

FRANCES BUTKIEWICZ

v.

EILEEN C. WRIGHT et al.

Submitted on Briefs April 26, 2012
Decided May 15, 2012

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

MEMORANDUM OF DECISION

Frances Butkiewicz appeals from a judgment entered in the Superior Court (Penobscot County, *A. Murray, J.*) declaring that a prescriptive easement has been established that crosses a deeded way on Butkiewicz's property to access properties of Eileen C. Wright and Miriam Ann Lilly that do not have a deeded right of access. Butkiewicz argues that the court erred in (1) tacking successive periods of use, to find continuous use for more than twenty years, when privity of title exists between the users; (2) concluding that use that was uninterrupted, open, and notorious could be presumed to establish an adverse claim of right; and (3) determining that Wright's and Lilly's mistaken belief that their use of the easement was permitted did not preclude a finding of adversity to Butkiewicz.

Contrary to Butkiewicz's contentions, the court did not err in (1) tacking successive periods of use of the easement, *see Androkites v. White*, 2010 ME 133, ¶ 12, 10 A.3d 677; (2) applying a presumption of adversity and concluding that the use of the easement was under an adverse claim of right, *see State v. Holloway*, 2000 ME 172, ¶ 13, 760 A.2d 223; and (3) concluding that Wright's and Lilly's mistaken belief was not relevant to finding that the use was adverse to Butkiewicz, *see Blanchard v. Sawyer*, 2001 ME 18, ¶ 5, 769 A.2d 841.

The entry is:

Judgment affirmed.

On the briefs:

Joseph W. Baiungo, Esq., Belfast, for appellant Frances Butkiewicz

Charles C. Cox, Esq., Newport, for appellees Eileen C. Wright and J. Kenton Wright

Mark D. Beaumont, Esq., Rudman Winchell, Bangor, for appellee Miriam Ann Lilly