

9-1-1999

Carnahan v. Moriah Property Owners Ass'n, Inc., 716 N.E.2d 437 (Ind. 1999)

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Karen McTavish, Court Report, Carnahan v. Moriah Property Owners Ass'n, Inc., 716 N.E.2d 437 (Ind. 1999), 3 U. Denv. Water L. Rev. 167 (1999).

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national forests, since Congress had the authority to re-reserve land for changed purposes.

Next, because the Act did not expressly reserve water rights, the court looked to see if reserved rights were implicit in the Act. A court will infer an intent to reserve water if the water were necessary to satisfy the primary purposes of the reservation. The Act's purpose was maintaining the designated area in its pristine natural condition. Therefore, the Idaho Supreme Court agreed with the SRBA's determination that strictly applying Idaho's prior appropriation regime was inconsistent with this purpose. The court also agreed that removing any water within the Wilderness Areas would defeat the purposes of the Act. Subsequently, the court affirmed the SRBA's determination that Congress intended to reserve all unappropriated waters within the Wilderness Areas.

The second issue was whether the United States held federal reserved water rights to all unappropriated flows of tributaries to the Snake River originating within Hell's Canyon. The court determined the federal reserved water rights doctrine was satisfied because Hell's Canyon was withdrawn by federal statute. The withdrawal's purpose was to preserve the natural beauty and historical values of the Hell's Canyon area for future generations. The court rejected the argument that the Hell's Canyon Act was merely a land management statute. Therefore, the court affirmed the SRBA's finding that Hell's Canyon withdrawal was a governmental land reservation, and thus satisfied the reserved rights doctrine.

The SRBA and the Idaho Supreme Court both concluded that the Hell's Canyon Act expressly reserved the tributaries of the Snake River within Hell's Canyon. The plain language of the Hell's Canyon Act clearly stated that Hell's Canyon would comprise all land and water within the area. Therefore, the United States was entitled to reserve all unappropriated water flows in the tributaries of the Snake River originating within Hell's Canyon.

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Carnahan v. Moriah Property Owners Ass'n, Inc., 716 N.E.2d 437 (Ind. 1999) (holding that a party wishing to establish a recreational prescriptive easement must show by clear and convincing evidence that their use was adverse to the owner).

In 1972, the Carnahan family purchased property that included two and one half percent of Lake Julia, a private lake. Until the Carnahans filed suit in 1993, the family engaged in recreational activity on the lake such as boating, water skiing, and jet skiing. Moriah Property Owners Association, Inc. ("Moriah") owned approximately sixty-four percent of Lake Julia. Before Moriah took title to the

property, the Drewy family owned the property for several years. The Carnahan's engaged in their recreational activities while the Drewy's owned the property and continued when Moriah took ownership. Moriah then established a covenant restricting the use of watercraft on the lake, in order to prevent harm to children and adults swimming in the lake.

After the issuance of the restrictive covenant, the Carnahans filed suit to establish a prescriptive easement for the use of watercraft on the lake and to quiet title to such easement. Moriah counter-claimed for an injunction to stop the use of watercraft on the lake. The trial court determined the Carnahans had established a prescriptive easement for recreational use of watercraft on the lake. The appeals court affirmed. The Supreme Court of Indiana analyzed the standard a claimant must meet in order to establish a recreational prescriptive easement and whether the Carnahans recreational use of the lake entitled them to a prescriptive easement. The court disagreed with the lower courts and found that entitlement to a recreational prescriptive easement required clear and convincing evidence of an adverse use, something the Carnahans failed to establish.

The court first distinguished a recreational use from the normal ingress and egress over land. The court noted the presumption that normal ingress and egress use of a road over another's property is adverse to the owner. Recreational use is more permissive and if an owner witnesses the claimant making use of the body of water and does not intervene that does not mean the owner is acknowledging a right by the claimant. The owner is merely permitting the claimant to use the body of water. Thus, the court established that in order to show entitlement to a recreational prescriptive easement, the claimant must show use adverse to the owner. To prove "adverse" the claimant needed to show use of the land as an owner without any regard to the claims of others or permission from anyone for at least twenty years. The court stated a claimant needed clear and convincing evidence to prove adverse use.

Next, the court proceeded to review the evidence presented by the Carnahans to establish adverse use. The court looked mainly to the use while the Drewys owned the property because the majority of the use occurred during that time. The court found that the Carnahans engaged in leisurely use of the lake that did not affect the quality of the lake. The recreational use of the lake was not inconsistent with the Drewy's prior use. Therefore, the court held the Carnahans did not establish entitlement to a recreational prescriptive easement, reversing the findings of the lower court.

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