

Court upholds Owls Head access to waterfront road

BY STEPHEN BETTS
BDN STAFF

OWLS HEAD — The state's highest court has upheld the town's easement on a strip of waterfront land owned by a New York couple, assuring access to the beach by neighbors.

The case has been in the court system for more than four years and cost taxpayers more than \$100,000 to defend the public easement.

The Maine Supreme Judicial Court issued the ruling Thursday in the appeal filed by Darlene and Lewis Edwards III of Saugerties, New York. The Edwardses had argued that neither the town nor their neighbors had the right to cross the property to reach Rockland Harbor.

The town's attorney, William Dale, said town officials were very pleased with the outcome.

Attorney David Soley of Portland said the Edwardses were disappointed with the decision. He said they moved into the neighborhood in good faith, and there was nothing filed in the registry of deeds to indicate that the town or their neighbors had the right to cross their property.

The high court pointed out that state law requires anyone challenging a town's vote on designating a public easement must appeal within 30 days. Residents voted for the public easement at an August 1986 town meeting.

The justices also ruled

that the description of the location of the public easement is clear and includes the road that goes to the waterfront, which the Edwardses claim is their driveway.

The justices said that the immediate neighbors Cynthia Blackman; her brother, Eliot A. Scott; and their parents, Nathalie M. Scott and Willis A. Scott Jr., have the right to cross the property for bathing and boating purposes.

From 1973 to 1986, the town hired contractors to sand and plow Coopers Beach Road, which was then a private road composed of four separate branches all the way to the cul-de-sac located on what is now the Edwardses' property. After

the town learned that it was not allowed to expend public funds to maintain private roads, the town announced its intent to cease plowing private roads at the end of the 1985-86 winter season. Residents in that area then signed a petition that led to the town vote.

The Edwardses purchased the 1.7-acre lot at the end of Coopers Beach Road in March 2011 for \$274,300 after a bank foreclosed on the previous owners. Coopers Beach Road runs from North Shore Drive to near the harbor.

In November 2011, they filed a lawsuit to block their neighbors from crossing their property and also to challenge the town's public easement, which allows the

municipality to plow and sand the road.

Justice Jeffrey Hjelm sided with the town and neighbors in a July 2014 decision. The Edwardses appealed that ruling to the supreme court.

Hjelm had stated in his ruling that Coopers Beach has been described as a colony, for good reason.

"Homeowners, both year-round and seasonal, have developed strong friendships with each other. As an aspect of the relationships among them, they sometimes walk on or otherwise use each other's property. Families visited with each other, and there were neighborhood parties and events," Hjelm stated in his ruling.

He also said that use of the beach by neighbors was a long-standing practice.

Soley said the municipal government is taking away the property rights of the Edwardses by its action. He said when his clients purchased the property, they had no way to know that the town claimed an easement over it.

He said soon after the owners moved into the house, the next-door neighbor would cross their property six to seven times a day and would give them nasty looks.

The Edwardses also filed a lawsuit against their title company. The status of that case was not immediately available Thursday afternoon.



A vehicle of Mexico's National Migration Institute enters an immigration office at Iztapalapa neighborhood in Mexico City, Mexico, on Thursday. Ethan Couch, the Texas teenager derided for his "affluenza" defense in a deadly drunken-driving case, won a weeks-long delay in extradition from Mexico, while his mother was in a Los Angeles jail on Thursday after being deported.

Return of Texas 'affluenza' teen delayed

BY ALEX DOBUZINSKIS
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REUTERS

LOS ANGELES — The Texas teenager derided for his "affluenza" defense in a deadly drunken-driving case won a weeks-long delay in extradition from Mexico, while his mother was in a Los Angeles jail on Thursday after being deported.

A court in Mexico granted fugitive 18-year-old Ethan Couch, who faces likely incarceration in Texas, a stay against deportation following his illegal entry into the country, a Mexican migration official said, speaking on condition of anonymity.

The stay could delay his return by weeks or months, the official said. The right to appeal against deportation filed by lawyers for the teen after his detention this week was accepted by the court, which will now review his case, the official added.

Ethan and his mother, Tonya Couch, 48, entered the country by land earlier this month, according to Mexican officials, though it was unclear where. The two were arrested on Monday in the Pacific Coast resort city of Puerto Vallarta.

The pair fled south after officials in Tarrant County,

Texas, began an investigation into whether Couch violated the probation deal that kept him out of prison after he killed four people with his pickup truck in 2013.

Tonya Couch, who was wanted on a charge of hindering apprehension, was flown out of Mexico to Los Angeles late on Wednesday. She is being held without bail in the Metropolitan Detention Center in Los Angeles and faces transfer to Texas, said Los Angeles police spokeswoman Jane Kim.

Officials have not announced a date for the move. But Tarrant County Sheriff Dee Anderson said Couch was not expected to be transferred until she is arraigned in California next week.

Couch is due in Los Angeles County Superior Court on Tuesday, Kim said.

A lawyer for Couch did not respond to a request to comment. If convicted of the hindering charge, she could face two to 10 years in prison, Anderson said.

Anderson said when Ethan Couch arrives back in the United States, he would appear at a detention hearing in the juvenile justice system. If found in violation of his probation, as seems likely, the judge could keep him in a juvenile facility or

send him to an adult jail, he said.

At this point, he may only face a few months behind bars under the juvenile justice system. But Anderson said county prosecutors are looking at additional charges in the adult system.

Ethan Couch was transferred on Wednesday to a migration facility in Mexico City where illegal immigrants are held while their cases are processed. Most are from Central America.

"He'll be there until his appeal is over, which will ultimately end in deportation," the migration official said, adding that Couch would not be allowed out of the facility.

Inside the center, which lies in the sprawling working-class district of Iztapalapa in eastern Mexico City, Couch would sleep in a bunk bed in a dorm with likely three or four other people, and use communal washing facilities, the official said.

While there, Couch will only be allowed to receive visits from family members or legal representatives he has designated. He is not permitted access to cell phones or computers and must eat meals and go to bed at hours prescribed by the facility.

"All the foreigners are treated the same. He doesn't have special conditions. He'll live alongside all the foreigners there who are in the country illegally," the official said.

During Couch's trial in juvenile court over the crash in 2013, a psychologist testified on his behalf that he was afflicted with "affluenza," meaning he was so spoiled by his wealth that he could not distinguish between right and wrong.

The diagnosis is not recognized by the American Psychiatric Association and was widely ridiculed.

Couch was convicted of four counts of intoxication manslaughter and sentenced to 10 years of drink and drug-free probation, which critics saw as leniency because of his family's wealth. His flight to Mexico rekindled anger over that sentence.

Couch and his mother absconded to Mexico after a video surfaced online apparently showing the teen at a party where beer was being consumed.

During their last days in Puerto Vallarta, the two lived in a modest apartment and tried to stay under the radar, local people and neighbors said.

Workers

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of workers that recently reached a confidential settlement with one carnival company, Fiesta Shows. The class action suit, filed in October of 2013 in U.S. District Court in Massachusetts, alleged that the carnival should have paid workers hourly, rather than a flat fee.

Fiesta Shows did not respond to calls seeking comment.

Judkins said he never would blacklist workers who voice concerns. He said Garcia never complained to him about what the carnivals paid and that he did not know the details of the Massachusetts case.

Under the federal regulation of the visa program, employers must agree to pay the workers minimum wages approved by the U.S. federal government. One of the few legal alternatives is if a union representing the workers agrees to lower pay.

In 2013, dozens of Judkins' carnival clients began entering into collective bargaining agreements with the Association of Mobile Entertainment Workers, which claimed to be a union representing the Mexican workers.

The association agreed that its members would be paid at a weekly, rather than hourly, rate. Worker advocates contend that an hourly wage is legally required and would be much higher than the flat weekly scale.

Whether the group truly represented the workers is now a point of contention.

Controversial union

Documents submitted by the union to the federal government show that several of Judkins' top aides are officers of the union. In fact, three top officers are members of Apolinar's family. The association also is registered in Maine under the name of Judkins' sister, Deborah Judkins.

It's against the law for an employer or its agents to assist in the creation of a union. In 2014, lawyers concerned about the carnival workers filed complaints with the labor relations board, alleging that the association, the employers and JKL Workforce had done just that.

The union is essentially a ruse, created by Judkins himself to suppress wages, said Art Read, an attorney with Florida Legal Services who helped file the complaints. "What was surprising was their brazenness, this notion that they were so bold to come up with this approach," Read said.

In November, the association entered a settlement with the labor relations board in which it agreed to dissolve the collective-bargaining agreements from 2014 and reimburse \$25,000 of dues and fees to the workers. Last week, the board finalized a separate settlement with 33 employers who agreed to pay an additional \$37,000 in dues and fees that had been withheld from workers' wages.

The lawyers' complaint against the employers is still pending. So is the one against Judkins. The lawyers hope the board will obtain hundreds of thousands of dollars in lost wages from the employers for the workers. Citing the ongoing investigation, a spokesman with the labor relations board declined to comment.

The carnival companies said neither they nor Judkins had done anything wrong. They insisted the workers wanted the union.

Employer Betty Gillette,

president of Gillette Shows, said her company settled the case to avoid the attorney fees that an ongoing legal battle would've required. She praised Judkins and the Mexican carnival workers he recruits for her. The problem, she said, was bureaucracy.

"The government makes it hard on all of us," Gillette said. The documentation needed to hire foreign workers, and now the involvement of the labor relations board, is onerous, she said. "I don't understand why it has to be so hard with a lot of paperwork, regulations and rules."

Judkins said the union is legitimate, although he offered conflicting accounts of how it came to be. He initially said that one of his employees, the sister-in-law of partner Apolinar, hatched the idea. In a subsequent interview, Judkins said the workers themselves came up with the plan.

He called the complaints offensive because they implied that workers weren't smart enough to unionize on their own. That's also the view of his sister, Deborah, a former part-time town administrator in Upton, Maine. She said she agreed to help run the union at the request of Judkins and one of his Mexican agents, who helped organize it.

Judkins said a weekly pay rate ensures workers get a minimum salary even when they work less than 40 hours. The collective bargaining agreements would offer other benefits too, such as a guarantee of free housing, Judkins said.

In meetings with federal lawmakers, Judkins has lobbied for fewer restrictions on how companies choose to reimburse foreign workers. He's also involved in four lawsuits that challenge efforts to increase government regulations of the foreign worker program.

Workers say that they have little choice but to accept the conditions of their employment if they hope to work another carnival season.

One worker, Hugo Ruiz, said he enjoyed his stint at Cole Shows Amusement Company this year. But he said the carnival he worked at the summer before required him and others to work for as many as 20 hours a day. He said he never complained to Apolinar or Judkins about the previous employer for fear they would label him a troublemaker and keep him from returning to the United States for more work.

"I thought, 'I don't want to get involved in problems, better to just endure it. Just shut your mouth and don't say anything,'" Ruiz said.

Still, Ruiz remains grateful for the opportunity. On the bus ride from Tlapacoyan to Covington this year, he kept a journal. In one entry, Ruiz wrote about looking forward to crossing the border to "begin the American Dream."

That's also how many of the other workers view their experience.

In October, the last month of the carnival season for Cole Shows, the Mexican workers gathered outside their mobile bunkhouses at the Halifax County fairground in South Boston, Virginia. Over a lunch of chicken marinated in chili flakes and pork chops, they reflected on the past six months of work as they prepared to return to Mexico.

Eduardo Sesena, 19, said he was grateful for the job — and for the help that carnival owner Cole provided. Cole lent Sesena money to pay for ultrasounds and other medical tests for Sesena's wife, who learned she was pregnant the day he got word of his carnival job, he said.

He hopes to return next year.

Environmentalists sue Oregon in gray wolf case

REUTERS

PORTLAND, Oregon — Environmental groups have sued Oregon wildlife officials for removing gray wolves from a list of state-protected endangered species, officials said on Thursday.

Three environmental groups led by the Center for Biological Diversity filed a brief petition for judicial review with the Oregon Court of Appeals on Wednesday.

"It's not rocket science that roughly 80 wolves in 12 percent of suitable habitat in Oregon does not equal a recovered population," Noah Greenwald, endangered species director for the Diversity group, said in a statement announcing the legal challenge.

The petition, which Greenwald said is the first step in a lawsuit, comes a month after

the Oregon Fish and Wildlife Commission voted to remove the wolves from the list. The state said the wolves had recovered in sufficiently healthy numbers and no longer faced the threat of extinction.

The environmental groups have long-argued that state biologists' population viability surveys were flawed.

Michelle Dennehy, a spokeswoman for the Oregon Department of Fish and Wildlife, said she had no comment on the petition because the department had not reviewed it, but added: "We are confident that we followed statutory and legal requirements and that the commission acted legally when it delisted wolves."

Dennehy said delisting the wolves would not immediately change protections

The petition comes a month after the Oregon Fish and Wildlife Commission voted to remove the wolves from the list of state-protected endangered species

for the animal, and that a general sport hunting season would still be prohibited. However, controlled hunting for wolves could begin as early as 2017 if the wolf population continues to grow and the state observes chronic livestock or deer and elk population losses, she said.

Gray wolves, native to Oregon, were wiped out in the state by an eradication campaign in the early 20th century.

They first returned in 2008 and have spread to several parts of the Pacific Northwest state.

The commission's decision covers all wolves in the state except a portion of the wolves on the west side of Oregon that are still protected under the U.S. Endangered Species Act.

The wolves, roam the wilds of Oregon in 16 packs, are loathed by many ranchers and hunters who say they threaten cattle and elk herds, among other reasons. In his statement, Greenwald said the delisting was "plain political kowtowing to the livestock industry."

Last month, an Oregon hunter was charged with shooting dead a gray wolf, an offense that carries a maximum penalty of \$6,250 in fines and up to a year in jail.