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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED
November 5, 2025
Lyle W. Cayce
Clerk

No. 25-30199

REGINALD WINANS
Plaintiff—Appellant,

Versus

MICHAEL K. MCKAY,
Defendant—Respondent

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:23-CV-1726

Before KING, HIGGINSON, and WILSON, *Circuit Judges.*

PER CURIAM:

Pro Se Plaintiff-Appellant Reginald Winans appeals the district court's denial of his Rule 56(d) motion and summary dismissal of his petitory real action against Defendant-Appellee Michael McKay. For the reasons that follow, we AFFIRM.

I BACKGROUND

Winans brought a petitory real action against Michael McKay, He alleged that in 1914, the United States granted his ancestor, Monroe Phil, a land patent that encompasses the land McKay currently occupies. Winans claimed that as Monroe Phil's heir, he possesses title to the land that is "good against the world," and "an unbroken chain of title exists directly from the Sovereign United States of America directly to [him]." After McKay answered, the district court entered a scheduling order, setting a deadline of June 28, 2024, "to complete all appropriate discovery and file any motions to compel."

On July 25, 2024, the district court received an unopposed motion for extension of time to complete discovery from Winans. The motion requested an extension to October 25, 2025, to accommodate the parties' deposition schedule. The district court granted the motion and reset the discovery deadline to October 25. A few days before the close of discovery, Winans served Requests for Admission on McKay, which McKay refused to answer because McKay considered the requests untimely.

McKay then filed a motion a motion for summary judgment, arguing that Winans

could not meet his burden to show ownership of the property. Winans responded by filing a Rule 56(d) motion in which he asserted that the answers to the unanswered discovery requests were "vital to showing that there are genuine issues of material facts in dispute." Without offering an explanation as to why, the district court denied Winans' Rule 5(d) motion. Winans subsequently filed a response brief to the summary judgment motion, and McKay filed a reply brief.

The district court granted the summary judgment motion, finding that "there are no genuine issues of material fact that Winans has no ownership interest in the Property"

II STANDARDS OF REVIEW

"We review a district court's denial of a Rule 56(d) motion for abuse of discretion." *Am. Fam. Life Assur. Co. Of Columbus v. Biles*, 714 F.3d 887, 894 (5th Cir. 2013) (per curiam). "A district court abuses its discretion if it: (1) relies on clearly erroneous factual findings; (2) relies on erroneous conclusions of law; or (3) misapplies the law to the facts." *In re Chamber of Com. of United States of Am.*, 105 F. 4th 297, 311 (5th Cir. 2024) (quoting *In re Volkswagon of Am., Inc.*, 545 F.3d 304, 310 (5th Cir. 2008)).

A grant of summary judgment is reviewed *de novo*, "applying the same standard as the district court and viewing the evidence in the light most favorable to the non-moving party." *Biles*, 714 F.3d at 895. Summary judgment is appropriate when the "movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56(a). A genuine dispute of material fact exists if a reasonable jury could enter a verdict for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 252 (1986). "Although on summary

judgment the record is reviewed *de novo*, this court...will not consider evidence or arguments that were not presented to the district court for its consideration in ruling on the motion." *Skotak v. Tenneco Resins, Inc.*, 953 F.2d 909, 915 (5th Cir. 1992).

III ANALYSIS

We begin with the denial of the Rule 56(d) motion, because only once the record is defined may we proceed with our *de novo* review of the order granting summary judgment. *See Munoz v. Orr*, 200 F.3d 291, 300 (5th Cir. 2000).

A Rule 56(d) motion

Winans argue on appeal that his Rule 56(d) motion "identified specific areas where discovery was needed," such that the district court's denial of his motion constituted reversible error.

Rule 56(d) motions are 'broadly favored and should be liberally granted' because the rule is designed to 'safeguard non-moving parties from summary judgment motions that they cannot adequately oppose'" *Biles*, 714 F.3d at 894 (quoting *Roby v. Livingston*, 600 F. 3d 552, 561 (5th Cir. 2010)). However, a Rule 56(d) movant must still make two showings to win relief: (1) that additional discovery will create a genuine issue of material fact; and (2) that he diligently pursued discovery. *Bailey v. KS Mgmt. Servs., L.L.C.*, 35 F. 4th 397, 401 (5th Cir. 2022).

As to the first prong, "non-moving parties ... 'may not simply rely on vague assertions that additional discovery will produce needed, but unspecified, facts.'" *Biles*, 714 F.3d 894 (quoting *Roby,* 600 F.3d at 561). "More specifically, the non-moving party

must set forth a plausible basis for believing that specified facts, susceptible of collection within a reasonable time frame, probably exist and indicate how the emergent facts, if adduced, will influence the outcome of the pending summary judgment motion." *Bailey*, 35 F. 4th at 401 (quoting *Smith v. Reg'l Transit Auth.*, 827 F.3d 412, 423 (5th Cir. 2016).

Winans Rule 56(d) motion requested the court defer consideration of the summary judgment motion pending McKay's responses to Winans' Requests for Admission, which Winans contended are "vital to showing that there are genuine issues of material facts in dispute." McKay argued that the discovery requests were untimely, and even if they had been timely, the requested admissions would have no bearing on the case.

The motion is replete with the refrain that Winans cannot provide evidence to negate the summary judgement motion without "conducting further discovery" and without responses to his Requests for Admission--which he did not attach to his motion. He does not explain how this vague "further discovery," or answers to his discovery requests, would influence the outcome of the summary judgment motion. Accordingly, Winans did not meet his burden under the first prong of showing, with specificity, that additional discovery would create a genuine issue of material fact.

Winans also does not meet his burden under the second prong. Although he claims he diligently pursued discovery despite many "delays and non-responses from" McKay, the record evinces otherwise. To start, the district court entered its scheduling order on March 25, 2024, but it appears Winans waited until May 13, 2024, to begin communications with McKay about discovery. Winans wasted over a month of the discovery period before engaging with McKay and offers no explanation for the delay.

Further, while Winans' motion asserts that McKay delayed in responding to emails, the motion's recitation of the email chain also shows that Winans focused on scheduling a deposition of McKay to the neglect of other forms of discovery. It was not until the eve of the (extended) discovery deadline that Winans sent his Requests for Admission; discovery he claims is "vital." Such delay--both through waiting over a month to engage in discovery and waiting until days before the deadline to serve discovery--does not demonstrate diligence.

"A district court has broad discretion in all discovery matters, and such discretion will not be disturbed ordinarily unless there are unusual circumstances showing a clear abuse." *McKay v. Novartis Pharm. Corp.*, 751 F.3d 694, 701 (5th Cir. 2014) (quoting *Kelly v. Syria Shell Petroleum Dev. B.V.*, 213 F.3d 841, 855 (5th Cir. 2000)). The district court did not clearly abuse its discretion here.

B Summary Judgment

Having properly defined the evidence in the summary judgment record, we now turn to our *de novo* review of the summary judgment motion. Winans argues on appeal that the district court (1) did not consider his timely submission of "material opposition evidence," specifically, his Statement of Material Facts in Dispute (Statement), (2) improperly resolved genuine disputes of material fact, and (3) improperly accepted as valid a deed, Winans also argues that prescription does not apply to petitory actions based on fraudulent or void conveyances. We address each issue in turn.

First, not mentioning the Statement in the opinion does not, by itself, indicate that it was not considered. Without more, we cannot say that the district court did not

consider the Statement.

Second, McKay's assertions were supported by extensive evidence demonstrating that the chain of title led from Monroe Phil to McKay, and the evidence provided no inferences in favor of Winans. Thus, McKay met his burden of showing that there was no genuine dispute of material fact. In response, Winans provided nothing more than conclusory statements, copies of discovery without analysis, and reiterations of the allegations in his complaint, none of which are sufficient to defeat a motion for summary judgment. *See Giles v. Gen. Elec. Co.*, 245 F.3d 474, 493 (5th Cir. 2001) (citing *Celotex v. Corp. v. Catrett*, 477 U.S. 317, 321-24 (1986)). Winans did not point to any evidence in the record showing that McKay had failed to sustain his summary judgment burden. *See Isquith ex. rel. Isquith v. Middle S. Util., Inc.*, 847 F.2d 186, 199 (5th Cir. 1988). Although Winans claims on appeal that the district court ignored forged signatures, canceled debts, and his documentation of continued possession, he does not show us that this evidence was before the district court. We can neither consider evidence that was not before the district court, *see Skotak*, 953 F.2d at 915, nor are we obligated to go digging through the record on his behalf, *see Murthy v. Missouri*, 603 U.S. 43, 67 n.7 (2024) ("As the Seventh Circuit has memorably put it, '[j]udges are not like pigs, hunting for truffles buried [in the record].'" (quoting *Gross v. Cicero,* 619 F.3d 697, 702 (7th Cir. 2010)).

Similarly, we cannot consider Winans' third argument--that the 1928 deed is void--or his fourth argument--that acquisitive prescription does not apply to petitory actions--because these arguments were also first raised on appeal and therefore are not properly before this court. *See e.g., Rollins v. Home Depot USA*, 8 F. 4th 393, 397 (5th Cir.

2021) ("A party forfeits an argument by failing to raise it in the first instance in the district court--thus raising it for the first time on appeal.").

Alternatively, even if we were to ignore the issues Winans raised and instead conduct our own *de novo* review of the motion for summary judgment, we would still affirm the district court's judgment.

McKay argued before the district court that summary judgment was appropriate because Winans cannot carry his burden to obtain of judgment recognizing his ownership of the property.

The Louisiana Code of Civil Procedure provides that to obtain a judgment recognizing ownership of the property, a plaintiff must:

(1) Prove that he has acquired ownership from a previous owner or by acquisitive prescription, if the court finds that the defendant has been in possession for one year after having commenced possession in good faith and with just title or that the defendant has been in possession for ten years.

(2) Prove a better title thereto than the defendant in all other cases.

LA. CODE CIV. PROC. ANN. art. 3653(A) (2023). The district court properly determined that Winans could not succeed under paragraph one because he had not put forth sufficient evidence showing that he acquired ownership of the land either from a previous owner or through acquisitive prescription. McKay has been in possession of the property since 2006-- over ten years-- therefore, Winans would have the burden at trial of "[p]rov[ing] that he has acquired ownership from a previous owner or by acquisitive prescription." LA CODE CIV. PROC. ANN. art. 3653(A)(1).

When the nonmovant has the burden of proof at trial, "the moving party may satisfy its

initial burden by 'showing--that is, pointing out to the district court--that there is an absence of evidence to support the nonmoving party's case.'" *Vanzzini v. Action Meat Distributors, Inc.*, 995 F. Supp. 2d 703, 711 (S.D. Tex. 2014)(quoting *Celotex Corp. v. Catrett* 477 U.S. 317, 325 (1986)). "Once the moving party has met his burden, the nonmoving party must come forward with specific evidence in order to raise a genuine issue of material fact." *Id.* The nonmoving party may not rely on "some metaphysical doubt as to the material facts, [on] conclusory allegations, [on] unsubstantiated assertions, or [on] only a scintilla of evidence.'" *Boudreaux v. Swift Transp. Co.*, 402 F.3d 536, 540 (5th Cir. 2005)(quoting *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994)).

First, Winans acknowledged that he is neither currently in possession, nor has he ever been in physical possession of the property; therefore, he cannot have acquired the property through acquisitive prescription. Second, Winans did not come forward with any specific evidence to rebut McKay's evidence tracking the sale of the land away from his ancestors, and he acknowledged in his response brief that a Land Patent may be conveyed away by the grantee or by the heirs.

Thus, the district court correctly found that Winans failed under paragraph one of article 3653(A), and for that reason, we affirm the district court.

After finding that Winans failed under article 3653(A)(1), the district court then proceeded to analyze whether he could succeed under article 3653(A)(2). Such analysis imported prior cases interpreting the Louisiana statute into the amended statute's revised burden of proof.

When a court is presented with a petitory action, is it at a fork in the road: It may

analyze the claim under paragraph one or paragraph two of subsection A of the statute--not both--and the choice depends on the defendant's possession of the land. As explained by the Official Revisions Comments, when the defendant's possession does not meet either of the circumstances in paragraph one, *then* "the plaintiff's burden in the petitory action is merely to prove a better title than that of the defendant." LA CODE CIV. PROC. ANN. art. 3653 (2023), Official Revisions Comments 2023 (b); *see also id.* Art. 3653(A)(2). Because the two paragraphs are two separate roads, the district court must decide which one to pursue based on the defendant's possession of the property. *See Hope Holdings, Inc., v. Mod. Am. Recycling Servs., Inc.*, 385 So. 3d 337, 343 (La. Ct. App. 1st Cir. 2024) ("It is undisputed that [the defendant] was in possession... prior to trial. Therefore, [plaintiff] was required to prove it acquired ownership from a previous owner or by acquisitive prescription.").

Here, the district court analyzed the second paragraph of article 3653(A) even though it found McKay had been in possession of the property for more than ten years. Therefore, while we affirm the district court's judgment, we note that part of the reasoning analyzing whether Winans' "petitory action can succeed under paragraph two" was not required under article 3653, as amended.

IV CONCLUSION

For the foregoing reasons, the judgment of the district court is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. 23-CV-1726

JUDGE S. MAURICE HICKS, JR.

MAGISTRATE JUDGE HORNSBY

REGINALD WINANS

Plaintiff

VS.

MICHAEL K. MCKAY,

Defendant

MEMORANDUM RULING

Before the Court is Michael K. McKay's ("McKay") Motion for Summary Judgment. See Record Document 18. Specifically, McKay moves for (1) dismissal of Reginald Winans's ("Winans") claims with prejudice and (2) erasure and cancellation from the Conveyance Records of Caddo Parish of that certain "Louisiana Quit Claim Deed" from Winans to himself recorded on September 27, 2023, under Registry No. 2944885, Records of Caddo Parish, Louisiana and any other act of Winans purporting to assert a

right of ownership and/or possession of the Property, or any portion thereof. See id. at 2. Winans opposed. See Record Document 22.. McKay replied. See Record Document 23. For the reasons stated below, McKay's Motion for Summary Judgment is **GRANTED**.

BACKGROUND

Winans, appearing pro se, filed this "[p]etitory real action pursuant to Louisiana Code of Civil Procedure 3561" seeking "damages for the unauthorized use and possession of [his] patented land ["the Property"] and the possible engagement of timber and/or oil and gas operations..." See Record Document 1 at 1-2. Winans claims he is "a direct heir of patentee, Monroe Phil ["Mr. Phil"]...[which] proves that [his] title is good against the world..." See id. at 2. He alleges that McKay "is in actual possession of [the Property] without any right, lawful title or interest, depriving [him] of possession thereof, for which damages amounting to over $75,000 dollars..." See id. at 3.

McKay answered Winans's Complaint and asserted a counterclaim against him. See Record Document 7. McKay denies that Winans is entitled to any relief, in any form. See id. at 1. He points that Winans has admitted McKay is in actual, open, corporeal possession of the Property. See id. at ¶ 25. Additionally, McKay submits that he has shown that his possession of the Property has existed for a period in excess of ten years and has at all times pertinent been continuous, uninterrupted, peaceable, public, and unequivocal, with just title, and in good faith. See id.

McKay asserts that the official records of Caddo Parish, Louisiana reflect that Winans's alleged ancestor, Mr. Phil, acquired the Property by grant from the United States on April 18, 1914. See id. at ¶ 31. McKay provides that the official records of Caddo Parish reflect that Mr. Phil and his wife, Everline Bryant Phil ("Mrs. Phil"), later conveyed a portion of the Property by deed recorded on January 9, 1928. See id. at ¶ 32. After Mrs. Phil's death, her children were placed into possession of her remaining undivided one-half interest in the Property. See id. at ¶ 33. Thereafter, Mr. Phil and the children's interests were conveyed by act of Sheriff's Sale in 1931. See id. at ¶ 34–35. McKay states that as a result of these conveyances, the public records reflect that Mr. Phil and any other alleged ancestors were divested of their entire interest in the Property no later than November 30, 1931, and thus, no longer maintain any ownership interest. See id. at ¶ 36.

McKay alleges that he and his ex-wife purchased the Property by cash sale deed on September 28, 2006 from Raymond Dale Liles and Jerry Lynn Flowers Liles for a consideration of $800,000.00. See id. at ¶ 37. Recordation took place that same day in Conveyance Book 3889, Page 400 under Registry No. 2059790, Records of Caddo Parish, Louisiana. See id. After their purchase, McKay and his ex-wife subdivided the Property, constructed a residence and other improvements on the Property, and moved into the residence. See id. at ¶ 38. As part of the partition on their former community property regime, McKay's ex-wife conveyed her interest in the Property to McKay by deed in the spring of 2017. See id. at ¶ 39. This conveyance was recorded on June 5, 2017. See id.

McKay claims he has resided in the residence continuously for a period exceeding ten years. See id. at ¶ 40. He argues Winans has failed to state a claim upon which relief may be granted. See id. at ¶ 42. Furthermore, McKay asserts that Winans's claims are barred by applicable statue(s) of limitations, liberative and acquisitive prescription, and/or the doctrine of laches. See id. at ¶ 43.

In 2023, McKay discovered that Winans had filed a document titled "Louisiana Quit Claim Deed" by which he declared himself an heir of Mr. Phil and conveyed the Property unto himself. See id. at ¶ 46. McKay submits that the "Louisiana Quit Claim Deed" constitutes a disturbance in law to his possession of the Property. See id. at ¶ 47. Therefore, along with dismissal of Winans's claims, McKay argues he is entitled to a judgment declaring that Winans has no ownership interest in the Property or any portion thereof. See id. at ¶ 48. Furthermore, McKay requests that the Court direct the erasure and cancellation from the Caddo Parish public records the quit claim deed and any other act of Winans that asserts a right of ownership and/or possession of any portion of the Property. See id. On April 8, 2024, Winans filed a Motion to Dismiss McKay's counterclaim, which was denied by this Court on March 5, 2025. See Record Documents 24 & 25.

LAW AND ANALYSIS

I Summary Judgment Standard

A court should grant a motion for summary judgment when the pleadings, including

the opposing party's affidavits, "show that there is no dispute as to any material fact and that the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56; see also Celotex Corp. v. Catrett, 477 U.S. 317, 323-24, 106 S. Ct. 2548, 2552–53. (1986). In applying this standard, the Court should construe "all facts and inferences in favor of the nonmoving party." Deshotel v. Wal-Mart La., L.L.C., 850 F.3d 742, 745 (5th Cir. 2017); see also Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986) ("The evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor."). As such, the party moving for summary judgment bears the burden of demonstrating that there is no genuine issue of material fact as to issues critical to trail that would result in the movant's entitlement to judgment in its favor, including identifying the relevant portions of pleadings and discovery. See Tubacex, Inc. v. M/V Risan, 45 F.3d 951, 954 (5th Cir. 1995). Courts must deny the moving party's motion for summary judgment if the movant fails to meet this burden. See id.

If the movant satisfies its burden, however, the nonmoving party must "designate specific facts showing that there is a genuine issue for trial." Id. (citing Celotex, 477 U.S. at 323, 106 S. Ct. 2553). In evaluating motions for summary judgment, courts must view all facts in the light most favorable to the nonmoving party. See Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587, 106 S. Ct. 1348, 1356 (1986). There is no genuine issue for trial—and thus, a grant of summary judgment is warranted—when the record as a whole "could not lead a rational trier of fact to find for the moving party...." Id.

II Summary of the Arguments

In his Motion for Summary Judgment, McKay asserts that Winans fails to set forth the prima facie case for recognition of an ownership interest in the Property or for damages against McKay on any of the grounds set forth in the Complaint. See Record Document 18-1 at 17. Even if the prima facie case were successfully set forth, McKay argues that Winans's claims are supported only by his own conclusory and unsubstantiated allegations which are contradicted by obvious facts, presenting no genuine issue of material fact for trial. See id. Thus, McKay requests his Complaint be dismissed. See id. Additionally, he contends Winans's "Louisiana Quit Claim Deed" constitutes a cloud upon the valid title of McKay and should be cancelled. See id.

Winans opposes, arguing that "[s]ummary judgment should be denied because there are still genuine issues of material fact that could affect the outcome of this action under the governing law." See Record Document 22 at 1. He contends that "McKay's evidence is so sheer that i[t] cannot persuade a reasonable fact-finder to return a verdict in his favor." See id. at 2. He submits that "[b]ecause the evidence herein raises fact questions regarding the alleged Writ of Seizure Sheriff Sale and the alleged deed conveyances from [Mr. Phil], [] McKay's evidence is insufficient and incomplete, and summary judgment should be denied." See id. at 14.

McKay replies, asserting that none of the matters which were the subject of Winans's untimely discovery requests are relevant to the issues before the Court. See Record Document 23 at 2. He reiterates that Winans has failed to show that there is any genuine issue that the requisites for establishing title by acquisitive prescription have been met by McKay. See id. at 4. He argues that Winans's belated request for

admissions do not overcome summary judgment. See id. at 2–4. Thus, McKay reasserts that his Motion should be granted. See id. at 8.

III Analysis

Winans asserts a petitory action against McKay. See Record Document 1 at 1. A petitory action "is one brought by a person who claims the ownership of, but who does not have the right to possess, immovable property or a real right therein, against another who is in possession or who claims the ownership thereof adversely, to obtain judgment recognizing the plaintiff's ownership." LA. CODE CIV. P. art. 3561. To receive a judgment recognizing Winans's ownership of immovable property or real right therein, he must:

> (1) Prove that he has acquired ownership from a previous owner or by acquisitive prescription, if the court finds that the defendant has been in possession for one year after having commenced possession in good faith and with just title or that the defendant has been in possession for ten years.
>
> (2) Prove a better title thereto than the defendant in all other cases.

LA. CODE CIV. P. art. 3653(A). "A just title is a juridical act, such as a sale, exchange, or donation, sufficient to transfer ownership or another real right. The act must be written, valid in form, and filed for registry in the conveyance records of the parish in which the immovable is situated." LA. CIV. CODE art. 3483.

Winans cannot succeed under paragraph one because there are no genuine issues of material fact that Winans never possessed the Property, and McKay has been in possession of the Property for over ten years. In fact, Winans has admitted that he is not currently in possession, nor has he ever been in physical possession of the Property. See Record Document 18-5 at 1–2; see also Record Document 18-6 at 19. He has not

provided any evidence to prove he acquired ownership of the Property either from a previous owner or through acquisitive prescription. In McKay's affidavit, he states that his possession of the Property began in 2006 and has been continuous, uninterrupted, peaceable, public, and in good faith. See Record Document 18-3 at 2. Attached to his affidavit is a copy of the cash sale deed dated September 28, 2006, evidencing conveyance of the Property to McKay and his ex-wife. See id. at 5–7. McKay also attaches the deed conveying his ex-wife's interest in the Property to him dated June 5, 2017. See id. at 13–15. After reviewing the summary judgment record, the Court finds Winans has not put forth sufficient evidence showing that he acquired ownership of the Property either from a previous owner or through acquisitive prescription; thus, the Court will next determine whether his petitory action can succeed under paragraph two.

The Louisiana Supreme Court has held that "a plaintiff not in possession versus a defendant who is in possession is required 'to show good title against the world without regard to the title of the party in possession.'" Saline Lakeshore, L.L.C. v. Littleton, 2020-14 (La. App. 3rd Cir. 6/10/20), 298 So. 3d 894, 898 (quoting Pure Oil Co. v. Skinner, 294 So. 2d 797, 799 (La. 1974)). "Title 'good against the world' is proven by showing an unbroken chain of valid titles from the sovereign." Id. (quoting Whitley v. Texaco, Inc., 434 So. 2d 96, 102 (La. App. 5th Cir. 1982), writ denied, 435 So. 2d 445 (La. 1983)). Winans has failed to show good title against the world. When asked whether there was any other document in the Caddo Parish conveyance records that evidences his ownership of the Property, he could not recall. See Record Document 18-6 at 11–12. Besides the "Louisiana Quit Claim Deed" filed by Winans, he could not remember

whether there was any other document that confirms his inheritance to the Property. See id. at 12.

Winans contends that all prior conveyances of the Property are null, but he cannot provide any basis for nullity. See id. at 13–20. Moreover, when asked what evidence he has to support a finding of nullity, Winans repeatedly objected and invoked the "workplace doctrine." See id. This doctrine is not a sufficient explanation for his repeated refusal to answer questions during his deposition. Besides the "Louisiana Quit Claim Deed," in which he merely self-proclaims that he is Mr. Phil's heir and has title to the Property, Winans provides no further evidence showing an unbroken chain of title. He fails to prove better title than McKay, and his speculatory and conclusory allegations do not overcome summary judgment.

Winans fails to successfully assert a petitory action under Article 3653(A). McKay has successfully put for evidence to establish his prima facie case for a possessory action and an action to quiet title. After reviewing the summary judgment record, the Court finds there are no genuine issues of material fact that Winans has no ownership interest in the Property. Thus, all claims asserted by Winans against McKay are **DISMISSED WITH PREJUDICE**.

Additionally, under Louisiana Code of Civil Procedure Article 3659, Winans's "Louisiana Quit Claim Deed" constitutes a disturbance in law because it is an instrument that asserts a right of ownership over the disputed immovable property. See Record Document 7 at ¶ 46. Thus, the Court orders the erasure and cancellation from the Conveyance Records of Caddo Parish of the "Louisiana Quit Claim Deed" from Winans to himself recorded on September 27, 2023 under Registry No. 2944885,

Records of Caddo Parish, Louisiana and any other act of Winans purporting to assert a right of ownership and/or possession of the Property or any portion thereof.

CONCLUSION

For the reasons stated above,

IT IS ORDERED that McKay's Motion for Summary Judgment (Record Document 18) is **GRANTED**. The Court finds there are no genuine issues of material fact that Winans has no ownership interest in the Property. All claims asserted by Winans against McKay are **DISMISSED WITH PREJUDICE**.

FURTHERMORE, the Court **ORDERS THE ERASURE AND CANCELLATION** from the Conveyance Records of Caddo Parish of the "Louisiana Quit Claim Deed" from Winans to himself recorded on September 27, 2023 under Registry No. 2944885, Records of Caddo Parish, Louisiana and any other act of Winans purporting to assert a right of ownership and/or possession of the Property or any portion thereof.

Given that the relief granted by this Memorandum Ruling is consistent with the relief request in McKay's counterclaim (Record Document 7), this Ruling disposes of his counterclaim.

A Judgment accompanying this Ruling shall issue herewith.

THUS DONE AND SIGNED, in Shreveport, Louisiana, this 13th day of March, 2025.

S Maurice Hicks Jr.

UNITED STATES DISTRICT COURT JUDGE

APPENDIX C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. 23-CV-1726

JUDGE S. MAURICE HICKS, JR.

MAGISTRATE JUDGE HORNSBY

REGINALD WINANS

Plaintiff

VS.

MICHAEL K. MCKAY,

Defendant

JUDGMENT

For the reasons stated in the accompanying Memorandum Ruling,

IT IS ORDERED that Michael K. McKay's ("McKay") Motion for Summary Judgment (Record Document 18) is **GRANTED**. The Court finds there are no genuine issues of material fact that Reginald Winans ("Winans") has no ownership interest in the Property. All claims asserted by Winans against McKay are **DISMISSED WITH PREJUDICE**.

FURTHERMORE, the Court **ORDERS THE ERASURE AND CANCELLATION**

from the Conveyance Records of Caddo Parish of the "Louisiana Quit Claim Deed" from Winans to himself recorded on September 27, 2023 under Registry No. 2944885, Records of Caddo Parish, Louisiana and any other act of Winans purporting to assert a right of ownership and/or possession of the Property or any portion thereof.

Given that the relief granted by this Memorandum Ruling is consistent with the relief request in McKay's counterclaim (Record Document 7), this Ruling disposes of his counterclaim.

The Clerk of Court is directed to close this case.

THUS DONE AND SIGNED, in Shreveport, Louisiana, this 13th day of March, 2025.

S Maurice Hicks Jr.

UNITED STATES DISTRICT COURT JUDGE

APPENDIX D

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. 23-CV-1726
JUDGE S. MAURICE HICKS, JR.
MAGISTRATE JUDGE HORNSBY

REGINALD WINANS

Plaintiff

VS.

MICHAEL K. MCKAY,

Defendant

ORDER

After considering the foregoing motion,

IT IS ORDERED that Plaintiff's Motion to Defer Consideration of Defendant's Motion for Summary Judgment in Record Document 18 is **DENIED**.

IT IS FURTHER ORDERED that the Court will extend the deadlines in which Plaintiff can file his opposition and Defendant can file his reply. Plaintiff's deadline to file his opposition to Defendant's Motion for Summary Judgment (Record Document 18) is **December 30, 2024**. Defendant's deadline to file his reply to Plaintiff's opposition is **January 6, 2025**.

THUS DONE AND SIGNED, in Shreveport, Louisiana, this 11th day of December, 2024.

S Maurice Hicks Jr.

UNITED STATES DISTRICT COURT JUDGE

APPENDIX E

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. 23-CV-1726
JUDGE S. MAURICE HICKS, JR.
MAGISTRATE JUDGE HORNSBY

REGINALD WINANS

Plaintiff

VS.

MICHAEL K. MCKAY,

Defendant

ORDER

Granted. New discovery deadline is Oct. 25, 2024. Dispositive motion deadline is now Nov. 25, 2024.

July 29, 2024

S Maurice Hicks Jr.

UNITED STATES DISTRICT COURT JUDGE

APPENDIX F

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. 23-CV-1726
JUDGE S. MAURICE HICKS, JR.
MAGISTRATE JUDGE HORNSBY

REGINALD WINANS

Plaintiff

VS.

MICHAEL K. MCKAY,

Defendant

REPLY MEMORANDUM
ON BEHALF OF MICHAEL K. MCKAY

"...By email received by undersigned counsel on October 24, 2024, Plaintiff served a new round of written discovery dated October 22, 2024 including requests for admission. Plaintiff also transmitted various amendments to his prior discovery responses. Plaintiff has attached copies of some of that written discovery to his response to the Motion for Summary Judgment, and suggests that Mover's failure to respond to that discovery constitutes grounds for denial of Mover's Motion for Summary Judgment. Plaintiff's October 24, 2024 discovery requests were untimely. Pursuant to the Court's orders, October 25, 2024 was the deadline for completion of discovery and filing any motions to compel. The service of discovery requests on

October 24, 2024 does not constitute the timely service of discovery requests by Plaintiff. The answers to those discovery requests (had they been made timely) would have been due 30 days later; since the 30th day would have been Saturday, November 23, the response deadline would have been Monday, November 25, 2024. Coincidentally, November 25, 2024 was the same day set by the Court as the deadline for filing dispositive motions...Plaintiff's belated Requests for Admission No.1 and 2 seek admission by Mover that Mover is not in possession of the Judicial Order and proof of service relating to the judicial proceeding which resulted in the Sheriff's Sale Deed dated August 22, 1931 and recorded August 24, 1931 in the Conveyance Records of Caddo Parish by which Monroe Phil was divested of his interest in the Northerly portion of the Property (see Attachment B-8 to Exhibit 2 to the Motion for Summary Judgment)...Mover has no information about that judicial proceeding beyond that which appears in the Conveyance Records."

SMITHERMAN, HILL & BRICE, L.C.
By: s/ Donald Lee Brice, Jr.
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Attorneys for Michael K. McKay

APPENDIX G

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

CIVIL ACTION NO. 23-CV-1726
JUDGE S. MAURICE HICKS, JR.
MAGISTRATE JUDGE HORNSBY

REGINALD WINANS

Plaintiff

VS.

MICHAEL K. MCKAY,

Defendant

PLAINTIFF'S RESPONSE TO DEFENDANT MICHAEL K. MCKAY'S MOTION FOR SUMMARY JUDGMENT

"**Request for Admission No. 1:** You are not in possession of the Judicial Order issued from the Judge of the First Judicial District Court of Caddo Parish regarding the alleged August 24, 1931 Writ of Seizure and Sale legal action against Monroe Phil.

Answer: _____

Request for Admission No. 2: You are not in possession of the proof of service notice of seizure and sale that was served upon Monroe Phil regarding the alleged August 24, 1931 Writ of Seizure and Sale legal action against Monroe Phil.

Answer: _____

Request for Admission No. 3: You are not in possession of my ancestor Monroe Phil's true signature.

Answer: _____

Request for Admission No. 4: You have known, since being in possession of my ancestral patented land, that my ownership interest in all minerals on the subject land could never be terminated by any alleged sheriff sale.

Answer: _____"

(Exhibit A; Admissions to Mr. McKay)

Mr. McKay never responded to any of the aforementioned Admissions."