

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2005-CA-000623-MR

MICHAEL TACKETT

APPELLANT

v. APPEAL FROM FLOYD CIRCUIT COURT  
HONORABLE JOHN DAVID CAUDILL, JUDGE  
ACTION NO. 03-CI-00379

LARRY DUDLESON AND  
REBECCA DUDLESON

APPELLEES

OPINION  
AFFIRMING

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BEFORE: DYCHE, McANULTY, AND TACKETT, JUDGES.

DYCHE, JUDGE: This case involves a boundary dispute between owners of adjoining property in Floyd County, Kentucky. Both pieces of property were originally part of the Oak Cooley Farm. Michael Tackett now owns a tract of land that was originally conveyed to Paul Cooley by division deed in 1966. The adjoining tract is now owned by Larry and Rebecca Dudleson and is known as original part number four.

Tackett brought suit to establish the original boundary between these tracts of property. Following a bench trial, the court found in favor of the Dudlesons. This appeal follows.

The sole issue in this case is whether the judgment of the trial court was supported by substantial evidence. Specifically, Tackett argues that the trial court's reliance on evidence of natural markers that no longer exist to form the boundary was in error and that those markers were contrary to evidence of measured footages. We affirm.

The standard of review in cases involving property title issues is whether the trial court's findings were supported by substantial evidence and were not clearly erroneous. Cole v. Gilvin, 59 S.W.3d 468, 473 (Ky.App. 2001).

The long standing rule in Kentucky is that "a mark or boundary that was visible and recognized when first mentioned in a document does not lose its legal force merely by physical disappearance, so long as its original site can be definitely established." Powell v. Reid, 519 S.W.2d 388, 389 (Ky. 1975). Equally well settled is the rule that natural objects described in the deed govern when ascertaining the location of land. Id. If such natural objects are destroyed and cannot be found, then courses and distances are to be used to determine the correct location. Id.

In its judgment, the trial court thoroughly recited the evidence it relied upon in making its decision. Most notably, the location of a marked sycamore tree described as the boundary in the original deeds was evidenced by the testimony of original heirs to the Oak Cooley Farm and by photographic evidence. We are convinced that the natural boundary was proven by sufficient evidence and that the trial court was correct in applying it as the boundary despite certain inconsistencies with footage measurements. There was no error.

For the foregoing reasons, the judgment of the Floyd Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Gordon B. Long  
Salyersville, Kentucky

BRIEF FOR APPELLEES:

B. D. Nunnery  
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