

06-1446-CD

William Bratton et al vs Carroll W. Kephart

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William Bratton et al vs Carroll Kephart

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

WILLIAM D. BRATTON and SALLY A.
BRATTON, Husband and Wife,
Plaintiffs

No. 2006-1446 -CD

VS.

ACTION TO QUIET TITLE

CARRELL W. KEPHART, JR.,
his Heirs, Executors and Assigns,
Defendants

CASE NUMBER: No. 2006- -CD

TYPE OF CASE: Quiet Title Action

TYPE OF PLEADING: COMPLAINT

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. No. 26540
207 East Market Street
Clearfield, PA 16830
(814) 765-1581

FILED pd \$95.00 Afty
0/10:55 Lm 2CC Gearnart
SEP 07 2006 (S)

William A. Shaw
Prothonotary/Clerk of Courts

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NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you.

You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR'S OFFICE
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641

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C O M P L A I N T

AND NOW, comes the Plaintiffs, William D. Bratton and Sally A. Bratton, by their attorney, R. Denning Gearhart, Esquire, and sets forth the following:

1. That the Plaintiffs, William D. Bratton and Sally A. Bratton, Husband and Wife, are adult individuals , who reside at P. O. Box 91, Osceola Mills, Pennsylvania 16666.
2. That the Defendant, Carrell W. Kephart, Jr., is believed to be deceased, as well as the heirs and assigns and any individuals claiming through him, whose addresses are unknown.
3. That the Plaintiffs are the owners of a piece or parcel of land located in the Borough of Osceola Mills, Clearfield County, Pennsylvania, bounded and described as follows:

ALL that certain piece or parcel of land situate in the Borough of Osceola Mills, County of Clearfield, and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin, situate at the Southeast corner of Edward Alley and Pine Alley; thence South 62 degrees 00 minutes East fifty (50) feet to an iron pin; thence South 28 degrees 00 minutes West one hundred (100) feet along line of land now or formerly of Robert D. Earnest, Jr., to an iron pin; thence North 62 degrees 00 minutes West fifty (50)

feet along line of other land of former Grantors to an iron pin; thence North 28 degrees 00 minutes East one Hundred (100) feet along Edward Alley to iron pin, and place of beginning.

CONTAINING 0.115 acres as per survey map attached to Deed recorded in Clearfield County Instrument No. 200106408, and **BEING** further identified as Clearfield County Tax Parcel No. 16-013-379-105 as shown on the assessment map in the records of Clearfield County, PA.

4. That the Plaintiffs acquired title to the premises by Deed of Dawn M. Dudak, a single adult individual, dated January 27, 2006, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, at Instrument No. 200601467.
5. That Dawn M. Dudak acquired title to the premises by Deed from William D. Bratton and Sally A. Bratton, husband and wife., dated May 3, 2001, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, at Instrument No. 200106408.
6. That William D. Bratton and Sally A. Bratton, husband and wife, acquired title to the premises by Deed from the Tax Claim Bureau of Clearfield County, dated July 20, 1998, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, at Deeds & Records Book Vol. 1952, Page 350.
7. That the property was sold by the Clearfield County Tax Claim Bureau for unpaid taxes for the years 1984 through 1996, which property was assessed in Clearfield County in the name of Carrell W. Kephart, Jr.
8. That Carrell W. Kephart, Jr., acquired title to the premises by Deed from Carrell W. Kephart, Jr. and Lorri Ann Kephart, dated November 18, 1982, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, at Deed Book Vol. 865, Page 364.

9. That Carrel W. Kephart, Jr. and Lorri Ann Kephart, his wife, acquired title to the premises by Deed from Richard Muckey and Joan M. Muckey, his wife, dated August 24, 1981, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, at Deed Book Vol. 818, Page 37.

10. That Richard S. Muckey and Joan M. Muckey, husband and wife, acquired title to the premises by Deed from Thomas McDonald and Marjorie McDonald, his wife, dated February 14, 1978, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, at Deed Book Vol. 759, Page 374.

11. That Thomas McDonald and Marjorie McDonald, husband and wife, acquired title to the premises by Deed from Thomas McDonald and Marjorie McDonald, his wife, dated August 11, 1977, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, at Deed Book Vol. 748, Page 222.

12. That Thomas McDonald and John L. McDonald, brothers, as Joint Tenants with the Right of Survivorship, acquired title to premises by Deed from Ellis Osewalt, Jr. and Elizabeth Osewalt, his wife, dated March 7, 1956, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, at Deed Book Vol. 552, Page 606.

13. That John L. McDonald died on August 1, 1975, thereby vesting title in Thomas McDonald, as surviving tenant. The Estate records can be found in the Office of the Register of Wills of Clearfield County, Pennsylvania, at Estate File No. 77-240.

14. That Ellis Osewalt, Jr. and Elizabeth Osewalt, his wife, acquired title to premises by Deed from Chloa K. Shirey and Guy C. Shirey, her husband, dated November 10, 1945, and recorded in the Office of the Recorder of Deeds of Clearfield County,

Pennsylvania, at Deed Book Vol. 371, Page 545.

15. That the purpose of this Quiet Title Action is to clear any defect resulting from the tax sale set forth in the above paragraphs 6 and 7.

16. That the Plaintiffs and their predecessors in title have exercised adverse, continuous, visible, notorious, exclusive and hostile possession over the premises and have continued such possession in excess of twenty-one (21) years.

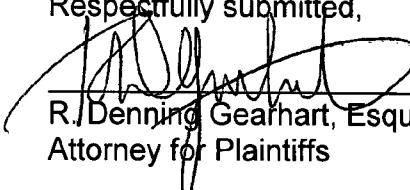
WHEREFORE, Plaintiffs request:

(a) That by Decree of your Honorable Court, it may be declared that title to the premises set forth in Paragraph 3 hereof is in the Plaintiffs and that they shall be allowed to enjoy such property in peace; and

(b) That the Defendants, their heirs, successors and assigns, within thirty (30) days from the receipt of this Complaint, institute an action of ejectment against the Plaintiffs and that otherwise the Defendants, their heirs, successors and assigns be perpetually enjoined from setting up any title to said property from impeaching, denying or in any way attaching the Plaintiffs's title to said property, from issuing or maintaining an ejectment from said premises and from encumbering, mortgaging or conveying the said premises or any party thereof.

(c) Such other relief as the Court determines to be equitable and just.

Respectfully submitted,


R. Denning Gearhart, Esquire
Attorney for Plaintiffs

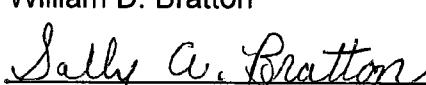
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

SS.

Before me, the undersigned officer, a Notary Public in and for the above named State and County, personally appeared William D. Bratton and SALLY A. BRATTON, who being duly sworn according to law depose and say that the facts set forth in the foregoing Complaint are true and correct to the best of their knowledge, information and belief.

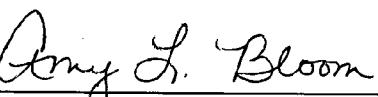


William D. Bratton



Sally A. Bratton

Sworn to and subscribed
before me, this 1st
day of September, 2006.



Amy L. Bloom

Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Amy L. Bloom, Notary Public
Chester Hill Boro, Clearfield County
My Commission Expires Nov. 24, 2008

Member, Pennsylvania Association Of Notaries

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION ACTION TO QUIET
TITLE

WILLIAM D. BRATTON and SALLY A.
BRATTON, Husband and Wife,

Plaintiffs

vs.
CARRELL W. KEPHART, JR., his
Heirs, Executors and Assigns,
Defendants

COMPLAINT

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

FILED

SEP 07 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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BRATTON, Husband and Wife,
Plaintiffs : No. 2006-1446 -CD
VS. : ACTION TO QUIET TITLE
CARRELL W. KEPHART, JR.,
his Heirs, Executors and Assigns,
Defendants :

CASE NUMBER: 06- -CD

TYPE OF CASE: Quiet Title Action

TYPE OF PLEADING: AFFIDAVIT

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. No. 26540
207 East Market Street
Clearfield, PA 16830
(814) 765-1581

FILED 1cc Atty Gearhart
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SEP 07 2006

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA

: SS.

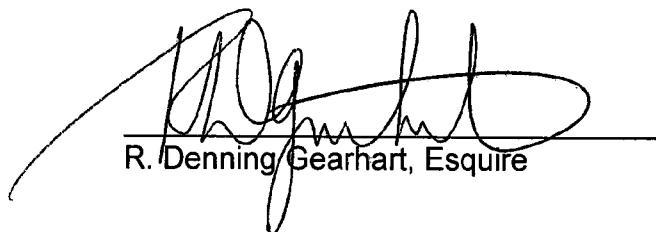
COUNTY OF CLEARFIELD

R. DENNING GEARHART, who being duly sworn according to law, deposes and says that in support of his Motion For Publication, the following:

1. I have searched the Courthouse records and found no estate for Carrell W. Kephart, Jr., and no heirs, successors or assigns.
2. All public records in the Clearfield County Courthouse and local telephone books have been checked prior to making this Affidavit.

3. That I have made a good faith effort to find the whereabouts of the Defendant and all his heirs, successors and assigns.

Further, the deponent saith not.



R. Denning Gearhart, Esquire

Sworn to and subscribed

before me this 7 day

of September, 2006.

Kathleen A. Ricotta

Notary Public

Commonwealth of Pennsylvania

NOTARIAL SEAL

KATHLEEN A. RICOTTA, Notary Public
Clearfield Boro., County of Clearfield
My Commission Expires June 15, 2009

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Plaintiffs

vs.
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Defendant

AFFIDAVIT

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

FILED

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Defendants :

CASE NUMBER: 06- -CD

TYPE OF CASE: Quiet Title Action

TYPE OF PLEADING: MOTION FOR PUBLICATION

FILED ON BEHALF OF: Plaintiffs

COUNSEL OF RECORD FOR THIS PARTY: R. DENNING GEARHART, ESQUIRE
Supreme Court I.D. No. 26540
207 East Market Street
Clearfield, PA 16830
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FILED, 1CCPA44, gearhart
6/10/55 cm
SEP 07 2006

William A. Shaw
Prothonotary/Clerk of Courts

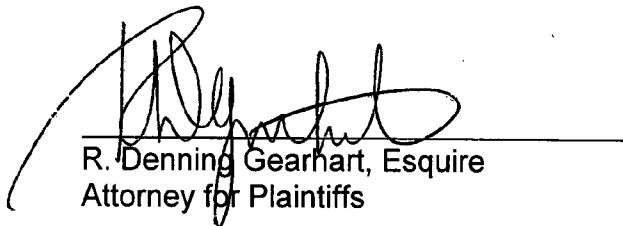
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WILLIAM D. BRATTON and SALLY A. :
BRATTON, Husband and Wife, :
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Defendants :

MOTION FOR PUBLICATION

AND NOW, to wit, this 7th day of September, 2006, an Affidavit having been filed by R. Denning Gearhart, attorney for the Plaintiffs, that the whereabouts of the above named Defendant, his heirs, successors and assigns, are unknown, the said R. Denning Gearhart moves the Court for leave to serve the Complaint upon the said Defendant, his, heirs, successors and assigns, generally by publication once in The Progress, Clearfield, Pennsylvania, and the Clearfield County Legal Journal, Clearfield, Pennsylvania.

Respectfully submitted,



R. Denning Gearhart, Esquire
Attorney for Plaintiffs

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his Heirs, Executors and Assigns,
Defendants

O R D E R

AND NOW, to wit, this _____ day of _____, 2006, upon
consideration of the foregoing Motion, the Plaintiffs are granted leave to make service of
the Complaint on the Defendant, his heirs, successors and assigns, by publication once
in The Progress, Clearfield, Pennsylvania and the Clearfield County Legal Journal,
Clearfield, Pennsylvania.

BY THE COURT,

JUDGE

Denied

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Defendant

MOTION FOR PUBLICATION

R. DENNING GEARHART
ATTORNEY AT LAW
CLEARFIELD, PA. 16830

FILED

SEP 07 2006

William A. Shaw
Prothonotary/Clerk of Courts