

Court of Special Appeals Senez v. Collins - Briefs & COSA Opinion No
02344, September 2007, 10/3/08 - Rebuttal

Senez v Collins 1st Appeal - Collins Brief 12/21/07

Rev. 8/03/14

Page 2 “When Myers took title to 341 Worton Rd in 1981, a concrete retaining wall existed near the property line between 339 Worton Rd and 341 Worton Rd. The wall failed sometime in the 1980’s and was rebuilt in its original footprint by Cook, Appellee’s predecessor in title.

Senez: Collins brief is contradictory to Collins own story, that the wall was put in as a cooperative effort for a co-owned boat ramp! If the wall was there when Myers purchased the property there was no cooperative effort for a co-owned boat ramp. The wall runs right down to the end of the bulkhead with no access from the Cook / Collins side to Myers / Senez side. The wall is 24 – 28 inches high at that point. I have twelve signed affidavits that all prove the co-owned boat ramp is a lie.

10/3/08 COSA Senez v Collins #02344 Reported Opinion ruling No. 111 September 2007 Filed. Krauser, C.J., Charles E. Moylan, Jr, Hollander – opinion

Appeal Reported Opinion Ruling 10/3/08

Page 5 Mr. Myers recalled that the wall (or a predecessor to it) was already in place when he purchased the property now owned by appellant. Mr. Myers recounted that he constructed the boat ramp.

Senez: Mr. Myers recounted that he constructed the boat ramp, no help from Mr. Cook. In fact Mr. Myers tied the side bulkhead into the Cooks property to help the Cooks with an erosion problem!

Myers deposition pages:

- 13 Myers put ramp there
- 14 Myers put ramp in himself
- 37 I didn’t know anything, cement launch ramp Myers put in
- 38 no complaints the ramp encroached onto 339's property
- 48 Myers responsible for putting in boat ramp
- 49 Mr. Cook never objected
- 49 Mr. Cook not involved in anyway
- 49 Myers went from south to north to inside boat ramp. He had pile driver come back and put one on the other side to help the Cooks from losing property.
- 55 No idea who constructed original wall, It was there when I got there
- Property included ramp Myers built
- 55 Mr. Myers believed he owned the property including the ramp
- 55 Not aware of property line going through both properties
- 60 Didn’t understand where the actual property line was when he maintained area
- 71, Myers didn’t recall anybody else using the ramp other than himself and those he helped bring their boats into the water.

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71, Myers intention was that he was selling the boat ramp with the house.
82 No knowledge where the exact line was
83 Myers built the ramp
38, 59, 60, 70, 71, 89, 90 Permissive use only.

Fence before Moving in

Page 9- Ms. Collins said, hum, I can't answer that because my husband and I own the property jointly, we'll have to talk about it.

Mrs. Collins maintained that the fence was absolutely constructed without appellee's permission.

Senez: I did construct the fence without asking Mrs. Collins because I thought it was my property. I think Ann Collins statement is odd, most people would say I'll have to talk it over with my husband. Too much detail!

Ann Collins testimony in court pages 18, 19, & 20; she stated Senez asked, "if my fence could follow the wall instead of the property line and we came down and there was the fence. The response was, you did not say no." They remembered every other detail whether fact or fiction but they didn't remember to tell their attorneys I asked permission when they filed the original complaint, or when answering the Counterclaim for Title by Adverse Possession, when answering the interrogatories or in Mr. Myers deposition.

The only person I asked permission of was Mr. Myers since he still owned the property.

Trial Transcript pages 18 & 36 Ann Collins states the fence was there before Senez moved in. Steve Collins page 65 & 66 – states the fence was up before she settled. Trial transcript Senez pages 99, 100 & 148 – I stated that I had the fence built before I settled on the property. Judge Hollander picked up on this and put in the opinion.

Page 12 Appellant hired a contractor to erect the fence along the Wall prior to final settlement on the Senez Property with the Myers.

Senez: Judge Souder didn't understand in the trial hearing or at the remand hearing that I had the fence constructed before I went to settlement. Trial transcript Ann Collins page 18 & 36 states fence there before Senez moved in. Steve Collins page 65 & 66 – states the fence was up before she settled. Trial transcript Senez pages 99, 100 & 148 – I stated that I had the fence built before I settled on the property.

The Court of Special Appeals pointed it out in the opinion on page 12. The Collins also never complained to Mr. Myers as evidenced by the complaint, Answer to Counterclaim, interrogatories, or Mr. Myers deposition. Both Mr. Myers and the Collins testified that they were friendly while living side by side. The Collins never said anything to me or the contractor.

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Page 15 In 1981, when the Myers took title to 341, a concrete wall existed along the property line of 341 and 339. Myers installed a boat ramp which sat on both properties.

Senez: “Collins testified that the wall was erected by her predecessor in title, George Cook, and “juts in” because of a change in the line of Ms. Senez’s foundation wall. Mr. Myers testified wall existed prior to his purchase, meaning the location of the foundation wall could not have been a factor in the design of the foundation wall. Judge Souder isn’t aware of this in trial or the remanded hearing! Carney never points out the discrepancy in the timeline.

Mr. Myers said he thought that property was his. He believed he owned the boat ramp. He thought he was selling the boat ramp with the house.

Myers deposition pages:

14, 37, 38, 48, 49, 55, 83, 71, 82, 83, 89

38 no complaints the ramp encroached onto 339's property

38, 59, 60, 70, 71, 89, and 90, Permissive use only;;

59, well, the son in law of George Cook used it, Others used with Mr. Myers help

71, Myers intention was that he was selling the boat ramp with the house.

49 Myers went from south to north to inside boat ramp. Then he had pile driver come back and put one on the other side because they were losing property.

49 Mr. Cook not involved in any way

55 Mr. Myers not aware of property line that’s going through both properties

62, 71, 72, 88, Collins didn’t use boat ramp;

72 “I don’t remember Mrs. Collins using the boat ramp.”

88 Myers didn’t recall Collins ever launching a boat

Page 17 Mr. Myers deposition does not contain a specific assertion that he showed the survey to appellant in particular.

Senez: Judge Souder never picked up on this fact in the remand hearing even after the Court of Special Appeals pointed it out to her! Page 17 the Court of Special Appeals says, “Mr. Myers deposition does not contain a specific assertion that he showed the survey to appellant in particular.” I had also given Carney witnesses to show that I never saw a survey however he never contacted them.

Page 24 Mr. Myers constructed the boat ramp in its entirety, and constructed the wooden bulkhead along the north side of the boat ramp, entirely within the disputed area, to prevent erosion of the land.

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Myers deposition pages:

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71, Myers intention was that he was selling the boat ramp with the house.

49 Myers went from south to north to inside boat ramp. He had the pile driver come back and put one on the other side because they(Cook's) were losing property.

49 Mr. Cook not involved in any way

55 Mr. Myers not aware of property line that's going through both properties

Page 32 "Whether Appellee's entered on the land and did so in a sufficient manner to destroy Myers' assumed adverse possession of the disputed parcel will be the central question to be addressed as the Court considers the matter at bar"

Senez: Judge Souder never understood this during the Circuit Court trial hearing. Occasional use does not interrupt the element of adverse possession.

Myers Deposition pages:

62, 71, 72, 88, Collins didn't use boat ramp.

72, "I don't remember Mrs. Collins using the boat ramp."

88 Myers didn't recall Collins ever launching a boat.

Circuit Court misapplied the relevant law

Page 34 Thus it was incorrect for the circuit court to conclude that any use of the property was equivalent to possession.*

Senez: Judge Souder gets her second slap for an erroneous ruling. Judges should be impartial and base their rulings on law!

Page 39 "is contrary to [the circuit court's] erroneous focus on the cordial relationship between Mr. Cook and Mr. Myers." Indeed, appellees do not even address the issue of hostility in their brief.*

Senez: Judge Souder gets another slap for an erroneous ruling. Judges should be impartial and base their rulings on law!

Page 39 The wall was already in place when the Myers took possession of their property.

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Senez: Correct! So Collins story of a cooperative effort for a boat ramp is a lie. This however is what Judge Souder believed and that was in her closing. Trial transcript, page 192, Judge Souder says, “Unless the parties reach an agreement, both parties have A right to use the boat ramp just as they have done.”

Page 39 There was scant evidence in the record from which the court could have concluded that use by appellant and the Myers was not hostile to the owners of the Collins property.*

Senez: Again Judge Souder is being scolded. This however is really Carney’s fault! He says he knows more about adverse possession than most attorney’s, page 35 of his deposition, why didn’t he bring these things out?

Page 40 To be sure, appellant’s construction of the fence was a hostile, non-permissive use of the disputed area.

Senez: Yes, however Judge Souder wasn’t aware in the remand hearing that I built the fence prior to settlement.

Trial transcript page 18 & 36 Ann Collins states the fence was there before I moved in. Steve Collins page 65 & 66 – states the fence was up before she settled. Trial transcript Senez pages 99, 100 & 148 – I stated that I had the fence built before I settled on the property. The Court of Special Appeals said it on page 12.

Page 43 On the other hand, appellant’s version of the conversation (that she informed appellees but did not seek their permission to locate the fence on the Wall), coupled with her conduct in erecting the fence without appellee’s permission, would not evince such an acknowledgement.

Senez: I didn’t ask Collins permission. That would have been the dumbest question I could have ever asked! This question is not in the Collins complaint, interrogatories, Answer to Counterclaim or Mr. Myers deposition. I asked Mr. Myers permission to put up the fence. That in and of itself should not have interrupted the 20 years, it was still his property!

- 1- If Collins came back and said “no,” I would have to take the fence down, after I just paid to have it put up.**
- 2- Collins could cross the fence line and would have full access to my yard and boat ramp. The Collins, their family, grandchildren friends and pets coming over at all times of the day and night. I didn’t even know the Collins at the time.**
- 3- I’ve had Labrador Retrievers for the last 30 years. I had two Labrador Retrievers at that time. I couldn’t have people coming into my yard, wandering around whenever they felt like it.**

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- 4- A shared or co-owned boat ramp would be a huge liability issue. If I had known about the property line that would have been a deal breaker on buying the house. And I'm sure it would be for others as well.

In addition:

- 5- Collins never said anything to Mr. Myers who was still living there about the fence being on their property. And they both testified they were friendly.
- 6- Mr. Myers never said anything to me, he was still living there. We hadn't gone to settlement. Mr. Myers recommended the contractor.
- 7- Mr. Covahey and Judy Ensor, now Judge Ensor, never knew about the "question," Ann Collins was going to say I asked.
- 8- Mr. Carney never told me about the supposed question and what it would mean to my case.
- 9- Why did the Collins make up so many other accusations if they knew the property line and I asked permission?

Page 43 Because the circuit court did not resolve the conflict, and instead resolved the question of hostility on a legally erroneous ground, we must vacate the judgment and remand to the circuit court for further proceedings.*

Senez: Judge Souder gets slapped again. But I believe this is Carney's fault again since he didn't address adverse possession in the Circuit Court trial however he claims to be more knowledgeable than most attorneys.

In the default hearing with Judge Bollinger on 5/13/09, page 22 & page 23, Mr. Carney claims he taught real property for twenty years. Mr. Carney says, he grew up cutting his teeth in a real property law firm where he put over a thousand real property settlements through to conclusion before he even took the bar exam.

This should have never happened. There was no evidence that Collins had access to the boat ramp. The Collins produced one picture of Ann Collins and her granddaughter on the boat ramp feeding the geese. She asked me for permission and that picture is taken between November 2000 and 6/22/02, you can see the wire fence I had put up when I moved in. The wood fence was put up 7/14/02 after I repaired the boat ramp at my expense. That's all the pictures the Collins had to show!

Mr. Myers deposition pages:

- 38, 59, 60, 70, 71, 89 and 90, Permissive use only.
- 59, well, the son in law of George Cook used it. Others use the boat ramp
- 62, 71, 72 and 88, Collins didn't use boat ramp;
- 72, "I don't remember Mrs. Collins using the boat ramp."
- 88 Myers didn't recall Collins ever launching a boat

Carney never pointed out any of this information!

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Senez: The Court of Special Appeals really understood the issues and gave Judge Souder an easy out to correct the ruling. Judge Souder wasn't about to change her ruling since she was scolded on pages 34, 39 & 43 of the Court of Special Appeals Opinion indicating again she had no idea what Adverse Possession was about.

The first error Judge Souder made was the illegal ruling she made and had to amend on 2/26/07. "Judgment on Count IV (possession of property) is hereby entered in favor of Plaintiffs and against Defendant in that Defendant is hereby ordered, absent an agreement to the contrary, to remove any gate or fence blocking mutual access by the parties for the mutual enjoyment and use of the entire boat ramp by all parties, presently located on the east side of No. 341 Worton Rd."

Case Opinion Recorded in the Westlaw Next as:

Senez v. Collins, 182 Md.App. 300 (2008)

Senez v. Collins, 957 A.2d 1057

Senez: This case is all based on a lie by the Collins and should be removed from the law books!

Senez v Collins 2nd Appeal with Collins

04/18/11 COSA Senez v Collins No. 2344 Unreported opinion ruling September Term 2009, Filed April 18, 2011

Woodard, Matricciani, Watts – Woodward, J wrote opinion

Senez: The Collins lied about everything but the Court of Special Appeals basically said that I had no credibility! The Collins and all their lies are more credible! This was Carney's fault. He didn't dispute any of the allegations and therefore Judge Souder thought I had done all the things the Collins accused me of.

Judge Souder believed it was a co-owned boat ramp as evidenced by her closing remark on page 192, "Unless the parties reach an agreement, both parties have A right to use the boat ramp just as they have done."

Writ of Certiorari

I filed a petition for Writ of Certiorari but it was denied on 8/15/11