

STATE OF ALABAMA

Plaintiff

vs.

CONDEMNATION

CASE NO. L-654-75

CHARLES E. SILLERY, et al  
Defendants

1993-04649

02/18/1993-04649  
03:31 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
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On this the 7th day of June, 1976, case set for pre-trial conference at 1:30 P. M. on June 21, 1976, at 11:00 A. M. on August 2, 1976.  
s/ James H. Sharbutt, Circuit Judge.  
On this the 14th day of June, 1976, Pre-trial conference re-set to June 21, 1976, at 11:00 A. M. on August 2, 1976.  
s/ James H. Sharbutt, Circuit Judge.  
On this the 23rd day of June, 1976, Pre-trial Order to be filed within 10 days. Set for trial at 9:00 A. M. on August 2, 1976.  
s/ James H. Sharbutt, Circuit Judge.  
On this the 2nd day of August, 1976, continued to next court term.  
s/ James H. Sharbutt, Judge.  
On this the 2nd day of September, 1976, set for trial October 4, 1976, at 9:00 A. M.  
s/ James H. Sharbutt, Circuit Judge.  
On this the 5th day of October, 1976, Jury and verdict finding the issues for the defendant and assessing their damages at \$74,000.00.  
s/ K. Ingram, J.  
On this the 5th day of October, 1976, Judgment in favor of defendants, Charles E. Sillery and Doris Louise Sillery, and against the plaintiff, State of Alabama, in the amount of \$74,000.00. Cost of court is taxed against the plaintiff.  
s/ K. Ingram, J.  
On this the 6th day of December, 1976, Order and Decree of Condemnation as shown by separate paper this day filed.

ORDER AND DECREE OF CONDEMNATION

THIS CAUSE came on for trial on the 4 and 5 day of October, 1976, on appeal from the order of condemnation made and entered in the Probate Court of this County on the 4th day of November, 1975. The parties to this proceeding came into open court in their own persons and by their attorneys of record, entered an unqualified appearance, and all parties announced ready for trial. The Court is of the opinion and finds that it has jurisdiction of the cause and the parties.

THEREUPON, the Court proceeded to hear the allegations of the application or petition for order of condemnation, and upon consideration of said application and the testimony introduced in support thereof, it is the opinion and judgment of the Court that the allegations of the said petition are true, and that it is necessary that the property hereinafter described be condemned for the uses and purposes stated in said petition, and that the said application of the petitioner for order of condemnation should be granted. It is, therefore, CONSIDERED, ORDERED, ADJUDGED and DECREED by the Court, and it is the judgment of the Court, that the application or petition for the condemnation of an easement or right-of-way in, over, on and upon the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth and other obstructions situated on said lands, the right to prevent any persons from placing or maintaining any obstruction on said lands, and also the right to enter upon said lands for the purpose of constructing, maintaining and repairing the public improvements constructed or installed thereon or thereover; together with all existing, future and potential easements of access between the right-of-way of the public way described in said petition and all the real property of the respondents remaining after the appropriation of said easement and right-of-way described in the petition, be, and the same hereby is, granted and allowed.

THEREUPON, a jury having been legally demanded in said cause, the Court proceeds to have assessed by a jury the damages and compensation to which the several respondents are entitled for the condemnation of the parcel of property set out and described in said petition or application for condemnation and as hereinafter described.

THEREUPON, on the 5 day of October, 1976, a jury of good and lawful men, to-wit, Herman Whitfield, Foreman, and eleven others, who, being duly impaneled and sworn according to law, upon their oaths do say:

"We, the Jury assess the damages in favor of the defendants in the sum of Seventy Four Thousand (\$74,000.00) Dollars."

And now comes the petitioner by its attorney and shows unto the Court that it has heretofore deposited with the Judge of Probate Court of Shelby County, Alabama, the sum of Seventy Seven

Certified a true and complete copy

Dan Reeves, Jr.  
Register of Circuit Court

382  
Thousand Six Hundred and 50/100 Dollars (\$77,600.50), as damages and compensation for the condemnation of the lands and interest in lands hereinafter described, which said sum has been transferred and delivered by the Judge of the Probate Court of Shelby County, Alabama, to the Clerk of this Court, who now has possession of said funds.

It is hereby ORDERED, ADJUDGED AND DECREED by the Court that the Clerk of this Court hereby is authorized and directed to pay to the defendants the sum of Twenty Thousand Five Hundred Forty One and 29/100 (\$20,541.29) Dollars, which is the amount of the award in this cause, plus interest in the amount of One Thousand Eighty Seven and 29/100 (\$1,087.29) Dollars, less Fifty Four Thousand Five Hundred Forty Six and 00/100 (\$54,546.00) Dollars withdrawn by the defendants.

That the balance of Two Thousand Five Hundred Thirteen and 21/100 (\$2,513.21) Dollars, presently being held by the Clerk, less the costs of court in this cause, which are hereby taxed against the petitioner-plaintiff, be refunded and repaid by the Clerk to the Plaintiff, The State of Alabama.

Upon payment of the award and costs in this proceeding by the plaintiff in this cause, the hereinafter described lands and interest in lands are hereby condemned and awarded to the plaintiff.

It is further ORDERED, ADJUDGED AND DECREED By the Court that the Petitioner, The State of Alabama, be, and it hereby is, given and awarded a right of way and easement in, over, on and upon the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth, and other obstructions situated on said lands, the right to prevent any persons from placing or maintaining any obstructions on or upon said lands, and also the right to enter upon said lands for the purpose of constructing, maintaining, and repairing the public road, street, avenue or highway for which said land is sought to be and hereby is condemned, and for the uses and purposes sought in the petition or application; together with all existing, future and potential easements of access between the said right of way of the public way hereinafter described and all of the real property of the defendants remaining after appropriation of said easement and right of way herein described.

It is further ORDERED, ADJUDGED AND DECREED, that title to the property hereinafter described be and the same hereby is divested out of the defendants and hereby is vested in the Plaintiff, The State of Alabama, said property being particularly described as follows:

SAID PROPERTY DESCRIPTION BEING ATTACHED HERETO AND MARKED "EXHIBIT A" AND MADE A PART HEREIN DONE AND ORDERED THIS THE 29th DAY OF NOVEMBER, 1976.

s/ Kenneth F. Ingram.  
CIRCUIT JUDGE

EXHIBIT "A"

SHELBY

TRACT NO. 12

Shelby

and as shown on the right-of-way map of Project No. I-65-2(37) as recorded in the Office of the Judge of Probate of Shelby County, Alabama:

Commencing at the northeast corner of the NE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 13, T-20-S, R-3-W; thence westerly along the north line of said NE $\frac{1}{4}$  of SE $\frac{1}{4}$ , a distance of 122 feet, more or less, to the present northwest right-of-way line of Shelby County Road No. 35 and the point of beginning of the property herein to be conveyed; thence southwesterly along said present northwest right-of-way line, a distance of 262 feet, more or less, to a point that is 125 feet southeasterly of and at right angles to the centerline of the right lane of Project No. I-65-2(37); thence S 22° 17' 30" W, parallel to the centerline of said right lane, a distance of 1123 feet, more or less, to the south line of said NE $\frac{1}{4}$  of SE $\frac{1}{4}$ , the south property line; thence westerly along said south property line (crossing the centerline of said right lane at Station 88+78.6 and the centerline of the left lane of said project at approximate Station 88+71) a distance of 533 feet, more or less, to a point that is 125 feet northwesterly of and at right angles to the centerline of the left lane of said project; thence northeasterly along a curve to the right (concave southeasterly) having a radius of 5854.58 feet, parallel to the centerline of said left lane a distance of 145 feet,



more or less, to a point that is 125 feet northwesterly of and at right angles to the centerline of said left lane at Station 89+69.7; thence N 23° 08' 30" E, parallel to the centerline of said left lane, a distance of 1238 feet, more or less, to the north line of said NE¼ of SE¼, the north property line; thence easterly along said north property line (crossing the centerline of said left lane at approximate Station 102+62 and the right lane of said project at Station 102+73) a distance of 460 feet, more or less, to the point of beginning.

Said strip of land lying in the NE¼ of SE¼, Section 13, T-20-S, R-3-W and containing 15.74 acres, more or less.

As a part of the consideration hereinabove stated there is also bargained, sold, conveyed and relinquished to the grantee all existing, future or potential common law or statutory rights of access between the right of way of the public way identified as Project No. 1-65-2(67), County of Shelby, and all of the grantor's remaining property consisting of all parcels contiguous one to another, whether acquired by separate conveyances or otherwise, all of which parcels either adjoin the property conveyed by this instrument or are connected thereto by other parcels owned by the grantor.

Filed in Office this the 6 day  
of December, 1976.

Kyle Lansford  
Clerk of Circuit Court  
Shelby County, Alabama

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SHELBY COUNTY JUDGE OF PROBATE  
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