No. 02-533

IN THE SUPREME COURT OF THE STATE OF MONTANA

2002 MT 338N

MICHAEL J. ROSE and
SUSAN M. ROSE,

Plaintiffs and Respondents,

v.

GEORGINE M. WHITE and
ROBERT L. WHITE,

Defendants and Appellants.

APPEAL FROM: District Court of the Sixth Judicial District,
In and for the County of Park,
The Honorable Randal I. Spaulding, Judge presiding.

COUNSEL OF RECORD:

For Appellants:

Georgine M. White, Robert L. White, Livingston, Montana (*pro se*)

For Respondents:

Douglas D. Howard, Heard & Howard, Columbus, Montana

Submitted on Briefs: December 13, 2002

Decided: December 20, 2002

Filed:

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Clerk

Justice James C. Nelson delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court 1996 Internal Operating Rules, the following decision shall not be cited as precedent but shall be filed as a public document with the Clerk of the Supreme Court and shall be reported by case title, Supreme Court cause number and result to the State Reporter Publishing Company and to West Group in the quarterly table of noncitable cases issued by this Court.

¶2 Georgine M. White and Robert L. White, *pro se*, appeal from the Sixth Judicial District Court's July 9, 2002 Findings of Fact, Conclusions of Law and Order holding, among other things, that Michael J. Rose and Susan M. Rose, have established a prescriptive title to certain real property located in Park County, Montana. This real property is described as follows:

> The "Maudlin Tract" of Recorders Plat No. 329, located in Lot 7 of Section 2, Township 3 South, Range 9 East, M.P.M., Park County, Montana, and as remonumented and described on Certificate of Survey No. 1613, according to the official map or plat on file and of record in the office of the County Clerk and Recorder, Park County, Montana.

¶3 The trial court concluded that the requirements of §§ 70-19-408 and 411, MCA, were satisfied as were the mandates of this Court's decisions in *Stimatz v. State Dept. of Revenue* (1980), 189 Mont. 179, 615 P.2d 228, and *Tungsten Holdings v. Parker*, 2001 MT 117, 305 Mont. 329, 27 P.3d 429.

¶4 The issue in this appeal is whether the District Court's findings of fact are supported by substantial evidence and are, therefore, not clearly erroneous and whether the court's conclusions of law are correct. *Ray v. Nansel*, 2002 MT 191, ¶¶ 19-20, 311 Mont. 135, ¶¶ 19-20, 53 P.3d 870, ¶¶ 19-20 (citations omitted).

¶5 On the face of the briefs and the record on appeal before us it is manifest that the appeal is

without merit because the issue is clearly controlled by settled Montana law; because the issue is factual and there is clearly sufficient evidence to support the trial court's findings of fact; and because the court's conclusions of law are correct.

¶6 Affirmed.

/S/ JAMES C. NELSON

We Concur:

/S/ KARLA M. GRAY
/S/ W. WILLIAM LEAPHART
/S/ PATRICIA COTTER
/S/ JIM REGNIER