

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

THIBAUT ENTERPRISES, LLC v. DAVID A. YOST, CO-TRUSTEE UNDER THE YOST LIVING, ET AL.
(Record Number 250128)

From

The Court of Appeals of Virginia.

Counsel

Philip Carter Strother (Strother Law Offices, PLC) for appellant.

Bruce E. Arkema (Durette, Arkema, Gerson & Gill, PC) for appellees.

Assignments of Error

1. The Court of Appeals was plainly wrong as a matter of law to find that any objects placed in a defined width easement area *ipso facto* narrow the width of an easement thereby rendering the objects “a material encroachment” that interferes with the easement rights of the dominant estate.
2. The Court of Appeals was plainly wrong in affirming the trial court’s overly broad, bright line ruling that any objects placed by the servient estate owner in a defined width easement are prohibited without exception and must be removed.
3. The Court of Appeals was plainly wrong in finding that Thibault’s objects “narrowed the width” of the easement when the trier of fact concluded that the objects did not interfere with the Yosts’ use of the right of way over the outlet road.
4. The Court of Appeals was plainly wrong as a matter of law in its application of Virginia Code § 55.1-305 to find that the right granted to the dominant estate by the easement included the authority to prevent the servient estate owner from the reasonable use of the servient estate’s land in a manner that did not unreasonably interfere with the enjoyment of the easement by the owner of the dominant estate.