

No 1453

Given Charges

City of Bay Minette
VS
Bay Minette Land Co

Charge No. 1.

The Court charges the jury that the owner of the land sought to be condemned in this proceeding is entitled to receive the real value of the land to the owners as it is actually situated and not merely its value regarding it as a separate and independent piece of land.

Given
Telfair J. Masliberry, Jr.
Judge

Charge No. 3.

The Court charges the jury that market value is the price which the property will bring when offered for sale in the market, not at a forced sale on short notice, but after such reasonable time as would ordinarily be taken to make a sale of like property. It is the highest price which at such sale those having the ability and the occasion to buy are willing to pay.

Given
J. Fair J. Mashburn, Jr.
Judge.

4. The court charges the jury that the measure of the defendants compensation and damages in this case is the value of the property taken as of the time of condemnation plus the diminished value of the rest of the defendants property legally related to that taken, but damages to the rest of the defendants property legally related to that taken does not include imaginary fears on the part of the defendants or others that the operation of a sewage disposal plant on a part of the property taken will constitute a nuisance.

*Green,
Selling, madebury, Jr.
Judge.*

Charge No. 4.

The Court charges the jury that the damages to which the defendants are entitled in this case is the actual value of the lands actually condemned and the damages, if any, which have resulted to their other lands out of which the right of way or condemned lands are carved, by reason of the existence of such right of way or sewage disposal plant erected on the lands condemned.

Given
Telfair J. Mashburn, Jr.
Judge.

Charge No. 5.

The Court charges the jury that the damages resulting to the defendants in this case as the owners of certain lands not condemned adjoining the condemned lands is the difference in the actual value of such other lands before and after the condemnation.

Given
J. Fair J. Madsbury, Jr.
Judge. c.

Charge No. 6.

The Court charges the jury that the application to condemn the lands described in this proceeding is not limited to a term of years and that the jury should award the owners of such land the value of the entire fee at the time of taking.

Given
J. Fair J. Mashburn, Jr.
Judge.

Charge No. 7.

The Court charges the jury that the easement sought to be condemned for the sewage line is not limited to a term of years in this case and therefore that the defendants are entitled as damages, to the fair and reasonable market value of the strip of land described in such easement at the time of taking.

Given
Jelfair J. Mathis, Jr.
Judge.

Charge No. 8.

The Court charges the jury that the amount of compensation to which the defendants are entitled must not be reduced or diminished because of any incidental benefits which may accrue to them or to their remaining lands in consequence of the uses to which the lands to be taken or in which the easement is to be acquired, will be appropriated.

~~Refused~~ Given
Julius J. Masliburn, Jr.

Charge No. 9.

The Court charges the jury that the defendants in this case are entitled as damages, to the reasonable market value of the lands taken by this proceeding at the time of the taking and also for the injury occasioned thereby to their contiguous lands.

Given
J. Fair J. Mashbury Jr.
Judge.

9. The court charges the jury that the market value is the price which the property will bring when offered for sale on the market not at a forced sale on short notice, but after such reasonable time as would be ordinarily taken to make a sale of like property.

Given
Jeffrey J. Masland, Judge

15. The court charges the jury that you cannot include in the compensation and damages to which the defendants are entitled in this case any compensation for imaginary fears on the part of the defendants or others that the operation of a sewage disposal plant on a part of the property taken will constitute a nuisance.

Given
Jeffrey J. Mashbury Jr.
Judge

16. The court charges the jury that the operation of a sewage disposal plant does not of itself constitute a nuisance, and that you cannot include in the compensation and damages to which the defendants are entitled, any compensation for imaginary fears on the part of the defendants or others that the operation of a sewage disposal plant on a part of the property taken will constitute a nuisance.

Given,
J. J. Marshall
Judge.

18. The court charges the jury that the compensation and damages to which the defendants are entitled in this case does not include any imaginary or speculative damages to other property owned by the defendants adjoining that part of the property taken on which a sewage disposal plant is being constructed, because of imaginary or speculative fears that the operation of the said sewage disposal plant will constitute a nuisance.

Given
Jeffrey J. Mashburn, Jr., Judge.

25. The court charges the jury that the measure of the defendants' compensation and damages in this case is the value of the property taken as of the time of condemnation plus the diminished value of the rest of the defendants' property legally related to that taken.

Given
Fair J. Masbury Jr.
Judge.