

CYNTHIA WILLS, TRUSTEE OF THE MONA H. WILLS
IRREVOCABLE TRUST et al.

v.

JAMES L. MELDRUM et al.

Submitted on Briefs April 27, 2011
Decided May 3, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and
GORMAN, JJ.

MEMORANDUM OF DECISION

Cynthia Wills and two other trustees of the Mona H. Wills Irrevocable Trust appeal from a judgment of the Superior Court (Franklin County, *Delahanty, J.*) finding for James L. Meldrum and Joan D. Meldrum on the Trust's complaint alleging illegal cutting of trees and trespass, and declaring on the Meldrums' counterclaim that they own a disputed parcel of property in fee simple. Contrary to the Trust's contention, on this record the court did not err in finding that a will identified by both parties as the source of title to the disputed parcel devised the parcel to the Meldrums' predecessor in title. *See* 18-A M.R.S. § 2-603 (2010) ("The intention of a testator as expressed in his will controls the legal effect of his dispositions."). Furthermore, the court did not err in finding against the Trust on its trespass claim because the evidence establishes that the de minimis tree cutting on its side of a road over which both parties held an easement fell within the scope of reasonable repairs to the common easement. *See Hultzen v. Witham*, 146 Me. 118, 124 (1951).

The entry is:

Judgment affirmed.

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