

DA 23-0720

IN THE SUPREME COURT OF THE STATE OF MONTANA

2024 MT 237

STEPHEN D. BEHLMER,

Petitioner and Appellant,

v.

CRUM REAL PROPERTIES, LLC,
TONYA MCCORMACK, BRAD W. and
JANEEN A.ECKERT, SEAN F. & JENET A. MELTON,
KEVIN M. & LORI A. HEIT, WANDA D. MCCALLUM
& KENT B. & WHITING, DENNIS L. & DEBORAH
GRISAMORE, BRIAN ROBERT MEYERS &
DEBRA JOYCE MEYERS, TRUSTEES OF THE
BRIAN & DEBRA MEYERS TRUST, CHRISTOPHER J.
& TONI M. RIES, MICHAEL R. & TANNIA M. STEBBINS,
BRIAN KYLE HOLLING a/k/a BRIAN K. HOLLING,
TAMARA G. & MARGIE O. JONES, BRETT KYLE HOLLING,
WILLIAM J. GILES & ARLENE F. THURSTON, and
JOHN AND JANE DOES 1-20,

Respondents and Appellees.

APPEAL FROM: District Court of the First Judicial District,
In and For the County of Lewis And Clark, Cause No. ADV-2023-141
Honorable Mike Menahan, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Robert Cameron, Scott M. Svee, Jackson, Murdo & Grant, P.C.,
Helena, Montana

For Appellees:

Jack Connors, Cynthia D. Brooks, Doney Crowley P.C., Helena,
Montana

Submitted on Briefs: August 14, 2024

Decided: October 22, 2024

Filed:



A handwritten signature in blue ink, appearing to read "Ben Grand", is written over a horizontal line.

Clerk

Justice Laurie McKinnon delivered the Opinion of the Court.

¶1 Appellant Dr. Stephen D. Behlmer (Behlmer) sought declaratory relief in the First Judicial District Court, Lewis and Clark County, to settle his right to access his property in the Scratchgravel Hills by a road traversing various parcels owned by the appellees, more than a dozen property owners within the Treasure Canyon Estates subdivision (collectively, Landowners). The court granted the Landowners' motion to dismiss for failure to join the United States as a required party, which Behlmer now appeals. We reverse.

¶2 We restate the issue on appeal as follows:

Whether the District Court abused its discretion when it concluded the United States was a required party.

FACTUAL AND PROCEDURAL BACKGROUND

¶3 In 1994, Behlmer acquired thirteen adjacent mining claims collectively containing 224 acres of real property in the Scratchgravel Hills (Scratchgravel Property) north of Helena, Montana. The Scratchgravel Property is surrounded by land owned by the United States and managed by the Bureau of Land Management (BLM). The Scratchgravel Property is accessible by traveling north on Treasure Canyon Drive and then, from the boundary with federal property, crossing BLM land. Treasure Canyon Drive runs through the Landowners' properties. Since 1997, Behlmer has leased a right of way from the United States to access the Scratchgravel Property via the BLM land. This renewable lease is operative until 2037.

¶4 Behlmer filed a petition for declaratory judgment on February 27, 2023, alleging that Treasure Canyon Drive was a public road or, in the alternative, that he possessed an

easement by prescription and necessity to access the road. In response, Landowners argued that Treasure Canyon Drive is a private road for use by the property owners within the Treasure Canyon Estates subdivision and not an access route for the Scratchgravel Property. Landowners moved to dismiss the petition for failure to join the United States as a required party, arguing that Behlmer's petition would prejudice federal interests. Behlmer subsequently filed an amended petition to clarify that he only sought a declaration of his rights relative to that portion of Treasure Canyon Drive traversing the Landowners' private property, not any of the BLM land.

¶5 The District Court agreed that the United States was a required party under M. R. Civ. P. 19 and granted Landowners' motion to dismiss under M. R. Civ. P. 12(b)(7).

STANDARD OF REVIEW

¶6 “When considering a motion to dismiss based on the assertion that an indispensable party is absent, the court is given discretion to determine whether the action will proceed or must be dismissed.” *Williams v. Bd. of Cnty. Comm'rs*, 2013 MT 243, ¶ 21, 371 Mont. 356, 308 P.3d 88 (citing *Blaze Const., Inc. v. Glacier Elec. Co-op., Inc.*, 280 Mont. 7, 10, 928 P.2d 224, 225 (1996); *Mohl v. Johnson*, 275 Mont. 167, 169, 911 P.2d 217, 219 (1996)). We review such discretionary rulings for an abuse of discretion. *Williams*, ¶ 21 (citing *Blaze*, 280 Mont. at 10, 928 P.2d at 225; *Mont. Rail Link v. Byard*, 260 Mont. 331, 337, 860 P.2d 121, 125 (1993)).

DISCUSSION.

¶7 Declaratory judgment serves the purpose of settling and affording “relief from uncertainty and insecurity with respect to rights, status, and other legal relations.” Section 27-8-102, MCA. When pursuing a declaratory judgment, any persons “who have or claim any interest which would be affected by the declaration” must be made parties to the proceeding and the declaration shall not “prejudice the rights of persons not parties to the proceeding.” Section 27-8-301, MCA; *see also St. Paul Fire & Marine Ins. Co. v. Cumiskey*, 204 Mont. 350, 358, 665 P.2d 223, 227 (1983); *Empire Fire & Marine Ins. Co. v. Goodman*, 147 Mont. 396, 400, 412 P.2d 569, 571 (1966). Pursuant to Rule 19, the court must join a person as a party when one of two circumstances are met. First, the court must join an absent person if the court cannot accord complete relief without the participation of that person as a party. M. R. Civ. P. 19(a)(1)(A). Second, the court must join an absent person as a party if disposing of the action in the person’s absence would either impair or impede the person’s ability to protect an interest regarding the litigation or leave the absent party vulnerable to a “substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest.” M. R. Civ. P. 19(a)(1)(B).

¶8 First, we examine whether the absence of the United States in this proceeding would frustrate the District Court’s ability to accord complete relief to the parties. “While a party should be joined if [its] presence is deemed necessary for the according of complete relief, it must be noted that complete relief refers to relief as between the persons already parties, and not as between the party and the absent person whose joinder is sought.” *Mohl*, 275 Mont. at 171, 911 P.2d at 220. In *Mohl*, we reversed the district court’s dismissal for failure

to join a required party. *Mohl*, 275 Mont. at 173, 911 P.2d at 221. There, the district court dismissed a negligence action arising from a car accident because the court determined the defendant's employer was a required party but joining them was barred by the statute of limitations. *Mohl*, 275 Mont. at 169, 911 P.2d at 218-19. We held that regardless of the defendant's possible indemnity claims against his employer, Mohl's claims against the defendant employee were separate and distinct enough that the court could offer complete relief to the present parties. *Mohl*, 275 Mont. at 171-72, 911 P.2d at 220. "A complete disposition" of the plaintiff's claim could be made without the employer's participation: the employer did not claim an interest in the action and the plaintiff sought "nothing" from them. *Mohl*, 275 Mont. at 172, 911 P.2d at 220. Any indemnification claims brought by the defendant against his employer could be determined in a separate action and the right to seek indemnification was exclusive to the employee. *Mohl*, 275 Mont. at 172, 911 P.2d at 220.

¶9 Here, complete relief can be accorded to the parties in the present declaratory judgment action because Behlmer seeks a declaration of a public road or, in the alternative, an easement to access Treasure Canyon Drive *up to* the boundary of BLM land separating Treasure Canyon Estates and the Scratchgravel Property. Behlmer petitioned for a declaration of his rights to access and use land entirely within the perimeter of Landowners' properties. He did not seek a declaration of his rights to access to and use of United States' property. The District Court can determine Behlmer's claims that he can access Treasure Canyon Drive, either as a member of the public travelling on a public road or as owner of

an easement through the Landowners' property, without implicating any interest of the United States.

¶10 We turn next to whether the United States has an interest in the present litigation which is subject to a substantial risk of prejudice in the absence of federal participation. Generally, an absent person is not a required party when they are without a legal interest in the proceedings. In *Mountain West Bank, N.A. v. Mine & Mill Hydraulics, Inc.*, 2003 MT 35, ¶ 34, 314 Mont. 248, 64 P.3d 1048, we affirmed the district court's denial of a motion to join an absent person because the proffered required party "had no legal interest" in the outcome of foreclosure proceedings. We have affirmed the denial of a motion to dismiss for failure to join a required party because the easement at issue was "completely within the perimeter of land owned only by the parties" to the action. *Strahan v. Bush*, 237 Mont. 265, 269, 773 P.2d 718, 721 (1989). The district court was therefore able to deliver a final, "binding decision between the parties." *Strahan*, 237 Mont. at 269, 773 P.2d at 721. A district court was correct to deny a motion to join a required party because the absent person held "no legal interest in the disputed acreage at issue." *John Alexander Ethen Revocable Trust Agreement v. River Resource Outfitters, LLC (JAERTA)*, 2011 MT 143, ¶ 52, 361 Mont. 57, 256 P.3d 913 (quoting *Mountain W. Bank*, ¶ 34). In *JAERTA*, the dispute concerned only the rights of the parties relative to the boundary between their properties and not "the rights of any other landowners" in the vicinity. *JAERTA*, ¶ 52.

¶11 Here, the District Court determined the absence of the United States would prejudice the federal government's interests in the BLM land located north of Treasure Canyon

Drive. However, Behlmer does not seek a declaratory judgment as to the United States' interest. Instead, he seeks an adjudication of his rights to access Treasure Canyon Drive as it runs through Landowners' property up to and ending at the boundary of BLM land. Currently, access to the Scratchgravel Property across the BLM land is possible through a lease agreement between Behlmer and the BLM effective until 2037. The duration of this agreement and whether it will be renewed is an unknown; regardless, the lease agreement has no bearing on the present dispute between Behlmer and the Landowners. Behlmer's petition for declaratory judgment pertains only to the Landowners' interests and does not affect any adjacent property holders, including the United States.

¶12 In *Soup Creek LLC v. Gibson*, we determined that a road, which included portions crossing federal land, remained a public highway. *Soup Creek LLC v. Gibson*, 2019 MT 58, ¶ 33, 395 Mont. 105, 439 P.3d 369. Despite the United States having an interest in other sections of the road, we were able to arrive at that determination without even a discussion of whether the case required the participation of the United States because the case only concerned the section of the road where it crossed private property owned by a party to the case. *Soup Creek*, ¶¶ 29, 31. This case demonstrates that a right of access to a specific parcel of property may be adjudicated without implicating the interests of other property owners along the road.

¶13 Ultimately, the United States is not a required party to this action under Rule 19 because its absence neither frustrates complete relief to the parties nor would according the relief sought by Behlmer prejudice the United States' interests. The District Court,

therefore, abused its discretion in dismissing Behlmer's petition for failure to join a required party.

CONCLUSION

¶14 We conclude the District Court abused its discretion in dismissing this case based on its determination that the United States is a required party to this action. We reverse and remand for proceedings consistent with this opinion.

/S/ LAURIE McKINNON

We Concur:

/S/ BETH BAKER

/S/ JAMES JEREMIAH SHEA

/S/ INGRID GUSTAFSON

/S/ JIM RICE