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Maddock v. Anderson, 830 N.W.2d 627 (N.D. 2013)

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Accordingly, the Court affirmed the Court of Appeals's decision that the DWS did not violate the United States Constitution and the New Mexico Constitution, and that the DWS did not violate Petitioners' due process rights.

Devon Bell

NORTH DAKOTA

Maddock v. Andersen, 830 N.W.2d 627 (N.D. 2013) (holding that the district court did not err in denying injunctive relief to appellants in challenge to stop water flow onto their land from a drainage ditch on appellees' adjacent property by holding (i) appellees demonstrated a reasonable necessity and use for the drainage ditch; (ii) appellees could not reasonably avoid injury to appellants' property; (iii) the appellees' benefit of homestead protection outweighed the injury to appellants' crops; (iv) "Act of God" designation properly described increased rainfall, and; (v) appellants failed to mitigate the water flow's damage).

Appellants Francis and Deborah Maddock ("the Maddocks") appealed the District Court, Dickey County, Southeast Judicial District's denial of permanent injunctive relief in the Maddocks' suit against Larry and Jane Andersen ("the Andersens") to stop water flow onto the Maddocks' farmland from a drainage ditch on the Andersens' property. The Maddocks alleged the Andersens' drainage ditch, which in the past properly drained water into a slough on the Andersens' farm, now unreasonably drained and pooled water onto the Maddocks' land and caused injury to a portion of their crops. Expert witnesses from both parties testified at trial about water flow from the drainage ditch, slough, and other areas. The district court concluded the Maddocks failed to prove the drainage ditch contributed primarily to the pooled water on their land. The district court also concluded the Andersens satisfied the reasonable use doctrine as applied to surface water drainage by showing they needed the open drainage ditch to protect their homestead, and they took reasonable care to prevent unnecessary injury to the Maddocks' property.

The Maddocks appealed the district court's ruling to the Supreme Court of North Dakota ("court"), arguing that the district court erred in (i) finding the Andersens complied with the reasonable drainage use rule and (ii) denying the Maddocks' prayer for injunctive relief.

The court defined the surface water drainage reasonable use doctrine: a landowner, acting in good faith and with a legitimate purpose, could drain surface waters from his land to another's land. The court further stated that surface water drainage satisfies the reasonable use doctrine if: (i) there is reasonable necessity for such drainage; (ii) the draining land's owner takes reasonable care to prevent unnecessary injury to the receiving land; (iii) the benefit to the drained land outweighs the receiving land's injury; and (iv) the draining land's owner reasonably improves the natural drainage system, where practicable, or adopts an artificial drainage system.

The Maddocks first argued that the district court should order the drainage ditch's closure because the Andersens did not show a reasonable necessity

for it. The district court found the Andersens' expert witness credible, however, when he testified that a drainage ditch closure would cause a 2.2 foot water rise on the Andersens' land and flood their homestead. The district court thus held the Andersens showed a reasonable necessity for the ditch.

The Maddocks then argued that the Andersens did not take reasonable care to prevent unnecessary injury to the Maddocks' land, because the ditch in question, as well as other ditches, improperly drained into the slough. The district court found, however, that the Andersens' 1960's drainage ditch construction complied with then-current federal agency drainage and soil-conservation standards. Further, the district court concluded the Andersens could not take reasonable steps to avoid injury to the Maddocks' land. Additionally, the district court stated, as a matter of public policy, the benefit of protecting the Andersens' homestead outweighed the injury to a portion of the Maddocks' crops.

The district court found that the Maddocks had failed to sufficiently establish the alleged water flow came from the Andersens' property and not other sources. It also recognized that the Andersens' properly proved the increased rainfall that caused increased water drainage was an "Act of God," because an abundant and natural wet cycle typically causes crop loss. Finally, the district court found the Maddocks failed to mitigate damages by delaying the local township's culvert installation on a nearby road. The culvert would have provided timely pooled water drainage from the Maddocks' land.

The court found no error in the district court's findings of fact or its conclusion that the Andersens satisfied the surface water drainage reasonable use doctrine, nor in its denial of injunctive relief. Accordingly, the Court affirmed the district court's judgment.

Sarah J. McGrath