

Petitioner,	)	SHELBY COUNTY, ALABAMA
	)	OF APPEAL FROM THE PROBATE
	)	COURT OF SHELBY COUNTY,
-vs-	)	
	)	NO. 483
JUSTINA F. WHITTINGTON, et als,	)	
Respondents.	)	

ORDER AND DECREE OF CONDEMNATION

On this, the 17th day of November, 1959, being the day set for the trial of this cause, and said cause being regularly reached on said date and called for trial by the Court, came into open court the petitioner, State of Alabama, by its attorney of record, and also came the respondents, Justina F. Whittington, Elizabeth Whittington Childers, Charley Childers, and Merrell Whittington, by their attorney of record, W. W. Rabren.

And it appearing to the satisfaction of the Court that John Edward Fulton, one of the Respondents to this said cause, has filed in this said cause on this same day an instrument in writing disclaiming any and all interest by said Respondent in the property involved in these proceedings and consenting that these proceedings may be concluded without any further notice to him.

And it further appearing to the satisfaction of the Court that one of the Respondents to this said cause, Allen Fulton Whittington, is a minor sixteen years of age who has requested in writing by separate paper filed in this said cause on this same day that W. W. Rabren, Attorney, at Law, be appointed as guardian ad litem to represent said minor in these proceedings, and the Court, having first appointed said W. W. Rabren as said guardian ad litem, and said W. W. Rabren then having consented to and accepted said appointment, as shown by separate paper filed in this said cause on this same day,

And said guardian ad litem thereupon having appeared in open court and in writing having denied each and every allegation of the Application for Order of Condemnation, as amended, heretofore filed in the Probate Court of Shelby County, Alabama, on 19th day of May, 1959, and demanded strict proof thereof,

THEREUPON, the Court proceeded to hear the allegations of the application or petition for order

Inst # 1993-10140

04/13/1993-10140  
03:24 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
002 MCD 9.00

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 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 of the State of Alabama 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, and the right to prevent any persons from placing or maintaining any obstruction on said land, and also the right to enter upon said lands for the purpose of constructing, maintaining and repairing the public improvements constructed or installed hereon 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, on the 17th day of November, 1959, a jury of good and lawful men, to-wit: J. C. Baird, Foreman, and eleven others, who being duly impaneled and sworn according to law, upon their oaths do say:

"We, the jury assess and fix the damages and compensation to the owners of the property described in Paragraph 3, Parcel 7, of the application for condemnation filed in the Office of the Judge of Probate of Shelby County, Alabama on the 19th day of May, 1959 at \$6,500.00.

S/ J. C. Baird  
Foreman

And now comes the petitioner, by its attorney, and shows unto the Court that it has heretofore deposited with the Judge of the Probate Court of Shelby County, Alabama, the sum of Seven Thousand Two Hundred Twenty-five Dollars, (\$7,225.00), as damages and compensation for the condemnation of the lands and interest in lands hereinafter described, which said sum the Judge of the Probate Court of Shelby County, Alabama, has heretofore delivered and paid over to the Clerk of the Circuit Court of Shelby County, Alabama.

It is hereby ORDERED, ADJUDGED and DECREED by the Court that the Clerk of this Court hereby is authorized and directed to hold the said sum of Six Thousand Five Hundred Dollars in this cause for said respondents pending further order of this Court, and that said Clerk is hereby authorized and directed to refund the remaining sum of Seven Hundred Twenty-five Dollars (\$725.00) to Petitioner, State of Alabama, after first deducting therefrom the costs of court, which are hereby taxed against the petitioner.

It is further ORDERED, ADJUDGED, and DECREED by the Court that the sum of \$50.00 is a reasonable sum to allow the guardian ad litem, W. W. Rabren, for his services in this said cause, and that said sum, which is hereby allowed to said guardian ad litem for his said services, be taxed against the Petitioner as part of the costs of court in this said cause.

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, and 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 respondents, 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, for the purposes sought by Petitioner in its said application for condemnation, as amended, heretofore filed in this cause, hereby is divested out of the respondents and hereby is vested in the petitioner, the State of Alabama, together with all easements or rights of access between the right-of-way hereinafter described and the abutting property on each side of said right-of-way. Said property is particularly described as follows:

A tract of land designated as tract No. 60, as shown on the Alabama, State Highway Department Right-of-way Map, Project NO. I-202-2(7), August, 1957, as recorded in the office of the Judge of Probate of Shelby county, Alabama, being more particularly described as follows;

Beginning at the northwest property corner at an iron pin; thence southerly along the west property line a distance of 180 feet, more or less, to the existing northeast right of way line of U. S. Highway No. 31; thence southeasterly along said existing northeast right of way line a distance of 240 feet, more or less, to the east property line; thence northerly along said east line a distance of 210 feet, more or less, to the north property line; thence westerly along said north line a distance of 230 feet, more or less, to the point of beginning; lying in the NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 12, T. 21 S., R. 3 W, and containing 1.05 acres, more or less.

Done and ordered this 17th day of November, 1959.

A. L. Hardegree  
Circuit Judge.

Certified a true and complete copy

Dan Reeves *ds*

Register of Circuit Court

Inst # 1993-10140

04/13/1993-10140  
03:24 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
002 MCD 9.00

No. 483

Decree of Condemnation

Filed in office this 17 day of Nov. 1959

I. G. Fulton, clerk of The Circuit Court of  
Shelby County, Alabama