

STATE OF ALABAMA

vs.

Plaintiff

CASE NO. L-653-75

CONDEMNATION

EUGENE M. MCCLAIN and wife,
GERALDINE P. MCCLAIN
Defendants

On this the 7th day of June, 1976, Case set for pre-trial conference at 1:30 P.M. on June 23, 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.

s/ James H. Sharbutt, Circuit Judge

On this the 23rd day of June, 1976, Pre-trial order to be filed within 10 days. Continued to next court term.

s/ James H. Sharbutt, Circuit 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 27th day of September, 1976, Motion in Limine to Preclude the Admission of Prejudicial Evidence Against the Defendant Property Owner is continued to 9:00 a.m., October 4, 1976.

s/ James H. Sharbutt, Circuit Judge

On this the 12th day of October, 1976, Jury and verdict finding for defendants, and assessing their damages at \$135,400.00. Separate order of judgment to be filed later.

s/ K. Ingram, J.

On this the 8th day of November, 1976, Plaintiff files motion for new trial.

s/ K. Ingram, J.

On this the 8th day of December, 1976, Motion for new trial having been previously set for hearing on this date, the Court considers same and denies the motion.

s/ K. Ingram, J.

On this the 27th day of December, 1976, Notice of Appeal filed by State of Alabama this date.

s/ Kenneth F. Ingram, Circuit Judge
Certified a true and complete copy

Dan Reeves, db
Register of Circuit Court

02/17/1993-04667
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SHELBY COUNTY JUDGE OF PROBATE
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On this the 7th day of March, 1977, On motion of the plaintiff, The State of Alabama, this appeal has been dismissed.

s/ Kenneth F. Ingram, Circuit Judge

CONSENT JUDGMENT OF CONDEMNATION

This cause, coming on to be heard on this day for an Order of Condemnation pursuant to the Petition for Condemnation heretofore filed in said cause, and it appearing to the Court that the parties are in agreement as to the amount of damages due the defendants, the parties mutually agree as follows:

A. That the State of Alabama is authorized to institute and prosecute this proceeding to acquire from the defendants the property and interests therein, hereinafter described and designated as Tract No. 9, according to Project No. I-65-2(37), of the State of Alabama Highway Department, Shelby County, Alabama, for the public purposes stated in the Petition:

THE PROPERTY DESCRIPTION BEING ATTACHED HERETO AND MARKED "EXHIBIT A"

B. The parties mutually agree that the issue of damages and compensation due the defendants is One Hundred Thirty One Thousand and 00/100 (\$131,000.00) Dollars, plus interest in the amount of Two Thousand Five Hundred Ninety One and 70/100 (\$2,591.70) Dollars, for the interests in that portion of the property taken by the State of Alabama from the defendants.

C. The parties mutually agree that the State of Alabama has heretofore paid into Court the sum of Ninety Eight Thousand Nine Hundred and 00/100 (\$98,900.00) Dollars.

WHEREFORE, Upon payment to the defendants of the sum of Forty Eight Thousand Six Hundred Ninety Four and 70/100 (\$48,694.70) Dollars, being the compensation due the defendants in the amount of One Hundred Thirty One Thousand and 00/100 (\$131,000.00) Dollars, plus interest in the amount of Two Thousand Five Hundred Ninety One and 70/100 (\$2,591.70) Dollars, totalling One Hundred Thirty Three Thousand Five Hundred Ninety One and 70/100 (\$133,591.70) Dollars, less Eight Four Thousand Eight Hundred Ninety Seven and 00/100 (\$84,897.00) Dollars previously released to the defendants by the Court; by the Clerk of this Court, the State of Alabama hereby is given and awarded the fee simple title to the property heretofore described, together with all existing, future and potential easements of access between the said right of way of the public way heretofore 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 and access rights heretofore described be and the same are hereby divested out of the defendants and hereby are vested in the petitioner, the State of Alabama.

The cost of this proceeding is hereby taxed against the State of Alabama, and the Clerk of this Court is ordered to withhold the costs of this proceeding from the funds heretofore deposited by the State of Alabama into this Court.

The defendants herein are ordered to pay to Fay Quick, Tax Collector, any sums found due for taxed on the property herein described. The Clerk of this Court is further ordered to refund whatever amount is due after pay of costs to the State of Alabama, if any.

ORDERED, ADJUDGED, AND DECREED BY THE COURT THIS THE 10th DAY OF March, 1977.

s/ Kenneth F. Ingram
JUDGE, CIRCUIT COURT

APPROVED:

STATE OF ALABAMA

BY: s/ Ralph E. Coleman
RALPH E. COLEMAN
Special Assistant Attorney General
State of Alabama

BY: s/ John Lavette
JOHN LAVETTE
Attorney for Defendants

EXHIBIT A

SHELBY

TRACT NO. 9, REV.

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 northwest corner of the SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 13, T-20-S, R-3-W; thence southerly along the west line of said SE $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 328 feet, more or less, to the northernmost property line; thence easterly along said northernmost property line, a distance of 87 feet, more or less, to the point of beginning of the property herein to be conveyed, said point of beginning being on a line which extends from a point that is 145 feet northwesterly of and at right angles to the centerline of the left lane of Project No. I-65-2(37) at Station 84+00 to a point that is 125 feet northwesterly of and at right angles to the centerline of said left lane at Station 85+00; thence continuing easterly along said northernmost property line (crossing the centerline of said left lane at approximate Station 85+28 and the centerline of the right lane of said project at approximate Station 85+22) a distance of 521 feet, more or less, to a point that is 125 feet southeasterly of and at right angles to the centerline of said right lane; thence S 22°17'30" W, parallel to the centerline of said right lane, a distance of 70 feet, more or less, to a point that is 125 feet southeasterly of and at right angles to the centerline of said right lane at Station 85+02.5; thence southwesterly along a curve to the left (concave southeasterly) having a radius of 5604.58 feet, parallel to the centerline of said right lane, a distance of 671 feet, more or less, to the south property line; thence westerly along said south property line (crossing the centerline of said right lane at approximate Station 77+90) a distance of 259 feet, more or less, to the southeast property line; thence southwesterly along said southeast property line (crossing the centerline of the left lane of said project at approximate Station 75+65) a distance of 315 feet, more or less, to the north line of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 24, T-20-S, R-3-W, the north property line; thence easterly along said north property line (crossing the centerline of the left lane of said project at approximate Station 75+12 and the centerline of the right lane of said project at approximate Station 75+01) a distance of 338 feet, more or less to a point that is 125 feet southeasterly of and at right angles to the centerline of said right lane; thence southwesterly along a curve to the left (concave southeasterly) having a radius of 5604.58 feet, parallel to the centerline of said right lane, a distance of 185 feet, more or less, to the center of a paved road, the southeasternmost property line; thence southwesterly along said southeasternmost property line (crossing the centerline of the right lane of said project at approximate Station 70+45) a distance of 560 feet, more or less, to the southernmost property line; thence westerly along said southernmost property line (crossing the centerline of the left lane of said project at approximate Station 68+40) a distance of 180 feet, more or less, to a point that is 125 feet westerly of and at right angles to the centerline of said left lane; 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 365 feet, more or less, to a point that is 125 feet westerly of and at right angles to the centerline of said left lane at Station 72+00; thence northwesterly along a straight line a distance of 102 feet, more or less, to a point that is 145 feet westerly of and at right angles to the centerline of said left lane at Station 73+00; thence northeasterly along a curve to the right (concave southeasterly) having a radius of 5874.58 feet, parallel to the centerline of said left lane, a distance of 1130 feet, more or less, to a point that is 145 feet northwesterly of and at right angles to the centerline of said left lane at Station 84+00; thence northeasterly along a straight line (which if extended would intersect a point that is 125 feet northwesterly of and at right angles to the centerline of said left lane at Station 85+00) a distance of 99 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 24 and the S $\frac{1}{2}$ of SE $\frac{1}{4}$, Section 13, T-20-S, R-3-W and containing 14.56 acres, more or less.

The above described area includes a present 30 foot easement granted to the Plantation Pipeline, the centerline of which crosses the centerline of the left lane of Project No. I-65-2 (37) at approximate Station 81+09 and the right lane of said project at approximate Station 81+00. Also, a present 30 foot wide easement granted to the Alabama Power Company, the centerline of which crosses the centerline of the left lane of said project at approximate Station 85+00. Also, a present 30 foot wide easement granted to the Alabama Power Company, the centerline of which crosses the centerline of the right lane of said project at approximate Station 72+90.

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. I-65-2(37), 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.

Also, a temporary drainage easement to a strip of land necessary for draining and filling of a pond and being more fully described as follows: Beginning at a point that is 245 feet northwesterly of and at right angles to the centerline of the left lane of Project No. I-65-2(37) at Station 75+50; thence northeasterly along a curve to the right (concave southeasterly) having a radius of 5974.59 feet parallel to the centerline of said left lane a distance of 152 feet, more or less, to a point that is 245 feet northwesterly of and at right angles to the centerline of said left lane at Station 77+00; thence southeasterly along a straight line a distance of 100 feet to a point that is 145 feet northwesterly of and at right angles to the centerline of said left lane at Station 77+00; thence southwesterly along a curve to the left (concave southeasterly) having a radius of 5874.58 feet parallel to the centerline of said left lane a distance of 151 feet, more or less, to the point of beginning.

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