

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

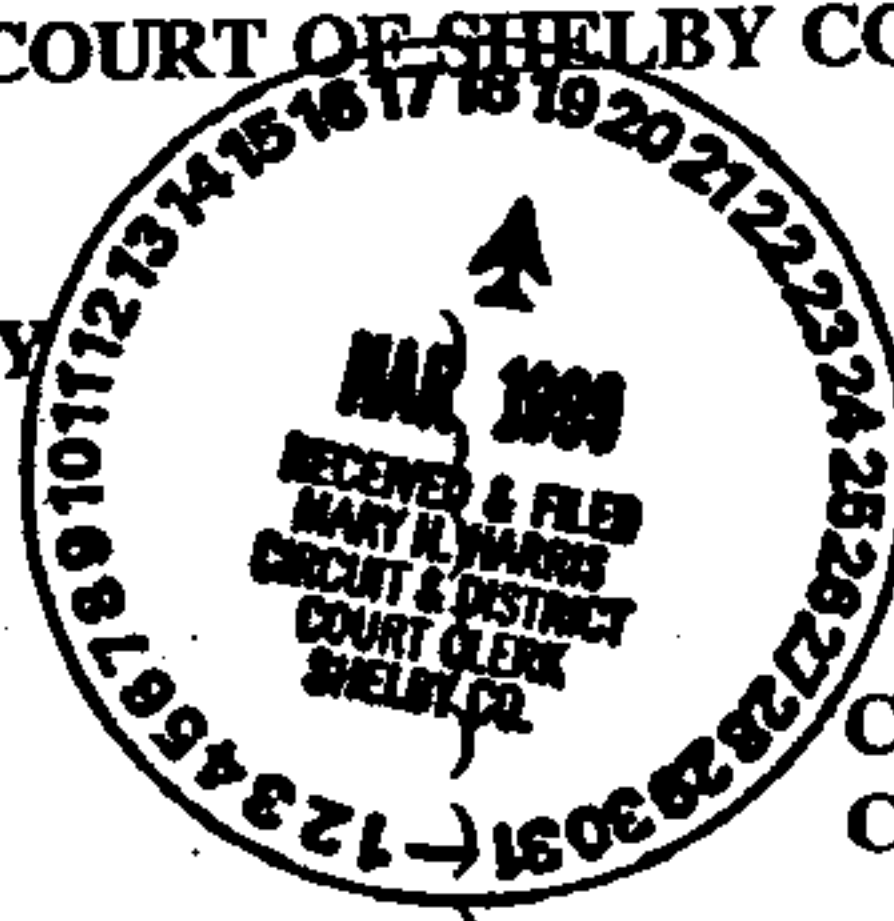
ALABAMA POWER COMPANY

Plaintiff,

v.

EDWIN AND JUDY MILES,

Defendants.



CIVIL ACTION NO.
CV 97-000461

Inst # 1999-13927

JUDGMENT OF CONDEMNATION

This cause came before this Court on appeal from the Order of Condemnation made and entered in the Probate Court of Shelby County in Case No. 35-248.

On August 24, 1998, following a bench trial in which defendants, Edwin and Judy Miles, challenged plaintiff's right to condemn, this Court entered an order granting Alabama Power Company's Complaint for Condemnation.

Thereafter, on February 22, 1999, the parties hereto came into open court individually and by their attorneys of record and announced ready for trial on the remaining issues in the case; namely, the amount of damages due defendants for the interests in land being acquired from them herein by plaintiff. Whereupon, a jury having been legally demanded in this cause, the Court proceeded to have assessed by a jury the damages and compensation to which the defendants, Edwin and Judy Miles, were entitled for the condemnation of the rights set forth and described in the Complaint for Condemnation, as amended. Accordingly, on the 23rd day of February, 1999, a jury being duly empaneled and sworn according to law, found the just compensation to which the defendants are entitled to be the sum of Nine Thousand and No/100 Dollars

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(\$9,000.00), and the Court finds and ORDERS that defendants have and recover said sum as the just compensation for the rights, ways and rights-of-way sought and acquired herein by Alabama Power Company.

The Court finds that plaintiff Alabama Power Company has heretofore deposited with the Judge of Probate of Shelby County, Alabama, the sum of \$30,200.00, as awarded and paid into Probate Court with respect to Parcel 3, as damages and compensation for the condemnation of the rights described in the Complaint for Condemnation, as amended, which said sum has been transferred and delivered by the Probate Court to the Clerk of this Court, which funds were ordered by this Court to be invested in an interest bearing account (hereinafter "combined funds on deposit").

The Court further finds that the clerk of this court should issue to defendants, Edwin and Judy Miles, the sum of \$9,000.00 from the funds on deposit, representing the amount of the jury verdict, as permitted by section 18-1A-110, Code of Alabama, leaving a balance due plaintiff of \$21,200.00 (\$30,200.00 less \$9,000), together with 29.8 per cent (the pro rata share due defendants) of any interest that has accrued thereupon while on deposit. No other interest is due defendant under section 18-1A-211, as the jury's verdict was less than the probate award. *State v. Gray*, 1998 WL 737951 (Ala. Civ. App. 1998). Plaintiff Alabama Power Company is entitled to a refund of \$21,200.00 (Probate Court deposit of \$30,200 less the jury verdict of \$9,000), together with 70.2 per cent of any interest accrued while on deposit. If no interest has accrued while the funds have been on deposit, then neither party is due any interest.

It is therefore ORDERED that the Clerk of this Court, as soon as practicable on or after the date of this Order, issue forthwith checks disbursing the combined funds on deposit as follows:

1. A check made payable to Edwin and Judy Miles and their attorney, Douglas Corretti, in the amount of \$9,000.00, together with any interest due to be added thereto, and mailed or delivered to Corretti, Newson & Hawkins, 1804 North 7th Ave., Birmingham, AL 35203
2. A check made payable to Alabama Power Company in the principal amount of \$21,200.00, together with any interest due to be added thereto, and mailed to its attorney, Steven F. Casey, Balch & Bingham LLP, PO Box 306, Birmingham, AL 35201.

The Court further ORDERS, ADJUDGES and DECREES that Alabama Power Company be and it is hereby granted all rights, ways and rights-of-way requested in Par. 3 of Article Fourth of the Complaint for Condemnation, as amended, as convenient and useful in connection therewith for the purposes described in the Complaint, together with all rights conferred by law and all that are necessary, useful or convenient to the full enjoyment of said rights, ways and rights-of-way for such uses and purposes.

The Court further ORDERS that the appeal bond heretofore posted by Alabama Power Company be and the same is hereby dissolved, and that costs of court be taxed as paid.

Done this 19th day of March, 1999.


Circuit Judge

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