

ORIGINAL

IN THE SUPREME COURT OF OHIO

Phillip B. Dodd, et al.,	:	
	:	
Appellants,	:	Case No. 2013-1730
	:	
v.	:	
	:	Jurisdictional Appeal from
John Croskey, et al.,	:	Seventh District Court of Appeals.
	:	Harrison County, Case No. 12 HA 6
Appellees.	:	

**MERIT BRIEF OF *AMICI CURIAE*,
 THE NOON AND SHEPHERD MINERAL INTEREST OWNERS,
 IN SUPPORT OF APPELLEE/CROSS-APPELLANT HARRIET EVANS'
 PROPOSITION OF LAW NO. II**

Matthew W. Warnock (0082368)*
**Counsel of Record*
 Daniel C. Gibson (0080129)
 Daniel E. Gerken (0088259)
 Bricker & Eckler LLP
 100 South Third Street
 Columbus, Ohio 43215-4291
 Telephone: (614) 227-2300
 Facsimile: (614) 227-2390
 E-mail: mwarnock@bricker.com
 dgibson@bricker.com
 dgerken@bricker.com

FILED
 SEP 17 2014
 CLERK OF COURT
 SUPREME COURT OF OHIO

Paul Hervey (0063611)*
**Counsel of Record*
 Jillian Daisher (0087051)
 Fitzpatrick, Zimmerman & Rose, L.P.A.
 P.O. Box 1014
 New Philadelphia, Ohio 44663
 Telephone: (330) 364.1614
 Facsimile: (330) 343.3077
 Email: pbha@fzrlaw.com
 jdaisher@fzrlaw.com

Counsel for Appellants

Counsel for Amici Curiae, Noon and Shepherd Mineral Interest Owners

R. Jeffrey Pollock (0018707)*
**Counsel of Record*
 Erin K. Walsh (0078142)
 McDonald Hopkins LLC
 600 Superior Ave., East, Suite 2100
 Cleveland, Ohio 44114
 Telephone: (216) 348.5400
 Facsimile: (216) 348.5474
 Email: jpollock@mcdonaldhopkins.com
 ewalsh@mcdonaldhopkins.com

Ronald K. Lembright (0023732) *
**Counsel of Record*
 One Cascade Plaza, 15th Floor
 Akron, Ohio 44308
 Telephone: (440) 781-4639

Counsel for Appellees William L. Kalbaugh, William H. Boak, Jennifer Bernay, Charlotte S. Bishop, Richard G. Davis, Harry Roy Davis, Thomas Davis, Harry K Kalbaugh, Michael L. Kalbaugh, and Charlotte S. Bishop

Counsel for Appellees, Karen A. Chaney, Patty Hausman, Linda C. Boyd and Terri Hocker

Rupert Beetham (0019088)*
*Counsel of Record
110 S. Main Street
P.O. Box 262
Cadiz, Ohio 43907
Telephone: (740) 942-8282

*Counsel for Appellees John William
Croskey, Mary E. Surrrey Roy Surrey,
Emma Jane Croskey, Margaret Ann
Turner, Mary Louise Morgan, Martha
Beard, Lee Johnson, Edwin Johnson,
Joann Zitko, David B. Porter, Joann C.
Wesley, Cindy R. Weimer Evart Dean
Porter, Stuart Barry Porter, Brian K
Porter, Mary Elaine Porter, Kim Berry,
Samuel G. Boak, Lorna Bower, Sandra J.
Dodson, and Ian Resources, LLC*

Brian Crist
3384 N. River Rd.
Zanesville, Ohio 43701

Appellee, pro se

Marquette D. Evans (0008082)*
*Counsel of Record
Evans Law Office
902 Race Street, Second Floor
Cincinnati, Ohio 45202
Telephone: (513) 381-6222
Facsimile: (513) 381-8333

Counsel for Appellee, Harriet C. Evans

Consolidated Coal Company
(n/k/a Consol Energy, Inc.)
1000 Consol Energy Dr.
Canonsburg, Pennsylvania 15317

Appellee

TABLE OF CONTENTS

	<u>Page</u>	
TABLE OF CONTENTS.....	i	
APPENDIX Appx. Page.....	i	
TABLE OF AUTHORITIES	ii	
STATEMENT OF INTEREST OF <i>AMICI CURIAE</i>	1	
STATEMENT OF FACTS	2	
ARGUMENT IN SUPPORT OF APPELLEE/CROSS-APPELLANT HARRIET EVANS' PROPOSITION OF LAW NO. II.....	3	
<i>A restatement of a prior mineral reservation in later deeds is a title transaction within the meaning of § 5301.56, Ohio Revised Code.</i>		3
A. The interplay between R.C. 5301.55 and R.C. 5301.49 requires that a transfer of the surface which specifically references the severed oil and gas mineral interest constitute a "savings event" under R.C. 5301.56.		4
B. The legislative history of the DMA supports the conclusion that a severed oil and gas mineral interest is in fact the "subject of" any subsequent title transaction which specifically restates the mineral reservation regardless of whether the mineral interest is actually transferred.....		5
C. Longstanding principles of statutory interpretation support the position of Appellee and <i>amici curiae</i>		6
D. Rejecting Appellee's proposition of law runs contrary to the express purpose of the DMA and critical public policy considerations.		9
CONCLUSION.....	10	
CERTIFICATE OF SERVICE	12	
<u>APPENDIX</u>	<u>Appx. Page</u>	
Ohio S.B. 223 (1987) (as introduced).....	A-001	
Ohio S.B. 223 (1987) (as passed by the Senate).....	A-004	
<i>Oxford Dictionary and Thesaurus</i> (definition of "subject").....	A-008	

TABLE OF AUTHORITIES

Page

CASES

Dodd v. Croskey, 2013-Ohio-4257 (7th Dist.)..... 4, 6, 8, 9

Smith v. Landfair, 135 Ohio St.3d 89, 2012-Ohio-5692, 984 N.E.2d 1016 6

Walker v. Shondrick-Nau, 2014-Ohio-1499 (7th Dist.)..... 4

Walker v. Shondrick-Nau, Supreme Court of Ohio Case No. 2014-0803 1

STATUTES

R.C. 1.42 7

R.C. 5301.47(F) 3, 7

R.C. 5301.48 4

R.C. 5301.49 4

R.C. 5301.49(A)..... 4, 5

R.C. 5301.55 4, 9

R.C. 5301.56 2, 4

R.C. 5301.56(B) (2006 version) 3

R.C. 5301.56(B)(1)(c) (1989 version) 3

R.C. 5301.56(B)(3) 1, 2, 4, 7

R.C. 5301.56(B)(3)(a)..... 3, 7, 8, 10

R.C. 5301.56(B)(3)(e)..... 7

OTHER AUTHORITIES

Oxford Dictionary and Thesaurus 8

STATEMENT OF INTEREST OF AMICI CURIAE

The State of Ohio is experiencing a resurgence in oil and gas leasing activity as a result of technological advancements that have made it possible to produce oil, natural gas, and natural gas liquids from the Marcellus Shale and Utica (or Point Pleasant) Shale. Owners of mineral rights in eastern Ohio stand ready to earn thousands of dollars per acre in up-front signing bonus payments simply for owning the oil and gas mineral rights and having the privilege of entering into an oil and gas lease.

Collectively, *amici curiae* are individuals holding record title to hundreds of acres of severed oil and gas mineral interests in eastern Ohio, specifically: (i) Patricia J. Shondrick-Nau, Executrix of the Estate of John R. Noon, and Successor Trustee of the John R. Noon Trust; and, (ii) the 29 heirs of Joseph H. Shepherd, John J. Shepherd, and Keith Shepherd.¹ Perhaps most importantly, *amici curiae* are the named Defendants in active cases before this Court (*Walker v. Shondrick-Nau*, Supreme Court of Ohio Case No. 2014-0803, appeal accepted on September 3, 2014),² and the Seventh District Court of Appeals (*Tribett v. Shepherd*, 7th Dist. Case No. 13-BE-22). In both of the above-referenced appeals, *amici curiae* raised (and strongly supported) the issue raised by Appellee Harriet Evans in this case: that the restatement of a prior mineral

¹ The 29 heirs include the following: Barbara Shepherd, Marion L. Shepherd as Executor of the Estate of Joseph T. Shepherd, David Shepherd, Scott Whitacre, Susan L. Spencer, Steve Whitacre, Samuel J. Whitacre, Ralph E. Earliwine, James K. Earliwine, Rhonda K. Earliwine, Donley Williams, Mary E. Taylor, Cathy Jo Yontz, Carol W. Talley, Karen Stubbs, Pamela Skelly (deceased as of July 3, 2013), David Huisman, Debbie K. Allen (deceased as of September 22, 2013), Mark Phillips, Brian Phillips, Liana L. Phillips Yoder, Sallie S. Shepherd, John Mauersberger, George Mauersberger, Gwen C. Lewis, Wayne L. Shepherd, Brent M. Moser, Barrett D. Moser, and Kaye Anderson Hall.

² One of the issues accepted by this Court in *Walker v. Shondrick-Nau*, Supreme Court of Ohio Case No. 2014-0803 (Proposition of Law No. IV), is the same issue being briefed here: “For purposes of R.C. 5301.56(B)(3), a severed oil and gas mineral interest is the “subject of” any title transaction which specifically identifies the recorded document creating that interest by volume and page number, regardless of whether the severed mineral interest is actually transferred or reserved.”

reservations in later deeds is a title transaction within the meaning of § 5301.56, Ohio Revised Code. And, in this case, *amici curiae* encourage this Court to adopt the Appellee's proposition of law.

STATEMENT OF FACTS

Amici curiae adopt the statement of facts set forth in the merit briefs already filed in this case by the three sets of Appellees/Cross-Appellants in this case. For the convenience of the Court, however, *amici curiae* highlight the facts pertinent to this brief.

- In 1947, Samuel A. and Blanche Long Porter (the "Porters") conveyed to Consolidated Fuel Company: (i) approximately 148.105 acres by Warranty Deed recorded in their undivided one-third interest in other, separate tracts of land by Warranty Deed recorded in Volume 121, Pages 383-384 of the Harrison County Recorder's Office (collectively, the "Severance Deeds").
- The Severance Deeds both contained the following language: "ALSO RESERVED unto Grantors, their heirs and assigns, all the oil and gas within and underlying said lands, together with all rights and privileges necessary to drill for, remove and market said oil and gas, so long as same does not interfere with coal stripping operations."
- In August 2009, the Appellants (Phillip Dodd and Julie Bologna) acquired the surface to approximately 127.84 acres of land (including portions of the land transferred by the Porters in the Severance Deeds) by Survivorship Deed recorded in Volume 180, Pages 2239-2242 of the Harrison County Recorder's Office (the "2009 Deed").
- The 2009 Deed contained the following language: "Excepting and reserving unto Samuel A. Porter and Blanche Long Porter all of the oil and gas in Warranty Deed to Consolidated Fuel Company filed for record May 27, 1947 in Volume 121, page 381, Deed Records for the 148.105 acre. (Note: No further transfers). . . . Excepting a one-third interest in the oil and gas to Samuel A. Porter and Blanche Long Porter in the Warranty Deed filed for record May 27, 1947 in Volume 121, p. 383, Deed Records."

The question before this Court is whether the 2009 Deed (transferring the surface only but specifically referencing the severance of the oil and gas mineral rights) qualifies as a savings event under R.C. 5301.56(B)(3).

ARGUMENT IN SUPPORT OF
APPELLEE/CROSS-APPELLANT HARRIET EVANS' PROPOSITION OF LAW
NO. II

A restatement of a prior mineral reservation in later deeds is a title transaction within the meaning of § 5301.56, Ohio Revised Code.

One of the first steps required under either the 1989 or 2006 version of the Ohio Dormant Minerals Act (the “DMA”) is that the surface owner confirm whether certain statutory savings events occurred during the relevant 20-year look-back period. *See* R.C. 5301.56(B) (2006 version); R.C. 5301.56(B)(1)(c) (1989 version). The presence of any one of these statutory savings events would prevent a surface owner from claiming abandonment of the severed mineral interests under the DMA.

The most oft-litigated savings event is located in R.C. 5301.56(B)(3)(a), and is the same in both versions of the DMA. More specifically, this savings event focuses on whether the oil and gas mineral interest “has been the subject of” a recorded title transaction.

The phrase “title transaction,” however, is not defined in the DMA. Rather, one must look to the definition set forth in the Ohio Marketable Title Act. Specifically, R.C. 5301.47(F) defines a title transaction to mean “any transaction affecting title to any interest in land, including title by will or descent,” as well as warranty deed, quit claim deed, or mortgage. R.C. 5301.47(F). When that definition is inserted into the language in R.C. 5301.56(B)(3)(a), it becomes clear that the statutory savings event occurs when:

The “mineral interest has been the subject of [“any transaction affecting title to any interest in land, including title by will or descent,” as well as warranty deed, quit claim deed, or mortgage] that has been filed or recorded in the office of the county recorder of the county in which the lands are located.”

The key to this “savings event” is that the mineral rights were the subject of a transaction “affecting title to **any interest** in property.” Yet, the Seventh District Court of Appeals in the

proceedings below (and again in a more recent decision) mischaracterized this savings event and improperly concluded that “[i]n order for the mineral interest to be the ‘subject of’ the title transaction the grantor must be conveying that interest or retaining that interest.” *Dodd v. Croskey*, 2013-Ohio-4257, ¶ 48 (7th Dist.); see *Walker v. Shondrick-Nau*, 2014-Ohio-1499 (7th Dist.), ¶¶ 26-27. *Amici curiae* urge the Court to overturn the lower appellate court’s decision and conclude that, for purposes of R.C. 5301.56(B)(3), a severed oil and gas mineral interest is in fact the “subject of” any subsequent title transaction which specifically restates the mineral reservation regardless of whether the mineral interest is actually transferred. Such a conclusion is supported by: (i) the interplay of R.C. 5301.55 and R.C. 5301.49; (ii) the legislative history of the DMA; (iii) longstanding principles of statutory interpretation; and (iv) important public policy considerations (including those expressed in R.C. 5301.55).

A. The interplay between R.C. 5301.55 and R.C. 5301.49 requires that a transfer of the surface which specifically references the severed oil and gas mineral interest constitute a “savings event” under R.C. 5301.56.

R.C. 5301.55, which is part of the Ohio Marketable Title Act, states: “Sections 5301.47 to 5301.56, **inclusive**, of the Revised Code, shall be liberally construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons to rely on a record chain of title as described in section 5301.48 of the Revised Code, **subject only to such limitations as appear in section 5301.49 of the Revised Code.**” R.C. 5301.48 (emphasis added). It is clear that this statute expressly applies to the DMA (R.C. 5301.56). As a result, the DMA is “subject . . . to such limitations as appear in section 5301.49 of the Revised Code.”

One of the most important limitations in R.C. 5301.49(A) states that record title is subject to “[a]ll interests and defects which are inherent in the muniments of which such chain of record title is formed and which have existed for forty years or more.” This means that a deed recorded during the applicable look-back period which specifically references the severed oil and gas

mineral interest bars a claim under either version of the DMA. The only way to harmonize the statutes is to adopt the Appellant's proposition of law, thereby reaching the unavoidable conclusion that the limitation set forth in R.C. 5301.49(A) applies to the DMA.

B. The legislative history of the DMA supports the conclusion that a severed oil and gas mineral interest is in fact the “subject of” any subsequent title transaction which specifically restates the mineral reservation regardless of whether the mineral interest is actually transferred.

When the DMA was first introduced before the Ohio Senate in 1987 as Senate Bill 223, the description of the “title transaction” Savings Event looked much different. In fact, the Savings Event in the as-introduced bill did not use the phrase “title transaction.” Instead, the as-introduced language required a situation where the “interest had been conveyed, leased, transferred, or mortgaged by an instrument filed or recorded in the recorder’s office of the county in which the lands are located.”³

This language, however, was completely transformed in the amended bill, which was known as Substitute Senate Bill 223. Specifically, the as-introduced language was entirely removed and replaced with the following Savings Event: when the “mineral interest has been the subject of a title transaction filed or recorded in the office of the recorder of the county in which the land is located.”⁴

The new Savings Event in Substitute Senate Bill 223 not only replaced the provision in the as-introduced bill, but also ended up being the language unanimously passed by the Senate. That language remains in the current version of the DMA.

³ Ohio S.B. 223 (1987) (as introduced) at 2, § 2(a). A true and accurate copy of Ohio S.B. 223 (1987) (as introduced) at 2, § 2(a) is attached hereto on Appendix pgs. A-001 through A-003.

⁴ Ohio Sub. S.B. 223 (1987) (as passed by the Senate) at 2, § 2. A true and accurate copy of Ohio Sub. S.B. 223 (1987) (as passed by the Senate) at 2, § 2 is attached hereto on Appendix pages A-004 through A-007.

The legislative history of the DMA confirms the General Assembly’s deliberate decision to eliminate the requirement that the mineral interest itself be conveyed or transferred in order to qualify as a Savings Event. In fact, nowhere in the statute is there a requirement that the mineral estate actually be transferred. Rather than require an actual transfer or conveyance of the mineral interest itself, the General Assembly broadened the Savings Event to include any situation in which the mineral interest was the “subject of” a title transaction involving any interest in land.

C. Longstanding principles of statutory interpretation support the position of Appellee and *amici curiae*.

Undoubtedly, the surface owners in this case will rely on certain language from the lower appellate court’s decision—namely, that:

[The phrase] “subject of” is not defined in the statute. Therefore, the phrase must be given its plain, common, ordinary meaning and is to be construed “according to the rules of grammar and common usage.” The common definition of the word “subject” is topic of interest, primary theme or basis for action. *Webster’s II New Riverside University Dictionary* 1153 (1984). Under this definition the mineral interests are not the “subject of” the title transaction. Here, the primary purpose of the title transaction is the sale of surface rights. While the deed does mention the oil and gas reservations, the deed does not transfer those rights. In order for the mineral interest to be the “subject of” the title transaction the grantor must be conveying that interest or retaining that interest.

Dodd, 2013-Ohio-4257, ¶ 48. But this reference fails to acknowledge two principles of statutory interpretation which shift the analysis in favor of the Shepherds.

First, “[i]n interpreting statutory language, a court’s paramount concern is legislative intent.” *Smith v. Landfair*, 135 Ohio St.3d 89, 2012-Ohio-5692, 984 N.E.2d 1016, ¶ 18 (this is the same case relied upon by this Court in its decision in *Dodd*, 2013-Ohio-4257, at ¶ 48). As set forth in detail above, the legislative history (and legislative intent) behind the DMA confirms the General Assembly’s deliberate decision to specifically eliminate the requirement that the mineral interest itself be conveyed or transferred in order to qualify as a savings event. The General Assembly was clearly aware of the distinction between a requirement that the severed mineral

interest actually be transferred and the requirement that the interest merely be *the subject of* a recorded transaction—and it chose the latter.

The legislative intent is further confirmed by looking at the savings event identified in R.C. 5301.56(B)(3)(e), which allows for the preservation of a severed mineral interest by merely filing a claim to preserve, so long as it includes certain identifying information and a statement of intent to preserve. In doing so, the General Assembly clearly contemplated the preservation of severed mineral interests without requiring that they actually be transferred so long as the preservation of the mineral interest is made clear in the record chain of title during the relevant look-back period. Indeed, in situations like this case, where the recitation of the prior mineral rights reservation specifically states the name(s) of the reserving parties (“Excepting and reserving unto Samuel A. Porter and Blanche Long Porter...”), and includes the recording information for the severance deed itself, there can be little doubt that the intended result is not the forfeiture of those explicitly reserved rights.

Second, “[w]ords and phrases *shall be read in context* and construed according to the rules of grammar and common usage.” R.C. 1.42 (emphasis added). The use of the phrase “subject of” must be read as used in R.C. 5301.56(B)(3). When read in the context of this definition, the savings event actually requires that the “mineral interest has been the subject of [any transaction affecting title to *any interest* in land].” R.C. 5301.47(F); R.C. 5301.56(B)(3)(a).⁵ The key is the General Assembly’s use of the words “any interest.” If the Court adopts the lower appellate court’s decision, then these words are read out of the statute because the savings event would not allow for a transaction affecting title to “any interest” in

⁵ Critically, the analysis requires replacing the phrase “title transaction” in R.C. 5301.56(B)(3)(a) with the actual definition of “title transaction” set forth earlier in the Marketable Title Act, in R.C. 5301.47(F).

land, but rather, only a transaction “affecting title to” *the mineral interest itself*. That is not what the law says.

If and only if the Court rejects the analysis above, the Court must look outside the plain meaning of the statute to interpret the phrase “the subject of.” The lower appellate court (and most surface owners) focus solely on the concept of “primary theme” as identified in the dictionary definition relied upon by the lower appellate court. *Dodd*, 2013-Ohio-4257, ¶ 48 (discussing “primary theme”). Yet, that very same definition clearly states that “subject” also means “topic of interest,” which is the more apt definition here.

The *Oxford Dictionary and Thesaurus* supports this more expansive, everyday meaning, defining “subject” as “a person or thing that is being discussed, studied, or dealt with.” *Oxford Dictionary and Thesaurus* 1030 (2007).⁶ And, perhaps most importantly, the ordinary use of the word “subject” supports this expansive definition.

There can be numerous subjects of a book, a movie, a lawsuit, or even a title transaction. For example, the “subject of” Harper Lee’s novel, *To Kill a Mockingbird*, could be racial injustice, social stereotypes, morality, the innocence of childhood, courage and compassion, life in the rural South, and trial lawyering. Similarly, the “subject of” this lawsuit could be private property rights, preservation notices, deeds, statutory interpretation principles, the 2006 version of the DMA, and/or the testate or intestate inheritance of real property. Based on dictionary definitions and ordinary usage, the phrase “the subject of” as used in R.C. 5301.56(B)(3)(a) should not be read so narrowly and exclusively so as to mean the “primary” or “one and only one” subject. Doing so runs contrary to the common usage of the word “subject.”

⁶ A true and accurate copy of the definition of “subject” from the *Oxford Dictionary and Thesaurus* is attached hereto on Appendix pgs. A-008 through A-010. See also Oxford University Press, *Definition of Subject*, http://www.oxforddictionaries.com/us/definition/american_english/subject (accessed September 17, 2014).

D. Rejecting Appellee’s proposition of law runs contrary to the express purpose of the DMA and critical public policy considerations.

The lower appellate court’s decision violates the very purpose of the DMA as expressly stated in R.C. 5301.55—namely: “Sections 5301.47 to 5301.56, **inclusive**, of the Revised Code, shall be liberally construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons to rely on a record chain of title as described in section 5301.48 of the Revised Code.” (Emphasis added.)

By adopting Appellee Harriet Evans’ second proposition of law, this Court would accomplish this statutorily enumerated goal. Conversely, rejecting her second proposition of law results in an interpretation of the DMA that runs afoul of this express statutory mandate. Indeed, reliance on the record chain of title is premised on understanding the ownership of various real property interests. As the trial court in this case explained:

The identification of ‘exceptions’ to the property conveyed is an essential part of any deed because *the exceptions are as critical as the metes and bounds description in defining the specific bundle of rights, i.e. property, conveyed by the instrument.* Furthermore, the warranty covenants provided by the deed are specifically limited by the exceptions set forth with the instrument.

Dodd v. Croskey, Harrison C.P. No. CVH-2011-0019 (Oct. 29, 2012), at 7 (emphasis added).

Amidst the current shale boom in eastern Ohio, this is especially true.

Perhaps most important in this quote is the implicit principle of notice. The development of mineral rights development cannot even commence unless individual property owners, oil and gas companies, abstractors, and title attorneys know who owns the oil and gas mineral rights. The reason is simple: the owner of the oil and gas mineral rights generally carries with it the right to lease and receive large, per-acre lease bonus payments. Specific references to severed mineral interests, even in a deed transferring only the surface, simplify the title search process by

providing pointed and detailed information regarding the record owners of the mineral rights.

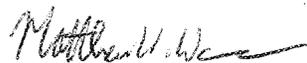
For example, in this case, the reservation language in the 2009 Deed specifically identifies the deed whereby the mineral interests were severed from the surface estate, and the names of the record owners of the mineral interests (the Porters). In addition to simplifying title searches, the specific exception/reservation “facilitates land transactions.” Abstractors, landmen, and the general public know who needs to sign an oil and gas lease—the heirs of the Porters.

On the other hand, it is entirely unclear what public policy is served by requiring that severed mineral interests be affirmatively transferred in order to be preserved. Indeed, as noted above, the General Assembly explicitly included a means of preserving such interests by the mere filing of a preservation claim. Nothing is gained by obligating a mineral interest owner to convey his or her interest back and forth simply to put the world on notice that they do not intend to give it up. As a result, the very purposes of the DMA (and broader Ohio Marketable Title Act) are best served by acknowledging an express restatement of a mineral rights reservation in a title transaction for what it is—a savings event pursuant to R.C. 5301.56(B)(3)(a).

CONCLUSION

This Court now has the opportunity to provide clarity regarding an issue that is paralyzing oil and gas development throughout eastern Ohio by: making it more risky for companies to do business in Ohio; causing chaos among abstractors, title attorneys, oil and gas companies and the judiciary; and leading to a glut of unnecessary lawsuits in the trial and appellate courts. For the reasons set forth above, *amici curiae* encourage this Court to overrule the lower appellate court, and establish that the restatement of a prior mineral reservations in later deeds is a title transaction within the meaning of the DMA.

Respectfully submitted,



Matthew W. Warnock (0082368)*

**Counsel of Record*

Daniel C. Gibson (0080129)

Daniel E. Gerken (0088259)

Bricker & Eckler LLP

100 South Third Street

Columbus, Ohio 43215-4291

Telephone: (614) 227-2300

Facsimile: (614) 227-2390

E-mail: mwarnock@bricker.com;

dgibson@bricker.com; dgerken@bricker.com

*Counsel for Amici Curiae, Noon and Shepherd
Mineral Interest Owners*

CERTIFICATE OF SERVICE

I certify that a copy of this Memorandum in Support of Jurisdiction was sent by ordinary

U.S. mail to counsel for appellee, at the following addresses on September 17, 2014:

Paul Hervey
Jillian Daisher
Fitzpatrick, Zimmerman & Rose, L.P.A
P.O. Box 1014
New Philadelphia, Ohio 44663
Counsel for Appellants

Ronald K. Lembright
One Cascade Plaza, 15th Floor
Akron, Ohio 44308
*Counsel for Appellees William L.
Kalbaugh, William H. Boak, Jennifer
Bernay, Charlotte S. Bishop, Richard G.
Davis, Harry Roy Davis, Thomas Davis,
Harry K Kalbaugh, Michael L. Kalbaugh,
and Charlotte S. Bishop*

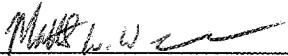
Marquette D. Evans
Evans Law Office
902 Race Street, Second Floor
Cincinnati, Ohio 45202
Attorney for Appellee, Harriet C. Evans

Brian Crist
3384 N. River Rd.
Zanesville, Ohio 43701
Appellee, pro se

R. Jeffrey Pollock
Erin K. Walsh
McDonald Hopkins LLC
600 Superior Ave., East, Suite 2100
Cleveland, Ohio 44114
*Counsel for Appellees, Karen A. Chaney, Patty
Hausman, Linda C. Boyd and Terri Hocker*

Rupert Beetham
110 S. Main Street
P.O. Box 262
Cadiz, Ohio 43907
*Counsel for Appellees John William
Croskey, Mary E. Surrrey Roy Surrey,
Emma Jane Croskey, Margaret Ann
Turner, Mary Louise Morgan, Martha
Beard, Lee Johnson, Edwin Johnson,
Joann Zitko, David B. Porter, Joann C.
Wesley, Cindy R. Weimer Evert Dean
Porter, Stuart Barry Porter, Brian K
Porter, Mary Elaine Porter, Kim Berry,
Samuel G. Boak, Lorna Bower, Sandra J.
Dodson, and Ian Resources, LLC*

Consolidated Coal Company
(n/k/a Consol Energy, Inc.)
1000 Consol Energy Dr.
Canonsburg, Pennsylvania 15317
Appellee



Matthew W. Warnock
*Counsel for Amici Curiae, Noon and
Shepherd Mineral Interest Owners*

APPENDIX

APPENDIX

	<u>Page</u>
Ohio S.B. 223 (1987) (as introduced).....	A-001
Ohio Sub. S.B. 223 (1987) (as passed by the Senate).....	A-004
<i>Oxford Dictionary and Thesaurus</i> (definition of “subject”).....	A-008

S.B. 223
(As Introduced)

Sens. Cupp, Schafrath, Nettle

Provides that, in the absence of certain specified occurrences within the preceding 20-year period, including failure to file a written notice of claim in subsurface minerals, a mineral estate (other than in coal) is considered abandoned and the title vests in the surface owner.

FILED
DO NOT REMOVE FROM FILE

Background

When a person buys an interest in land, the Marketable Title Act (sections 5301.47 to 5301.56 of the Revised Code) makes it unnecessary for the most part to do a title search back further than the date that is known as the effective date of the root of title. This is so because the Act generally cuts off interests existing prior to the effective date of the root of title, unless those interests have been preserved by the recording of a preserving notice as provided in the Act.

The "root of title" is the conveyance, in the seller's chain of title, that was most recently recorded as of the date 40 years before the date on which marketability is determined. The "effective date of the root of title" is the date on which was recorded the conveyance that is the root of title.

Current section 5301.56 provides that regardless of when the Marketable Title Act's 40-year period expires, for the purpose of recording a preserving notice of a claim in the right, title, estate or interest in and to subsurface minerals, with the exception of coal, such period shall not be considered to expire until after December 31, 1976. The bill would repeal this section because it no longer applies to conveyances of interests in minerals and would replace it with guidelines for determining when an interest in a mineral estate (other than coal) has become dormant and the interest would vest in the owner of the surface land.

CONTENT AND OPERATION

The bill would not change existing law concerning marketable title to or the filing of preserving notices for an interest in surface land. Under the bill, any mineral interest held (see COMMENT 1) by any person

A-001

other than the owner of the surface land, would be deemed abandoned and would vest in the owner of the surface land if neither of the following applies (sec. 5301.56(B)):

(1) The mineral interest is one in coal, or mining or other rights pertinent to or exercisable in connection with the mining;

(2) Within the preceding 20 years, one or more of the following has occurred:

(a) The interest has been conveyed, leased, transferred, or mortgaged by an instrument filed or recorded in the recorder's office of the county in which the lands are located;

(b) There has been actual production or withdrawal of minerals by the holder from the lands, from lands covered by a lease to which such interest is subject, or, in the case of oil or gas, from lands pooled, utilized, or included in unit operations in which the interest is participating;

(c) The interest has been used in underground gas storage operations by the holder;

(d) A drilling or mining permit has been issued to the holder (see COMMENT 2);

(e) A claim to preserve the interest has been filed in compliance with the provisions of the bill.

No mineral interest would be considered abandoned based on failure to comply with this provision prior to three years from the effective date of this section (sec. 5301.56(B)).

A claim to preserve a mineral interest from being deemed abandoned could be filed for record with the county recorder of the county in which the land is located. It would consist of a notice, verified under oath, of the nature of the interest claimed, a description of the land, the volume and page of any recorded instrument on which it is based, the name and address of the holder, and a statement that the holder does not intend to abandon but to preserve his rights. The claim would preserve the rights of all holders of a mineral interest in the same land. Any holder of an interest for use in underground gas storage operations could preserve his interest, and those of any lessor, by a single claim, defining the boundaries of the storage field or pool and its formations, without describing each separate interest claimed. This claim also would establish prima-facie evidence of the use of such interest in underground gas storage operations. (Sec. 5301.56(C).)

A claim filed pursuant to the procedure described above also would have to be recorded as provided in sections 317.18 to 317.201 (governing indexes maintained by a county recorder) (see COMMENT 3) and 5301.52 (contents of notice claiming to preserve an interest in land) of the Revised Code (sec. 5301.56(D)). A mineral interest could be preserved indefinitely from the bill's presumption of abandonment by the continuing occurrence of any of the items listed in the bill (the mineral is coal or the events listed occurred within the preceding 20 years). Indefinite preservation also could be accomplished by successive filings of claims to preserve a mineral interest by the method provided by the bill. (Sec. 5301.56(C).)

The filing of a claim to preserve a mineral interest from being deemed abandoned as provided by the bill would not affect the right of a lessor of an oil or gas lease to obtain a forfeiture pursuant to section 5301.332 (provides basis and procedure for forfeiture and cancellation of natural gas and oil land leases) (sec. 5301.56(E)). The bill specifies that its provisions would not apply to any mineral interest held by a governmental entity (sec. 5301.56(F)).

COMMENT

(1) Section 5301.56(A)(1) defines a holder as including not only the record holder of a mineral interest, but also any person who derives his rights from, or a common source with, the record holder and whose claim does not indicate, expressly or by clear implication, that it is adverse to the interest of the record holder.

(2) A drilling or mining permit is a permit issued under Chapter 1509., 1513., or 1514. (Oil and Gas, Coal Surface Mining, and Other Surface Mining, respectively) of the Revised Code to the holder to drill an oil or gas well or mine other minerals (sec. 5301.56(A)(2)).

(3) Sections 317.18 to 317.201 of the Revised Code set forth guidelines to be followed by a county recorder in maintaining the records of all real estate located in the county. For example, section 317.19 requires that a daily register of deeds and a daily register of mortgages be kept. The county recorder also is responsible for maintaining an alphabetical index, both direct and reverse, of the names of both parties to all instruments affecting county real estate (sec. 317.18). In addition, section 317.201 provides that every notice of preservation of claims filed in the recorder's office be logged in a record book called a "Notice Index."

ACTION	DATE	JOURNAL ENTRY
Introduced	05-28-87	p. 404

ASB0223-I/tjc/nsg

33
Sub. S.B. 223
(As Passed by the Senate)

Sens. Cupp, Schafrath, Nettle, Drake, Burch

Provides that, in the absence of certain specified occurrences within the preceding 20-year period, such as the filing of a written notice to preserve a claim of a sub-surface mineral interest, any such interest that is not in coal or not of a governmental entity will be deemed abandoned and its title vested in the surface owner.

CONTENT AND OPERATION

Existing law

When a person buys an interest in land, the Marketable Title Act (secs. 5301.47 to 5301.56 of the Revised Code) generally makes it unnecessary to do a title search back further than the date that is known as the "effective date of the root of title" (see below). This is because the Act generally cuts off interests existing prior to the effective date of the root of title, unless they have been preserved by the recording of a preserving notice as provided in the Act.

The "root of title" is the conveyance or other title transaction, in the seller's chain of title, that was most recently recorded as of a date 40 years before the date on which marketability is being determined. The "effective date" of the root of title is the date on which the conveyance or transaction was recorded. (Sec. 5301.47(E).)

Current section 5301.56 provides that regardless of when the 40-year period expires, for the purpose of recording a preserving notice of a right, title, estate, or interest in (subsurface) minerals, "with the exception of coal, such period shall not be considered to expire until after December 31, 1976." The bill would repeal this dated provision and substitute the provisions described below for determining when a mineral interest (other than coal or of a governmental entity) has become dormant and when the interest vests in the owner of the surface land.

Changes proposed by the bill

"Deemed" abandonment. The bill would not changes existing law concerning marketable title to, or the filing of preserving notices for, an interest in surface land. However, under the bill, any mineral interest held (see COMMENT 1) by any person other than the owner of the surface land would be deemed abandoned and would vest in the owner of the surface land if neither of the following applies (sec. 5301.56(B)):

(1) The mineral interest is one in coal, or mining or other rights pertinent to such an interest (division (B)(1));

(2) Within the preceding 20 years, one or more of the following has occurred (division (B)(2)):

--The mineral interest has been the subject of a title transaction (see COMMENT 2) filed or recorded in the office of the recorder of the county in which the land is located;

--There has been actual production or withdrawal of minerals by the holder from the lands, from land covered by a lease to which the mineral interest is subject, or, in the case of oil or gas, from lands pooled, unitized, or included in unit operations in which the mineral interest is participating. In the latter situation, the instrument creating or providing for the pooling or unitization of oil or gas interests would have to have been filed or recorded in the office of the recorder of the county in which the lands that are subject to the pooling or unitization are located.

--The mineral interest has been used in underground gas storage operations by the holder;

--A drilling or mining permit (see COMMENT 3) has been issued to the holder, and an affidavit stating the name of the permit holder, the type of permit and its number, and a legal description of the land affected by the permit has been filed or recorded, in accordance with law (sec. 5301.252) in the office of the recorder of the county in which the land is located;

--A claim to preserve the interest has been filed in compliance with the bill (see below);

--In the case of a separated mineral interest, a separately listed tax parcel number has been created for the mineral interest in the auditor's tax list and the treasurer's duplicate tax list in the county in which the land is located.

A mineral interest would not be considered abandoned based on a failure of compliance with the latter provision until three years from the bill's effective date (sec. 5301.56(B)). See also the governmental entity circumstance described in "miscellaneous provisions" below.

Preserving notice. A claim to preserve a mineral interest from being deemed abandoned could be filed with the recorder of the county in which the land is located. The claim would have to be filed in accordance with section 5301.52 (contents of preserving notice), state any recording information upon which the claim is based, and state that the claimant does not intend to abandon, but rather to preserve, his rights in the mineral interest. A properly filed claim would preserve the rights of all holders of a mineral interest in that land. (Sec. 5301.56(C).)

Any holder of an interest for use in underground gas storage operations could preserve his interest, and those of any lessor, by a single claim that defines the boundaries of the storage field or pool and its formations, without describing each separate interest claimed. This claim would establish *prima facie* evidence of the use of the interest in underground gas storage operations. (Sec. 5301.56(C).)

A claim filed pursuant to the procedure described above would have to be recorded as provided in sections 317.18 to 317.201 (indexes maintained by a county recorder) and in section 5301.52 (preserving notices) (secs. 317.18, 317.201(E), 317.201, and 5301.56(D)).

A mineral interest could be preserved indefinitely from "deemed abandonment" by the occurrence of any of the previously listed events within the preceding 20-year period (sec. 5301.56(B)(2)). Successive filings of claims to preserve a mineral interest would be specified as one of those events. (Sec. 5301.56(E).)

Miscellaneous provisions. The filing of a claim to preserve a mineral interest from being "deemed abandoned" would not affect the right of a lessor of an oil or gas lease to obtain a forfeiture pursuant to section 5301.332 (the basis and procedure for forfeiture and cancellation of natural gas and oil land leases; (sec. 5301.56(E)). Also, the bill would exclude any mineral interest held by a governmental entity from its provisions (sec. 5301.56(F)).

COMMENT

1. Proposed section 5301.56(A)(1) would define a holder as including not only the record holder of a mineral interest, but also any person who derives his rights from, or a common source with, the record holder and whose claim does not indicate, expressly or by clear implication, that it is adverse to the interest of the record holder.

2. A title transaction, as defined in existing section 5301.47(F), means any transaction affecting title to any interest in land, including title by will or descent, by tax deed, by trustee's, assignee's, guardian's, executor's, administrator's, or sheriff's deed, by decree of any court, or by warranty deed, quit claim deed, or mortgage.

3. A drilling or mining permit would be defined as a permit issued under Chapter 1509., 1513., or 1514. of the Revised Code (Oil and Gas, Coal Surface Mining, and Other Surface Mining, respectively) to the holder to drill an oil or gas well or to mine other minerals (sec. 5301.56(A)(2)).

ACTION	DATE	JOURNAL ENTRY
Introduced	05-28-87	p. 304
Reported, S. Judiciary	02-16-88	p. 1389
Passed Senate (32-0)	02-23-88	p. 1407

ASB0223-PS/kjp

Oxford Dictionary and Thesaurus

Edited by
MAURICE WAITE

OXFORD
UNIVERSITY PRESS

A-008

OXFORD

UNIVERSITY PRESS

Great Clarendon Street, Oxford OX2 6DP

Oxford University Press is a department of the University of Oxford.

It furthers the University's objective of excellence in research, scholarship,
and education by publishing worldwide in

Oxford New York

Auckland Cape Town Dar es Salaam Hong Kong Karachi

Kuala Lumpur Madrid Melbourne Mexico City Nairobi

New Delhi Shanghai Taipei Toronto

With offices in

Argentina Austria Brazil Chile Czech Republic France Greece

Guatemala Hungary Italy Japan Poland Portugal Singapore

South Korea Switzerland Thailand Turkey Ukraine Vietnam

Oxford is a registered trade mark of Oxford University Press
in the UK and in certain other countries

© Oxford University Press 1995, 2007

Database right Oxford University Press (makers)

First edition 1995

Second edition 2007

All rights reserved. No part of this publication may be reproduced,
stored in a retrieval system, or transmitted, in any form or by any means,
without the prior permission in writing of Oxford University Press,
or as expressly permitted by law, or under terms agreed with the appropriate
reprographics rights organization. Enquiries concerning reproduction
outside the scope of the above should be sent to the Rights Department,
Oxford University Press, at the address above

You must not circulate this book in any other binding or cover
and you must impose this same condition on any acquirer

British Library Cataloguing in Publication Data

Data available

Library of Congress Cataloging in Publication Data

Data available

Typeset in Frutiger and Parable by

Cepha Imaging Pvt Ltd

Printed in Italy by

Legoprint S.p.A.

ISBN: 978-0-19-923088-4

10 9 8 7 6 5 4 3 2 1

- SYNONYMS fashionable, modish, modern, up to date; smart, sophisticated, elegant, chic, dapper, dashing; informal trendy, natty, classy, nifty, snazzy; N. Amer. informal fly, kicky, tony, spiffy.
- ANTONYMS unfashionable.

- DERIVATIVES **stylishly** adverb **stylishness** noun.
stylist noun 1 a person who cuts hair or designs fashionable clothes. 2 a person whose job is to arrange and coordinate food, clothes, etc. in an attractive way in photographs or films.

stylistic adjective relating to style, especially literary style.
- DERIVATIVES **stylistically** adverb.

stylistics plural noun (treated as sing.) the study of the literary styles of particular writers or types of literature.

stylized (or **stylised**) adjective represented or treated in a non-realistic style.
- DERIVATIVES **stylization** noun.

stylus /sty-'luhs/ noun (pl. **styli** /sty-'ly/) 1 a hard point following a groove in a gramophone record and transmitting the recorded sound for reproduction. 2 a pointed implement used for scratching or tracing letters or engraving. 3 a pen-like device used to input handwriting directly into a computer.
- ORIGIN Latin *stilus*.

stymie /sty-'mi/ verb (**stymies**, **stymying** or **stymleing**, **stymied**) informal prevent or hinder the progress of someone or something.
- ORIGIN unknown.

styptic /stip-'tik/ adjective able to stop bleeding.
● noun a substance that stops bleeding.
- ORIGIN Greek *stuptikos*.

styrene /sty-'reen/ noun Chemistry an unsaturated liquid hydrocarbon obtained as a petroleum by-product and used to make plastics.
- ORIGIN from *styrax*, a resin obtained from a tree.

styrofoam noun (trademark in the US) a kind of expanded polystyrene, used for making food containers.
- ORIGIN from **POLYSTYRENE** + **FOAM**.

suasion /sway-'zhuhn/ noun formal persuasion as opposed to force.
- ORIGIN Latin.

suave /swahv/ adjective (**suaver**, **suavest**) (of a man) charming, confident, and elegant.

- SYNONYMS charming, sophisticated, debonair, urbane, polished, refined, poised, self-possessed, gallant; smooth.
- ANTONYMS unsophisticated.

- DERIVATIVES **suavely** adverb **suaveness** noun **suavity** noun (pl. **suavities**).
- ORIGIN Latin *suavis* 'agreeable'.

sub informal noun 1 a submarine. 2 a substitute, especially in a sports team. 3 Brit. a subscription. 4 Brit. a subeditor. 5 Brit. an advance payment of money.
● verb (**subs**, **subbing**, **subbed**) 1 act as a substitute. 2 Brit. advance a sum of money to someone.

sub- prefix 1 under: *submarine*. 2 lower in rank or importance: *subaltern*. 3 below; less than: *sub-zero*. 4 subsequent or secondary: *subdivision*.

- ORIGIN from Latin *sub* 'under, close to'.

USAGE **Sub-** changes to **sub-** before *c*; **sub-** before *f*; **sub-** before *g*; **sub-** before *p*; **sub-** before *r*; **sub-** before *s*; **sub-** before *t*, *p*, and *i*.

subaltern /sub-'uhl-tern/ noun an officer in the British army below the rank of captain.
- ORIGIN from Latin *sub-* 'next below' + *alternus* 'every other'.

sub-aqua adjective relating to swimming or exploring under water, especially with an aqualung.

subaqueous /sub-'ayk-wi-'uhss/ adjective existing, formed, or taking place under water.

subarctic adjective relating to the region immediately south of the Arctic Circle.

sub-assembly noun (pl. **sub-assemblies**) a unit assembled separately but designed to be incorporated with other units into a larger manufactured product.

subatomic adjective smaller than or occurring within an atom.

subcategory noun (pl. **subcategories**) a secondary or less important category.

subcommittee noun a committee consisting of some members of a larger committee, formed in order to study a subject in more detail.

subconscious adjective relating to the part of the mind of which one is not fully aware but which influences one's actions and feelings.

- SYNONYMS unconscious, latent, suppressed, repressed, subliminal, dormant, underlying, innermost.

● noun (one's/the **subconscious**) this part of the mind.

- SYNONYMS (unconscious) mind, imagination, inner(most) self, psyche.

- DERIVATIVES **subconsciously** adverb **subconsciousness** noun.

subcontinent noun a large part of a continent considered as a particular area, such as North America.
- DERIVATIVES **subcontinental** adjective.

subcontract verb /sub-'kuhn-trakt/ employ a firm or person outside one's company to do work as part of a larger project.
● noun /sub-'kon-trakt/ a contract to do work for another company as part of a larger project.
- DERIVATIVES **subcontractor** noun.

subculture noun a distinct group within a society or class, having beliefs or interests that are different from those of the larger group.
- DERIVATIVES **subcultural** adjective.

subcutaneous /sub-'kyoo-tay-'ni-'uhss/ adjective situated or applied under the skin.
- DERIVATIVES **subcutaneously** adverb.

subdivide verb divide something that has already been divided into smaller parts.

subdivision noun 1 the action of subdividing something. 2 a secondary or less important division.

subdue verb (**subdues**, **subduing**, **subdued**) 1 overcome, quieten, or bring under control: *she managed to subdue an instinct to applaud*. 2 bring a country under control by force.

- SYNONYMS conquer, defeat, vanquish, overcome, overwhelm, crush, quash, beat, trounce, subjugate, suppress, bring someone to their knees.

- ORIGIN Latin *subducere* 'draw from below'.

subdued adjective 1 quiet and rather thoughtful or depressed. 2 (of colour or lighting) soft; muted.

- SYNONYMS 1 Lewis's *subdued* air sombre, downcast, sad, dejected, depressed, gloomy, despondent, dispirited, disheartened, forlorn, woebegone; withdrawn. 2 *subdued* voices hushed, muted, quiet, low, soft, faint, muffled, indistinct. 3 *subdued* lighting dim, muted, soft, low.
- ANTONYMS cheerful, loud, bright.

subedit verb (**subedits**, **subediting**, **subedited**) chiefly Brit. check and correct the written part of a newspaper or magazine before printing.
- DERIVATIVES **subeditor** noun.

subframe noun a supporting frame.

subfusc /sub-'fusk, sub-'fusk/ adjective (rare) dull or gloomy.
● noun Brit. the formal clothing worn for exams and formal occasions at some universities.
- ORIGIN from Latin *sub-* 'somewhat' + *fuscus* 'dark brown'.

subgroup noun a small group that is part of a larger one.

subheading (also **subhead**) noun a heading given to a section within a larger piece of writing.

subhuman adjective not having the normal qualities of a human being, especially so as to be lacking in intelligence.
● noun a subhuman creature or person.

subject noun /sub-'jekt, sub-'jekt/ 1 a person or thing that is being discussed, studied, or dealt with. 2 a branch of knowledge studied or taught in a school, college, etc. 3 Grammar the word or words in a sentence that name who or what performs the action of the verb. 4 a member of a country or state other than its ruler.

- SYNONYMS 1 the *subject of this chapter* theme, subject matter, topic, issue, question, concern. 2 *popular university subjects* branch of study, discipline, field. 3 *six subjects did the trials* participant, volunteer; informal guinea pig. 4 *British subjects* citizen, national; taxpayer, voter.

● adjective /sub-'jekt, sub-'jekt/ (**subject to**) 1 likely or having a tendency to be affected by something unpleasant or unwelcome: *he was subject to bouts of depression*. 2 dependent or conditional on: *the merger is subject to shareholders' approval*. 3 under someone's or something's control or authority.
● adverb /sub-'jekt, sub-'jekt/ (**subject to**) if certain conditions are fulfilled.

● verb /sub-'jekt/ (usu. **subject someone/thing to**) 1 make someone or something undergo an unpleasant experience. 2 bring a person or country under one's control or authority.

- SYNONYMS 1 *We have seen shameful images of prisoners being subjected to abuse and humiliation put through*, treat with, expose to; inflict something on. 2 *nationalism soon lapses into imperialism, the desire to create empires that subject other peoples* subjugate, subdue, conquer, crush, overpower, dominate, oppress, repress, suppress.

- DERIVATIVES **subjection** noun.

- ORIGIN from Latin *subicere* 'bring under'.

subjective adjective 1 based on or influenced by personal feelings, tastes, or opinions. 2 Grammar relating to a case of nouns and pronouns used for the subject of a sentence.