported the Chavez family through farming and other commercial activities, such as his concrete company and potato farming that he developed on the Ranch.³⁰

Alfred personally paid taxes, penalties, and interest on the Ranch for more than statutory requirement of five years.³¹ There are no cancelled checks or other documents that prove Mateo ever made a tax payment.³²

Ted Chavez, Personal Representative of Mateo's Estate, who was only a few years old when the Ranch was acquired, took interest in Mateo for the first time when Mateo's health began to fail.³³ After isolating Mateo, he and two of his

²⁷ Dkt. 35, Ex. 2

²⁸ Dkt. 31, ¶ 16; Dkt. 32 ¶ 17

²⁹ Dkt. 34, ¶ 11

³⁰ *Id.*, ¶ 2.8

³¹ Dkt. 36, ¶ 2

³² Dkt. 45, Ex. 3

³³ Dkt. 32 ¶ 13

siblings became the sole heirs to Mateo's estate under a newer version of Mateo's Will signed on December 10, 2019.³⁴ Ted Chavez then demanded Alfred Chavez vacate the Ranch, the only home Alfred had lived in for more than fifty years and from which he helped raise Ted Chavez.³⁵ Alfred Chavez refused to leave, claiming title to the property via adverse possession. This action then ensued. After appearing to defend this action and having filed his counterclaim for adverse possession of the Ranch, on April 11, 2021, Alfred passed away. His Estate substituted in and asserted his rights. Alfred Chavez Estate remains in possession of the Ranch to date.

STATEMENT OF THE STANDARD OF REVIEW

This Court reviews de novo district court orders interpreting the law, *Bozeman Daily Chronicle v. City of Bozeman Police Dept.*, 260 Mont. 218, 859 P. 2d 435 (1993), *Matter of Conservatorship of Kovatch*, 271 Mont. 323, 896 P.2d 444 (1995). Whether Alfred Chavez Estate has a right to a jury trial is a question of law subject to de novo review. The district court reached an erroneous conclusion of law that should be reversed on appeal and the case remanded for trial by jury.

SUMMARY OF THE ARGUMENT

Not all quiet title actions are pure equity actions where the court has discretion to decide the case. In adverse possession cases, the legal issues arise from the

³⁴ Dkt. 22

³⁵ Dkt. 13

common law that predates Montana’s Constitution where disputed facts were decided by a jury. Moreover, the legal right to continued possession of property implicates corresponding constitutional rights to possess and protect property, which should include the right to meaningful due process like a trial by jury prior to being dispossessed of property to which a legal claim is asserted. Alfred Chavez Estate should be granted a jury trial so that the jury may decide the factual issues regarding whether the Alfred Chavez Estate is legally entitled to keep the Ranch that was Alfred Chavez’ home and in his possession since 1969.

LEGAL ARGUMENT

Montana citizens have a constitutional right to trial by jury: “The right of trial by jury is secured to all and shall remain inviolate.” MT Const. art. II § 26. Montana’s constitutional rights to full legal redress and jury trial are fundamental rights entitled to the highest level of constitutional scrutiny and protection. *Lenz v. FSC Securities Corp*, 391 Mont. 84, 414 P.3d 1262 (2018). Montana statutes require trial by jury of factual disputes. MCA 70-27-201. `Montana Rule of Civil Procedure 38 explicitly protects this right: “The right of a trial by jury as declared by the Montana Constitution – or as provided by a Montana statute - is preserved to the parties inviolate.” The right to a trial by jury is fundamental, personal to the defendant, and is guaranteed by both the Montana and Federal Constitutions. *State v. Reim*, 374 Mont. 487, 323 P.3d 880 (2014). In the class of cases where the right

to jury trial is preserved, the right is inviolable. *Matter of C.L.A.*, 211 Mont. 393, 685 P.2d 931 (1984).

In addition to a constitutional right to a jury trial, Montana Constitution describes the right to possess and protect property an “inalienable right”. Mont. Const. art II § 3. It is this nexus between a fundamental right to protect one’s home and property one possesses and the right to a jury trial that makes this case distinct from other quiet title actions that give a Court discretion on whether to afford a party trial by jury. Where title and possession to real property are at issue, the action is at law, not purely in equity, and entitles a party to a jury trial a fundamental component to due process. *State v. Items of Real Property Owned and/or Possessed by Chilinski*, 385 Mont. 249, P. 10, 383 P.3d 236 (2016); *Renz v. Everett-Martin*, 397 Mont. 398, P. 15, 450 P.3d 892 (2019).

Here the district court mistakenly concluded the Estate could not claim possessory rights to the property at issue because the heirs were not made a party to the lawsuit. But Alfred Chavez Estate stands in the shoes of the decedent Alfred Chavez who asserted his constitutional right to a jury trial, MT Const. art II § 26, to defend against his brother’s heirs obtaining a court order to eject Alfred Chavez and his Estate from his home and land that he worked since 1969. Even though Alfred Chavez died while this action was pending, the substitution of his Estate did not terminate his constitutional rights because his Estate substituted in and asserted his

possessory rights that did not expire with his death. *Stanley L. and Carolyn M. Watkins Trust v. Lacosta*, 321 Mont. 432, 92 P. 3d 620 (2004); *Barcus v. Galbreath*, 122 Mont. 537, 207 P.2d 559 (1949). Furthermore, the heirs to the Estate remained in possession of the property and refused to vacate it. The Estate continued to cover upkeep and expenses and paid taxes.

Adverse possession claims involving residential occupancy of land and improvements should be treated as in-rem or quasi in-rem actions for purposes of jury trial rights. A right to jury trial remains inviolate if the right was enjoyed when Montana's constitution was adopted. *State v. Items of Real Property Owned and/or Possessed by Chilinski*, 385 Mont. 249, P. 1, 383 P.3d 236 (2016). Disputed possessory issues in adverse possession cases of record were tried by jury long before adoption of Montana's Constitution in 1972. *See Schumacher v. Cole*, 131 Mont. 166 (1957); *National Mining Co. v. Powers*, 3 Mont. 344 (1879). Adverse possession claims brought by the person in possession of the land was a legal right established in the common law, not a pure equitable right established by statute. *Thorp v. Freed*, 1 Mont. 651, 679 (1872).

When this Court decided *Getter v. Beckman*, 236 Mont. 377, 769 P.2d 714 (1989), citing *McGuinness v. Maynard*, 202 Mont. 484, 658 P.2d 1104 (1983), it summarily held without any constitutional analysis that quiet title actions are equitable claims without the right to a jury trial. The district court relied erroneously

on that holding even though distinct in this instance because there was no legitimate dispute over possessory rights. *Getter* was not an adverse possession case. The occupant to be ejected failed to pay federal taxes and the property was attached and sold under federal laws that the tax debtors were improperly attempting to attack collaterally. The referenced *McGuinness* case did include an adverse possession claim over mineral rights but it was meritless and inapplicable because there was no actual possession of any property or mineral rights. Here, in contrast, the case involves dispossessing a family of their home and land occupied and farmed for more than fifty years. The Court did not analyze the constitutional interests related to possessory property interests in either *Getter* or *McGuinness*. Several years later in the *Chilinski* forfeiture case, this Court engaged in a meaningful constitutional analysis of possessory property rights and held a jury right does attach when possessory property rights are disputed. It is the *Chilinski* holding that should control here.

Getter and *McGuinness* should not govern the right to a jury trial in this quiet title action grounded on common law theories of adverse possession where the possessory interest at issue involves residential occupancy of land and improvements. This Court long ago held that “the right of trial by jury extends to all cases wherein the legal title or right of possession is at issue.” *Montana Ore Purchasing Co. v. Boston & M. Consol. Copper & Silver Min. Co.*, 27 Mont 536, 71

P. 1005 (1903). There is no reason to disregard that legal standard here. Alfred Chavez asserted his possessory rights that were hard earned from his relationship to and investment in the land.

Other state courts have upheld a right to jury trial in quiet title actions that involve ejectment from the possession of land. *See Thomson v. Thomson*, 7 Cal. 2d 671, 678 (1936); *Green v. Hooper*, 149 Wn. App. 627, 205 P.3d 134 (2009). Montana's right to a jury trial is well grounded in Montana's constitution, statute, and common law that has afforded possessory litigants a jury trial in adverse possession disputes, a protection reasonably applied to challenges like this to real property rights that are inalienable rights under Mont. Const. art II § 3. Alfred Chavez Estate is entitled to trial by jury of its adverse possession claims when defending an action to eject it from the property Alfred possessed for more than fifty years.

CONCLUSION

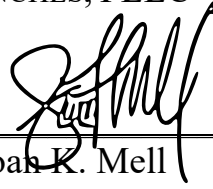
For the reasons stated above, Appellant Alfred Chavez Estate requests the Court vacate the district court orders denying Appellant Alfred Chavez Estate a jury trial and remand the case for trial by jury.

DATED this 2nd day of February, 2023.

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III BRANCHES, PLLC

A handwritten signature in black ink, appearing to read 'Joan K. Mell', written over a horizontal line.

Joan K. Mell

*Counsel for Appellant
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Certificate of Compliance

Pursuant to Rule 11(4)(e) of the Montana Rules of Appellate Procedure, I certify that this Response Brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double spaced; and the word count calculated by Microsoft Word is 3,243 words, excluding certificate of service and certificate of compliance.

DATED this 2nd day of February, 2023.

/s/ Joan K. Mell

CERTIFICATE OF SERVICE

I hereby certify that I served true and accurate copies of the foregoing Opening Brief to the following on February 2, 2023:

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