

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

**BROOKS E. MAXWELL
and JAMES M. MAXWELL,
Plaintiffs Below, Petitioners**

**FILED
September 25, 2026**

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

v.) No. 25-ICA-424 (Cir. Ct. of Doddridge Cnty. Case No. CC-09-2025-C-7)

**RYAN HULSE, WALTER E. HULSE,
JANENE M. GARDINER, and ANGELA L. DALPE,
Defendants Below, Respondents**

MEMORANDUM DECISION

Petitioners Brooks E. Maxwell and James M. Maxwell appeal the Circuit Court of Doddridge County's October 2, 2025, order denying their request for declaratory relief and awarding judgment in favor of Respondents Ryan Hulse, Walter E. Hulse, Janene M. Gardiner, and Angela L. Dalpe. Respondents filed a response.¹ No reply was filed.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). After considering the parties' arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the circuit court's order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

This case concerns the ownership of mineral rights located in Doddridge County. The relevant background facts are as follows.

Joe B. Maxwell is the father of petitioners. He was married to Catherine M. Maxwell, who is the mother of Walter E. Hulse and the grandmother of the remaining respondents. On March 9, 1976, Joe executed a will devising and bequeathing his entire estate to Catherine. His will also nominated her to serve as executrix and named his son James as successor executor. Joe died in February 1997, and Catherine became executrix of his estate. At the time of his death, Joe owned an undivided one-twenty-first interest in the minerals underlying a large tract of land in Doddridge County. Petitioners received a copy of their father's will in March 1997, along with forms for Waiver of Notice of

¹ On appeal, petitioners are self-represented. Respondents are represented by Matthew L. Ward, Esq.

Application to Relieve Estate from Administration and Waiver of Notice of Probate of Will.² On March 19, 1997, Catherine filed Joe's will for probate in Seneca County, Ohio.

On March 24, 1997, Catherine executed her own will, leaving her entire estate to respondents. She died on October 24, 1997, and on October 29, 1997, her will was filed for probate in Seneca County. After Catherine's death, no one took any additional steps to probate Joe's will in Ohio or complete an ancillary estate in Doddridge County until November 2024.

In March 2012, Antero Resources began researching the ownership of the mineral rights, conducted title searches on the relevant property, and sent correspondence to the parties in this case.

In July 2014, respondents recorded Catherine's will in the Doddridge County Clerk's Office, and a probate order was entered. Respondents then entered into leases with Antero concerning the mineral rights, and those leases were recorded in the county land records. On January 15, 2015, petitioners also executed leases with Antero for the same mineral rights, and those leases were likewise recorded. Antero entered into both sets of leases under the presumption that Joe died intestate. Notably, none of the recorded leases identified the percentage interest each party held in the mineral rights. In October and November 2022, petitioners and respondents executed agreements granting Antero a pipeline easement. Petitioners never drilled a well or took steps to extract minerals from the property. Respondents first learned of petitioners' leases and agreements in 2024 when Antero sought to renew its mineral-rights leases.

In August 2024, respondent Ryan Hulse applied for authority to administer Joe's estate in Ohio. In October 2024, petitioners were served with notice of probate of their father's will in Ohio. In November 2024, Joe's will was recorded in the Doddridge County Clerk's Office and a probate order was entered. On February 19, 2025, the probate court fully probated and closed Joe's estate in Ohio without objection.

Petitioners initiated this case on February 21, 2025, by filing a complaint in circuit court seeking a declaration that each of them owns an undivided one-sixty-third interest in the mineral rights at issue.³ They based their claim on adverse possession and laches. At the circuit court's direction, the parties filed an agreed stipulation of facts on August 18, 2025, which included petitioners' stipulation that they never drilled a well or took any steps to remove minerals from the tract. At a final hearing on August 21, 2025, the parties

² According to the record, these documents were sent to petitioners by an Ohio-licensed attorney who was assisting Catherine with Joe's estate.

³ Petitioners were represented by counsel below.

presented their legal arguments, and the court instructed them to submit proposed orders for its consideration. The parties complied.

On October 2, 2025, the circuit court entered its decision, granting judgment to respondents and adopting their proposed order verbatim. The order concluded that petitioners could not establish the necessary elements of adverse possession. For example, the court found no facts suggesting that petitioners held color of title or any discernible right to the mineral interest. The court also determined that petitioners had not adversely possessed the property because they never drilled a well. *See Welch v. Cayton*, 183 W. Va. 252, 255, 395 S.E.2d 496, 499 (1990) (finding that physical drilling of a well is necessary to support an adverse-possession claim to mineral rights); *Gassaway v. Dominion Expl. & Prod., Inc.*, No. 11-0535, 2011 WL 8193596, at *3 (W. Va. Oct. 11, 2011) (memorandum decision). The court found no evidence supporting petitioners' new assertion, raised for the first time at the final hearing, that a well was drilled on their behalf in 2024. Furthermore, the court reasoned that drilling such a well in 2024 would not satisfy the requirement under the doctrine of adverse possession of ten years of continuous possession. *See W. Va. Code* § 55-2-1 (1882); *Teubert Fam. Farms, LLC v. Bragg*, 242 W. Va. 445, 449, 836 S.E.2d 412, 416 (2019).⁴

Next, the court addressed petitioners' argument under the doctrine of laches. Petitioners contended that respondents failed to properly administer Joe's estate and that the delay entitled petitioners to an equitable interest in the mineral rights. The court rejected this argument, finding that petitioners were not prejudiced, and could not have been prejudiced, by the delay. The court explained that Joe's will plainly devised his entire estate to Catherine, who then left her entire estate to her son and grandchildren. Thus, petitioners were never entitled to any interest in the mineral rights. The court further noted that petitioners benefited from the delay because they received financial gain they would not have obtained had the estate been timely probated.

The court also rejected petitioners' broader equity-based claim, noting that petitioners cited no authority supporting their position. The court explained that precedent recognizes only three methods of acquiring title to mineral rights: by deed, through probate, or by adverse possession. Alternatively, the court found that even if petitioners had established laches, the doctrine of unclean hands would bar their claim because they failed for decades to participate in or initiate probate of their father's will. The court also noted that an equitable remedy under laches would be inappropriate because petitioners had a legal remedy available: contesting the probate in Ohio. *See St. Luke's United Methodist Church v. CNG Dev. Co.*, 222 W. Va. 185, 190, 663 S.E.2d 639, 644 (2008) (recognizing the "well-established rule of disfavoring equitable remedies where legal ones are available").

⁴ Petitioners do not challenge the court's adverse possession ruling on appeal.

The court's order declared that petitioners hold no legal interest in the mineral rights at issue and that respondents are the lawful owners of those rights. This appeal followed.

"A circuit court's entry of a declaratory judgment is reviewed *de novo*." Syl. Pt. 3, *Cox v. Amick*, 195 W. Va. 608, 466 S.E.2d 459 (1995). Further, "any determinations of fact made by the circuit court in reaching its ultimate resolution are reviewed pursuant to a clearly erroneous standard." *Id.* at 612, 466 S.E.2d at 463.

On appeal, petitioners present several assignments of error. Upon review, we have consolidated and restated their arguments for purposes of this decision. As restated, petitioners argue that the circuit court erred by granting relief to respondents and by adopting verbatim the proposed findings of fact and conclusions of law submitted by respondents' counsel. They also contend that there were violations of the Rules of Judicial Conduct in the proceedings below.

Petitioners' first argument challenges the merits of the circuit court's order on three grounds. To begin, they contend that the court misapplied the doctrine of laches. They argue that respondents' conduct, particularly their nearly thirty-year delay in probating Joe's estate, should have barred respondents from obtaining relief. Petitioners assert that the court failed to recognize that this prolonged inaction led Antero to believe Joe died intestate, resulting in Antero's execution of leases with petitioners. They maintain that they relied on the benefits of those leases for years and would suffer prejudice from an adverse ruling affecting their claimed mineral rights. We disagree and discern no error in the court's application of the doctrine of laches in this case.

Precedent recognizes that "the elements of laches consist of (1) unreasonable delay and (2) prejudice." *Province v. Province*, 196 W. Va. 473, 483, 473 S.E.2d 894, 904 (1996) (citation modified). It also states,

Laches is an equitable defense, and its application depends upon the particular facts of each case. There are some general principles, however, which a court should be mindful of when determining whether the doctrine of laches is applicable. For instance, mere delay will not bar relief in equity on the ground of laches. Laches is a delay in the assertion of a known right which works to the disadvantage of another, or such delay as will warrant the presumption that the party has waived his right.

State ex rel. Webb v. W. Va. Bd. of Med., 203 W. Va. 234, 237, 506 S.E.2d 830, 833 (1998) (citation modified).

Applying these principles, we conclude that petitioners' arguments on this issue are fundamentally flawed. They argue that the court erred because it did not consider reliance as part of its laches analysis. However, as evidenced above, the doctrine of laches does not

include reliance among its elements for an evaluating court to consider, and petitioners cite no authority to circumvent existing precedent on this issue.

Petitioners also hinge much of their argument on respondents' delay in submitting Joe's estate for probate. However, precedent clearly states that delay alone is insufficient to its application as a defense. *See* Syl. Pt. 3, *Carter v. Carter*, 107 W. Va. 394, 148 S.E. 378 (1929) ("Delay alone does not constitute laches; it is delay which places another at a disadvantage."); *Hoffman v. Wheeling Svgs. & Loan Ass'n*, 133 W. Va. 694, 707, 57 S.E.2d 725, 732 (1950) ("time alone is not now considered a controlling factor in the application of the doctrine"). Instead, the delay must place petitioners at a disadvantage or create the presumption that a party has waived their right. *See Maynard v. Bd. of Educ.*, 178 W. Va. 53, 59, 357 S.E.2d 246, 253 (1987) ("the controlling element of the equitable defense of laches is prejudice, rather than the amount of time which has elapsed without asserting a known right or claim"); Syl. Pt. 4, *Laurie v. Thomas*, 170 W. Va. 276, 294 S.E.2d 78 (1982) ("The general rule in equity is that mere lapse of time, unaccompanied by circumstances which create a presumption that the right has been abandoned, does not constitute laches.").

Contrary to petitioners' interpretation of the order on appeal, the circuit court did not apply the doctrine of laches to bar their claim. Instead, the court found that petitioners failed to establish prejudice under the facts of the case and therefore could not meet their burden of proving that the effect of Joe's will should have been barred by laches. The court based this conclusion on its observation that, by operation of Joe's and Catherine's wills, petitioners never held any interest in the mineral rights at issue. The circuit court also relied on the stipulated fact that petitioners received copies of Joe's will and thus were on notice that they were not entitled to any property from his estate. Notably, petitioners' only challenge to this finding is their general assertion that they disagree with the court's ruling, coupled with their own application of the law to the facts and an invitation for this Court to reweigh the evidence and reach a more favorable conclusion. We decline to do so. Petitioners do not challenge the underlying fact that they were on notice of Joe's will and that they were not entitled to any part of his estate, including the disputed mineral interest. Therefore, we find no error in the court's determination that petitioners did not suffer prejudice and therefore could not rely on the doctrine of laches to defeat respondents' claim.⁵

Next, petitioners assert that the court erred in finding, in the alternative, that even if petitioners had established laches, the doctrine of unclean hands would foreclose their

⁵ The Supreme Court of Appeals has recognized that it is the public policy of West Virginia "to encourage the probate of wills and to prevent one from benefiting at the expense of others by refusing to probate a will in his possession." *Wetzel v. Watson*, 174 W. Va. 651, 655 n.5, 328 S.E.2d 526, 530 n.5 (1985).

claim. However, because we have declined to disturb the court's determination that petitioners failed to establish laches, we need not address this assignment of error.

Petitioners' final argument on this consolidated issue centers on their contention that the circuit court declined to exercise its lawful jurisdiction and to rule on the merits of their complaint for declaratory relief. According to petitioners, the court's order declares that Ohio courts, and substantive Ohio probate law, must resolve the dispute over the West Virginia property. This argument lacks merit. Petitioners wholly misapprehend the circuit court's ruling. Simply stated, nothing in the order supports their interpretation. Although the order notes the existence of Ohio probate proceedings, it does not state that the presiding court lacked subject matter jurisdiction, nor does it attempt to apply Ohio probate law to the substantive issues presented. To the contrary, the court repeatedly cited controlling West Virginia authority throughout its order and applied that authority to the facts of the case in reaching its legal conclusions. Moreover, petitioners fail to cite the record or controlling authority to support their argument. *See* W. Va. R. App. P. 10(c)(7). As such, petitioners are not entitled to relief.

Next, petitioners argue that the circuit court's verbatim adoption of respondents' proposed order demonstrates a lack of independent judicial review, amplifies the legal errors in its decision, and warrants reversal. We disagree and find no reversible error in the court's adoption of respondents' order. On this point, precedent provides: "Verbatim adoption of proposed findings and conclusions of law prepared by one party is not the preferred practice, *see South Side Lumber Co. v. Stone Constr. Co.*, 151 W. Va. 439, 152 S.E.2d 721 (1967) (findings of fact *should* represent trial judge's own determination), but it does not constitute reversible error." *State ex rel. Cooper v. Caperton*, 196 W. Va. 208, 214, 470 S.E.2d 162, 168 (1996). "As an appellate court, we concern ourselves not with who prepared the findings for the circuit court, but with whether the findings adopted by the circuit court accurately reflect the existing law and the trial record." *Id.* Here, the petitioner failed to demonstrate how the order did not accurately reflect the record and properly apply the law to the facts. Therefore, the circuit court did not err by adopting respondents' proposed order verbatim.

Lastly, petitioners allege that judicial misconduct occurred below, which requires reversal of the circuit court's decision, removal of the presiding judge, and assignment of the matter to a new judge. However, we need not elaborate on this matter further because this Court lacks jurisdiction over such issues. *See* W. Va. Code § 51-11-4(d)(6) (2026) (stating that this Court does not have appellate jurisdiction over proceedings before the Judicial Investigation Commission); Syl. Pt. 5, in part, *State ex rel. Workman v. Carmichael*, 241 W. Va. 105, 819 S.E.2d 251 (2018) (recognizing that the Supreme Court of Appeals of West Virginia has exclusive jurisdiction over the discipline of judicial officers); *see also Patton v. Cnty. of Berkeley*, 242 W. Va. 315, 319, 835 S.E.2d 559, 563 (2019) ("The matter of judicial recusal and disqualification is a matter of discretion reposed solely in the presiding judge and the Chief Justice of this Court." (citation modified)).

Accordingly, we affirm the circuit court's October 2, 2025, order.

Affirmed.

ISSUED: September 25, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White