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DEDICATION - SOUTH DAKOTA

State v. Niemi

Supreme Court of South Dakota - July 15, 2015 - N.W.2d - 2015 WL 42939742015 S.D. 62

Landowners filed declaratory judgment action against township seeking determination that road traversing property was not public road. Owners of land accessible by road intervened and filed counterclaims asserting that road was public or that they were entitled to prescriptive easement. The Circuit Court found that road had been dedicated to public use by implication. Landowners appealed.

The Supreme Court of South Dakota held that evidence supported finding that roadway was public road by operation of implied common-law dedication.

Evidence supported finding that actions of landowners and predecessors in interest expressed intent to dedicate road traversing property as public road, and that township accepted dedication, so as to establish that roadway was public road by operation of implied common-law dedication. Original homesteader requested or acquiesced in township's maintenance of road, other predecessors in interest similarly acquiesced and allowed township to pay for and install cattle guard, female landowner's first husband requested road maintenance, after female landowner became record owner, she acquiesced in maintenance of road, township had maintained road at request of surrounding landowners for over 80 years, and public had used road to access dam, school, and adjacent properties for decades.

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