

STATE OF ALABAMA

SHELBY COUNTY

IN THE PROBATE COURT OF SHELBY

COUNTY, ALABAMA

STATE OF ALABAMA

PETITIONER

VS.

William A. Bean and Josephine Bean; Edna Stamps and M. W. Stamps; J. T. Brasher;
Mary Brasher; T. O. Rush, Sr.; Addie Rush; Walker Mallory; Quincy Mallory;
Fancher Mallory; Lonzie Mae Mallory; Homer Mallory and Fay L. Mallory; Mountain
View Lumber Company; West End Branch, The First National Bank of Birmingham;
Dottie Carbin; Joe L. Carbin; Irene Buie; Cliff Buie; Hippie Hamilton; Arthur Lee
and Ella Lee; Will Reed and Anna Reed; Frank Ellis and Christine Ellis; Federal
Land Bank of New Orleans; Alabama Power Company; Earl J. Standifer

And the unknown heirs or devisees and personal representatives of any of the above parties who may be deceased, together with any other party or parties or corporations who may claim to own any right, title or interest in and to or hold in the Probate Court of Shelby County, Alabama, any lien against any real property situated in Shelby County, Alabama, as shown by the State of Alabama Highway map, Project No. S-1360-A, Columbiana By-pass, Shelby County, Alabama and recorded in the Office of the Probate Judge, Shelby County, Alabama,

RESPONDENTS

Certified a true and complete copy
Dan Klee ob
Register of Circuit Court

Inst # 1993-03980
02/10/1993-03980
02:20 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 MCD 19.00

THE STATE OF ALABAMA
SHELBY COUNTY

) IN THE PROBATE COURT OF
) SHELBY COUNTY, ALABAMA

TO THE HONORABLE C. M. FOWLER, JUDGE OF PROBATE OF SAID COUNTY;

APPLICATION FOR ORDER OF CONDEMNATION

Now comes The State of Alabama, as Petitioner, and files this, its application in the Probate Court of Shelby County, Alabama, for an order of condemnation of the lands and interests in lands hereinafter described in Exhibit "B" attached hereto, and, as a basis for the relief sought, shows unto the Court as follows:

1. Petitioner is authorized by the Constitution and laws of the State of Alabama to institute and prosecute this proceedings for the purpose stated.
2. That one certain highway situated and running through Columbiana, Shelby County, Alabama, otherwise known and designated as Alabama State Highway No. 25, is a State of Alabama highway, and as such, is a part of the Alabama State Highway System, and that the said Alabama State Highway No. 25 located in Shelby County, Alabama, in or near the City of Columbiana in said County, to be an Alternate course known as the Columbiana by-pass by the construction of what is to be known and designated as Project No. 9-1360-A, Shelby County, Alabama.
3. That the tracts of land hereinafter described in said Exhibit "B" attached hereto are necessary for use as a right-of-way for such public road or highway and the Petitioner seeks to condemn an easement or right-of-way for such public road or highway purposes in, over, upon or across the lands set out and described in each separate tract under Item II in said Exhibit "B", which is attached hereto and expressly made a part hereof by reference and adoption, with the term grantors referring to the property owners and grantee to the State of Alabama.
4. That petitioner further shows that diligent search has been made of the records of Shelby County, Alabama, and diligent inquiry made to ascertain the names, ages and places of residence of the parties owning the said lands, and according to the best of Petitioner's information, knowledge and belief the said lands are owned and interests in said lands are claimed by the persons and parties as are named as Respondents in this cause and as are hereinafter set forth in said Exhibit "B" and that all of said parties and persons named as owners and claimants are over the age of 21 years and are under no legal disability unless and except as stated under each separate tract described, and that each of said Respondents own or claim said property, or some right, title or interest therein, and that said easements or rights-of-way, as set forth and described under Item II in each separate tract in Exhibit "B" attached hereto, when condemned will be devoted to such public road or highway purposes.

5. Petitioner shows that the said rights-of-way which are sought to be condemned over each of said tracts of land described in said Exhibit "B" attached hereto are now located and staked out and are otherwise shown and described by maps or plats of survey made thereof now on file in the Office of the Probate Judge of Shelby County, Alabama, the same showing and defining the easements or rights-of-way for said public road or highway known as Project No. S-1360-A, Shelby County, Alabama, and reference thereto is made.

6. That Petitioner further shows that it has made bona fide efforts to agree with said owners and claimants of said tracts of land described in said Exhibit "B" as to damages and compensation to be allowed and paid to them for said right-of-way and other interests in said lands to be condemned hereby, and that it has failed to come to any such agreement with all of said parties, and that your Petitioner has heretofore taken all steps necessary and all proceedings required by law necessary to initiate these proceedings.

THE PREMISES CONSIDERED, Petitioner prays that this Court will make and enter an order appointing a day for the hearing of this Petition and will cause to issue to the Respondents set out in Exhibit "B" attached hereto, notice of the filing thereof and of the day set for hearing of same, all as provided by law and that a guardian ad Litem, be appointed to represent the minor Respondents hereto, as required by law, and that, upon final hearing of this Petition, this Court will order and decree that Petitioner is entitled to acquire said lands or interests in said lands and said rights and easements for the public purpose as set out herein, and will appoint Commissioners to ascertain and report the damages occasioned by such taking; and that upon payment into Court of the compensation assessed by said Commissioners a judgment or decree be rendered condemning an easement or right-of-way for such public road or highway purposes in, over, upon and across said lands set out and described under Item II of each separate tract of land, described and set out in said Exhibit "B", otherwise identified as Project No. S-1360-A, Shelby County, Alabama, and will make and enter in this cause all such other and further orders and decrees as may be necessary or proper in the premises.

THE STATE OF ALABAMA

STATE OF ALABAMA

SHELBY COUNTY

Before me, the undersigned authority in and for said County, in said State, personally appeared James H. Sharbutt, who is known to me and who, being by me first duly sworn, deposes and says on oath that he is a Special Assistant Attorney General for The State of Alabama and as such is authorized to make this affidavit; that he has read the above and foregoing petition and that the averments contained therein are true.

James H. Sharbutt
James H. Sharbutt

Sworn to and subscribed before me on this 26TH day of August, 1965.

Linda V. King
Linda V. King, Notary Public
Judy H. Harte

EXHIBIT "B"

Tract No. 18

Project No. S-1360-A

T. C. Rush, Sr.

\ Columbiana By-pass

Shelby County, Alabama

ITEM I.

The total real property involved in this tract in which is included the right-of-way to be appropriated and condemned is specifically described as follows, to-wit:

NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 26, Township 21 South, Range 1 West, Shelby County, Alabama.

ITEM II.

The real property to be appropriated and condemned for said right-of-way is more particularly described in Exhibit "A", Tract No. 18, attached hereto on the reverse side hereof and made a part of Item II herein and as shown by the right-of-way of map of Project No. S-1360-A, Columbiana By-pass, Shelby County, Alabama, as recorded in the Office of the Judge of Probate of Shelby County, Alabama.

See attached reverse side.

ITEM III.

The record owners and claimants of the herein recited and described real property in ITEMS I and II, are as follows, to-wit:

1. T. C. Rush, Sr., Columbiana, Alabama
2. Addie Rush, Columbiana, Alabama. Wife of T. C. Rush, Sr.
3. Alabama Power Company, Birmingham, Alabama.
Utility Permit recorded in Deed Book 119, Page 108 and Deed Book 162, Page 323.
4. Earl J. Standifer, Tax Collector, Shelby County, Alabama.

Exhibit "A"
Tract No. 18

Project No:
S-1360-A

Commencing at the southeast corner of NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 26, T-21-S, R-11-W, thence westerly along the south line of said NE $\frac{1}{4}$ of NW $\frac{1}{4}$, a distance of 319 feet, more or less, to approximate Station 169+10 on the centerline of Project No. S-1360-A; thence N 24° 09' 13" E, along the centerline of said project, a distance of 400 feet, more or less, to the west line of the property herein to be conveyed and the point of beginning; thence northerly along the west property line a distance of 135 feet, more or less, to the north property line; thence easterly along the said north property line (crossing the centerline of said project at approximate Station 174+65) a distance of 130 feet, more or less, to a point that is 60 feet southeasterly of and at right angles to the centerline of said project; thence S 24° 09' 13" W, parallel to the centerline of said project a distance of 151 feet, more or less, to a point that is 60 feet southeasterly of and at right angles to the centerline of said project at Station 173+50; thence southeasterly along a straight line a distance of 105 feet, more or less, to a point on the present north right-of-way line of Alabama Highway No. 70, that is 30 feet northerly of and at right angles to the centerline of said Highway at Station 51+55; thence westerly along the south property line a distance of 130 feet, more or less, to the west property line; thence northerly along said west property line a distance of 73 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 26, T-21-S, R-11-W, and containing 0.51 acres, more or less.

Inst # 1993-03980

02/10/1993-03980
02:20 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
DDB MCD 19.00