

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

STATE OF ALABAMA,

Appellee,

vs.

ERNEST JOSEPH AND JOE JOSEPH
OWNERS OF THE FEE, AND ANNETTE
SKINNER, SHELBY COUNTY TAX
COLLECTOR,

Appellants.

CIVIL ACTION NUMBER
CV-01-892

ORDER OF CONDEMNATION

This cause was commenced by the filing of a Complaint for Condemnation in the Probate Court of Shelby County, Alabama, on the 27th day of March, 2001, to condemn the property hereinafter described under and pursuant to Section 23 of the Constitution of Alabama, §18-1A-1 et seq. and §23-1-45, Code of Alabama, 1975, as amended. The case came on for trial in this Court on the 10th day of December, 2002, on appeal by the Defendant from the Order of Condemnation made and entered in the Probate Court of Shelby County on the 30th day of July, 2001. The parties to these proceedings came into open Court in their own persons and by their attorneys of record and 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 of the parties.

All of the parties to this cause stipulated and agreed in open Court that:

1. The owners and parties in interest of the property condemned herein are Ernest A. Joseph, Joe J. Joseph, Yvonne D. Joseph and Zafira D. Joseph.

2. An Order of Condemnation may be entered in this cause granting the Application for an Order to Condemn the property hereinafter described and the only issue to be decided by the jury is the amount of compensation to be awarded to the property owner.

3. The Court would make the determination and calculations relating to interest due the landowner, if any.

Thereupon, a jury having been demanded to assess the damages and compensation to which the owner of said lands is entitled, the Court proceeded to have a jury assess the damages and compensation for the condemnation of said land and on the 12th day of December, 2002, came a jury of twelve (12) good and lawful persons, who being duly impaneled and sworn according to law, assessed damages and compensation in the amount of Six Hundred Thirty-One Thousand and 00/100 Dollars (\$631,000.00).

Now comes the Plaintiff, State of Alabama and shows unto the Court that it has heretofore, deposited with the Judge of Probate of Shelby County, Alabama the total sum of \$415,120.00 on the 28th day of August, 2001, which amount represented the damages and compensation awarded by the Probate Court to the condemnation of said land. Thereafter, on the 30th day of August, 2001, the Clerk of the Probate Court of Shelby County, Alabama, deposited the sum of \$415,120.00 with Mary Harris, Circuit Clerk of Shelby County, Alabama. The total sum deposited with the Circuit Clerk on August 30, 2002, was \$415,120.00. Pursuant to Court's Order dated October 18, 2001 granting the State of Alabama's Motion for Order to Allow Defendants/Appellants to Withdraw Funds and for Order to Invest Remaining Funds, Defendants/Appellants withdrew \$318,950.00 from the Circuit Clerk of Shelby County, Alabama, on October 26, 2001. Pursuant to the stipulation of the parties, the Court has

calculated the interest due the property owner to be the sum of \$1,632.58. The Court's calculation of the interest is as follows:

Three Hundred Twelve Thousand Fifty Dollars (\$312,050.00) (the difference between the amount of the jury verdict of Six Hundred Thirty-One Thousand and 00/100 Dollars (\$631,000.00) and the amount of money withdrawn by Defendants/Appellants on October 26, 2001, Three Hundred Eighteen Thousand Nine Hundred Fifty Dollars (\$318,950.00)) was multiplied by .0124, the annual interest rate prevailing on 6-month United States Treasury Bills as of December 19, 2002, and then divided by 365 and then multiplied by 154 which is the number of days from the date of valuation on March 27, 2001, to the date of the sum of \$415,120.00 was deposited into the Probate Court of Shelby County, Alabama, which was August 28, 2001. The sum is \$1,632.58.

The Court further finds that the total sum owed to the property owners is \$313,682.58 which includes interest. The Plaintiff, State of Alabama, has heretofore paid into this court the sum of \$415,120.00.

Now, therefore, it is, ORDERED, ADJUDGED and DECREED by the Court that the Clerk of this Court is ordered and directed to pay forthwith to the Defendants, property owners, the sum of \$96,170.00, including interest, which represents a portion of the damages and compensation to which the property owners are entitled in this cause.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Plaintiff pay to the Defendants, property owners, the sum of \$217,512.58, the balance of damages and compensation to which the property owners are entitled in this cause.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Complaint for condemnation of lands herein described be, and the same is hereby granted and the Plaintiff, State of Alabama, is awarded the interest in said lands sought to be acquired in said Complaint and said lands are hereby condemned for the uses and purposes stated and sought in the Complaint for Order of Condemnation as filed herein.

It is further ORDERED, ADJUDGED and DECREED by the Court that the interest and right-of-way condemned and awarded to the Plaintiff, the State of Alabama, is in, over, across and under the following land of Defendant, to wit:

The property described on Exhibit A which is attached hereto and made a part hereof, and as shown on the right-of-way map of Project No. STPAA-458(1), Tract No. 41, of record in the Alabama Department of Transportation, a copy of which is also deposited in the Office of the Judge of Probate of Shelby County, Alabama, as an aid to persons and entities interested therein as shown on the property plat attached hereto as Exhibit B and made a part hereof.

It is further ORDERED, ADJUDGED and DECREED by this Court that the costs of this cause are hereby taxed against the Plaintiff, State of Alabama, for which let execution issue.

DONE and ORDERED this 20th day of December, 2002.


CIRCUIT JUDGE

EXHIBIT A

A part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 2, Township 21 South, Range 3 West, and part of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 11, Township 21 South, Range 3 West, identified as Tract No. 41, Project No. STPAA-458 (1), Shelby County, Alabama, and being more fully described as follows:

Commence at the northeast corner of said SE $\frac{1}{4}$ of SW $\frac{1}{4}$; thence south along the east line of said SE $\frac{1}{4}$ of SW $\frac{1}{4}$, a distance of 36 feet, more or less, to a point that is 75 feet southeasterly of and at right angles to the centerline of said project; thence southwesterly, parallel with said centerline, a distance of 554 feet, more or less, to the north property line and the point of beginning of the property herein conveyed; thence west along said north property line a distance of 85 feet, more or less, to the present southeast right of way line of Alabama Highway 119; thence southwesterly along said right of way line a distance of 488 feet, more or less, to a point that is 75 feet southwesterly of and radial to the centerline of said project; thence southeasterly, parallel with said centerline, along a curve to the left, a distance of 245 feet, more or less, to a point that is 75 feet southwesterly of and at right angles to said centerline at Station 523 +45.07; thence southwesterly a distance of 38 feet, more or less, to a point that is 90 feet southwesterly of and at right angles to said centerline at Station 523 +10; thence southwesterly a distance of 87 feet, more or less, to a point on the present southeast right of way line of Alabama Highway 119 that is 50 feet northeasterly of and at right angles to the centerline of 13th Avenue Extension, thence southwesterly along said southeast right of way line a distance of 98 feet, more or less, to the southwest property line; thence southeasterly along said southwest property line a distance of 413 feet, more or less, to the east line of said NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the east property line; thence north along said east line a distance of 322 feet, more or less, to the south line of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, the south property line; thence east along said south line a distance of 328 feet, more or less, to a point on a line which extends from a point that is 530 feet northeasterly of and at right angles to said centerline at Station 521 +77 to a point that is 503 feet northeasterly of and radial to said centerline at Station 524 + 14; thence northwesterly along said line a distance of 171 feet, more or less, to said point that is 503 feet northeasterly of and radial to said centerline at Station 524 + 14; thence northwesterly a distance of 430 feet, more or less, to a point that

is 90 feet easterly of and radial to said centerline at Station 525+90; thence northerly, parallel with said centerline, along a curve to the right, a distance of 345 feet, more or less, to a point that is 90 feet easterly of and at right angles to said centerline at P. T. Station 529+66.71; thence turn an angle of 90 degrees, left for a distance of 15 feet; thence turn an angle of 90 degrees to the right for a distance of 87 feet, more or less, to the point of beginning. Containing 6.73 acres, more or less.

[illegible]

REVISED: 7-31-98 8-21-00