

[Cite as *Sanford v. Salhieh*, 2009-Ohio-2778.]

IN THE COURT OF APPEALS FOR CLARK COUNTY, OHIO

DAVID SANFORD	:	
Plaintiff-Appellant	:	C.A. CASE NO. 2008 CA 40
v.	:	T.C. NO. 07 CV 314
SABRI SALHIEH	:	(Civil appeal from
Defendant-Appellee	:	Common Pleas Court)

OPINION

Rendered on the 12th day of June, 2009.

DAVID SANFORD, 514 Fremont Avenue, Springfield, Ohio 45505
Plaintiff-Appellant

WILLIAM D. WEST, Atty. Reg. No. 0018465, 200 N. Fountain Avenue, Springfield, Ohio 45504
Attorney for Defendant-Appellee

WOLFF, J. (by assignment)

{¶ 1} David Sanford appeals pro se from a summary judgment entered in favor of Salhieh Sabri which dismissed Sanford’s complaint against Sabri. Although Sanford has failed to comply with App.R. 16(A), it is obvious that he contends the trial court erred in granting summary judgment of dismissal.

{¶ 2} In 2007, Sanford filed a pro se complaint against Sabri, alleging that Sabri had blocked access to Sanford's property at 514 South Yellow Springs Street, Rear. Sanford further alleged that Sabri's actions had prevented him from renting the property. Sanford demanded judgment for \$10,800.00 representing 36 months of lost revenue of \$300.00 per month.

{¶ 3} Sabri's affidavit in support of his motion for summary judgment established that the access route in question is an alley that was vacated by the City of Springfield in 1997 and that Sabri owns the property on both sides of the now vacated alley. Sabri's affidavit also establishes that Sanford has access to his property via three other alleys other than the alley vacated in 1997.

{¶ 4} Although his evidence as to these three alleys does not satisfy Civ.R. 56(C), Sanford claims these alleys do not provide satisfactory access because Springfield does not pave or plow alleys. Sanford did provide several affidavits asserting, in effect, that "many years ago" there was access to Sanford's property (presumably via the alley vacated in 1997) and "there has always. . .been vehicle access to" Sanford's property.

{¶ 5} When Sabri acquired the property on both sides of the alley vacated in 1997, he became the owner of the real estate that until that time comprised the alley. See *Tanner v. Shirkey* (1982), 5 Ohio App.3d 225. As such, Sabri was entitled to restrict access to Sanford's property over Sabri's property. Because the alley in question was open to the public prior to its being vacated in 1997, no prescriptive easement could have been acquired prior to the vacation date, and because a prescriptive easement can only be acquired after 21 years of adverse, open and uninterrupted use, Sanford has not acquired a prescriptive easement. See *McCune v. Brandon* (1993), 85 Ohio App.3d 697. Sanford has not presented evidence that is competent per

Civ.R. 56(C) that would tend to establish that he does not have reasonable access to his property. See *Tanner*, supra.

{¶ 6} The summary judgment was properly granted and will be affirmed.

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GRADY, J. and FROELICH, J., concur.

(Hon. William H. Wolff, Jr., retired from the Second District Court of Appeals, sitting by assignment of the Chief Justice of the Supreme Court of Ohio).

Copies mailed to:

David Sanford
William D. West
Hon. Douglas M. Rastatter