

STATE OF ALABAMA,	Y	IN THE CIRCUIT COURT OF
PETITIONER,	Y	BALDWIN COUNTY, ALABAMA
VS.	Y	CASE NO. 8152
WYNELLE C. DUKE, THE	Y	
BALDWIN COUNTY BANK,	Y	
DENNIS B. HOWELL, JR.,	Y	
Tax Collector, et al.,	Y	
RESPONDENTS.		

FINAL JUDGMENT

This cause coming on to be heard by the Court on this the 10th day of September, 1968, now come the parties and their respective attorneys of record and it appearing to the Court from evidence submitted to the Court prior to commencement of the trial hereof, that on the 13th day of November, 1967, an application was filed in the Probate Court of Baldwin County, Alabama, by the State of Alabama, seeking to condemn certain lands therein described for the uses and purposes therein averred, and that subsequent thereto proceedings were had in the Probate Court of Baldwin County, Alabama, and that the necessary action to properly effect the appeal from the Probate Court of Baldwin County, Alabama, in accordance with all the statutes and laws in such cases made and provided, to the Circuit Court of Baldwin County, Alabama, were made, and that said Court did enter an order of condemnation of the lands described in said application and which are hereinafter described, and that on the 23rd day of February, 1968, the State of Alabama, appealed from said order of condemnation to this Court and demanded a trial by jury; and it further appearing to the Court that the only issue in this proceeding is the damages and compensation, if any, to which the Defendant landowner is entitled and that an order of condemnation should be here entered condemning the lands hereinafter described for the uses and purposes set forth in the application, which is now on file in this Court.

And now comes a jury of twelve good and lawful men, to-wit, Joe Gottler and eleven others, and the issue of the amount of damages and compensation, if any, to which the landowner is entitled having been submitted to them, did return a verdict in words and figures as follows:

We, the Jury, find for the landowner and assess the damages and compensation at \$14,000.00.

/s/ Joe Gottler
FOREMAN

And the Court having considered all of the above is of the opinion and judgment that an order or judgment of condemnation should be here entered conditioned upon the payment by the State of Alabama to the Clerk of this Court for the use and benefit of the Defendant landowner of the sum aforesaid; it is therefore

ORDERED, ADJUDGED AND DECREED by the Circuit Court of Baldwin County, Alabama, as follows:

1. That the application of the State of Alabama for the condemnation of the lands, rights and construction, hereinafter described be, and the same are hereby granted, and that the property described in Exhibit "A", attached hereto, and by reference made a part thereof as though fully set forth herein, be, and the same is hereby condemned for the use by the State of Alabama as a rest and recreation area as set forth in the application aforesaid, and the rights therein including fee simple title, are hereby divested out of the landowner and into the State of Alabama, upon the payment by the State of Alabama of the sum hereinafter ORDERED and DECREED to be paid.

2. That the damages and compensation to which the Defendant landowner in this case, Wynelle C. Duke, is entitled is hereby fixed at the sum of \$14,000.00, which said sum is hereby ORDERED to be paid by the State of Alabama to said Defendant landowner; and that upon the payment of said amount

by the State of Alabama to said landowner the condemnation of the lands hereinabove described shall be, and become effective.

3. That the State of Alabama pay the costs of this proceeding.

DATED this 10th day of September, 1968.

Justin A. Madbury
CIRCUIT JUDGE

FILED

SEP 23 1968

ALICE J. DUCK CLERK
REGISTER

Nov. 13, 1967

STATE OF ALABAMA

Petitioner

vs.

Wynelle C. Duke, ~~xxxxxx~~ Route 1, Loxley
 Alabama; The Baldwin County Bank;
 Dennis B. Howell, Jr., Tax Collector;
 and any and all party or parties
 claiming any right, title, or interest
 in the hereinafter described real
 estate situated in Baldwin County,
 Alabama.

Respondents

 IN THE
 PROBATE COURT

OF

BALDWIN COUNTY, ALABAMA

CASE NO. _____

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PETITION TO CONDEMN

Your Petitioner, the State of Alabama, would respectfully
 represent and show unto the Court as follows:

1. The State of Alabama has the right of Eminent Domain
 pursuant to the provisions of Chapter 1, Title 19, Code of Alabama, 1940,
 as amended, to acquire by condemnation property for public use when the
 acquisition of such property is in the public interest.

2. The State of Alabama Highway Department has deemed
 the acquisition of the hereinafter described real estate to be in the public
 interest and necessary for public use ~~XXXXXXXXXXXX~~ for the construction
 and maintenance of a public road rest area, in accordance with Act 432,
 General Acts of Alabama, 1967, as shown by the Right of Way Map of
 Project No. LSF-0913(001) filed in the Office of the Judge of Probate of
 Baldwin County, Alabama, and by written direction of the Governor of the
 State of Alabama, Edward H. Brogden for the State Highway Department, is
 the Attorney of Record for the State of Alabama and authorized to prosecute
 this action for condemnation of the property hereinafter described.

3. The designated tract numbers, owners, and descriptions
 of the real estate sought to be acquired in this proceeding are as follows:
 Wynelle C. Duke, Route 1, Loxley, Alabama; The Baldwin County Bank,
 Bay Minette, Alabama; and Dennis B. Howell, Jr., Bay Minette, Alabama.

TRACT NO. 1

Commencing at the northwest corner of Section 25, Township 5 South, Range 3 East, Baldwin County, Alabama, run north 88° 46' East along the north line of said section a distance of 338 feet to the point of beginning; thence continue north 88° 46' East 800 feet more or less to a point on the west right of way line of U. S. Highway 90; thence south 28° 54' East along said right of way line a distance of 427.2 feet to the intersection of said right of way line with the east line of the NW-1/4 of the NW-1/4 of Section 25; thence south along the East line of said NW-1/4 of NW-1/4 a distance of 46.48 feet to a point; thence 88° 46' West a distance of 999.0 feet to a point; thence north 1° 14' West a distance of 425 feet to the point of beginning.

Said tract of land lying in the NW-1/4 of Section 25, Township 5 South, Range 3 East and containing 8.887 acres, more or less.

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4. Petitioner avers that a diligent search has been made of the records in the Office of the Judge of Probate of Baldwin County, Alabama, affecting title to the herein described real estate and if there are other persons, or corporations who own or claim an interest in the said real estate, the same are unknown to your Petitioner.

5. Petitioner further avers that it is necessary to acquire ~~title~~ ^{title} in and to ~~the herein described~~ ^{the herein described} real estate for the purpose of constructing and maintaining the said Project No. LSF-0913(001).

WHEREFORE, THE PREMISES CONSIDERED, your Petitioner prays as follows:

1. That the Court will make and enter an Order setting the hearing of this Petition and appointing a guardian ad litem to represent the interest of any and all unknown persons, minors and persons of unsound mind, firms, associations, and corporations and any persons who are in the Armed Forces of the United States, who may claim or hold any right, title or interest in the herein described real estate.

2. That the Court will cause a copy of this Petition and the Order setting the same for hearing to be served upon all parties residing in the State of Alabama who claim or hold any right, title or interest in the herein described real estate by the Sheriff of Baldwin County, Alabama, at least ten days before the day appointed for said hearing.

3. That the Court will cause notice of this Petition and the Order setting the same for hearing to be published in a newspaper in Baldwin County, Alabama, for three (3) consecutive weeks prior to the date of said hearing.

4. That upon a hearing of said Petition, your Petitioner prays that the Court will make and enter an Order granting the said Petition for Condemnation, appointing Commissioners to assess and determine the damages and compensation to be awarded the owners of said property, and that the Court will make and enter all such other Orders and Decrees as shall be necessary and appropriate to vest fee simple title in your Petitioner to the above described property for the uses and purposes herein mentioned.

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Edward H. Brogden

STATE OF ALABAMA §
 §
MONTGOMERY COUNTY §

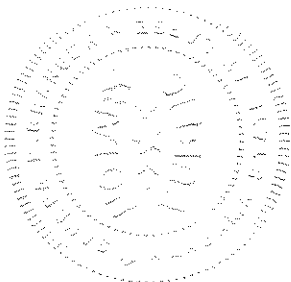
Before me, Sandra P. Granger, a Notary Public in and for the State of Alabama at Large, personally appeared Edward H. Brogden, who is known to me and who being by me first duly sworn, deposes and says that he is the authorized attorney to prosecute the action on behalf of the State of Alabama and that the allegations contained in the foregoing Petition are true and correct according to his knowledge, information and belief.

Edward H. Brogden

Sworn to and Subscribed before me this the 8th day of November, 1967.

(SEAL)

Sandra P. Granger
Notary Public



State of Ala

Wynelle C. Burke

We, the jury, assess the amount of damages and
compensation to which the Defendant in this case is entitled
at \$ 14,000.00.

Joe Gatter
As Foreman

STATE OF ALABAMA

BALDWIN COUNTY, ALABAMA

§
§
§
§
§
§

LIS PENDENS

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Notice is hereby given that the State of Alabama has entered condemnation proceedings against the following described properties situated in Baldwin County, Alabama, to be used as a public road rest area, in accordance with Act 432, General Acts of Alabama, 1967, as shown by the map of Project No. LSF-0913 (001) filed in the Office of the Judge of Probate of Baldwin County, Alabama, which said properties are described as follows; to-wit:

TRACT NO. 1

Commencing at the northwest corner of Section 25, Township 5 South, Range 3 East, Baldwin County, Alabama, run north 88° 46' East along the north line of said section a distance of 338 feet to the point of beginning; thence continue north 88° 46' East 800 feet more or less to a point on the west right of way line of U. S. Highway 90; thence south 28° 54' East along said right of way line a distance of 427.2 feet to the intersection of said right of way line with the east line of the NW-1/4 of the NW-1/4 of Section 25; thence south along the East line of said NW-1/4 of NW-1/4 a distance of 46.48 feet to a point; thence 88° 46' West a distance of 999.0 feet to a point; thence north 1° 14' West a distance of 425 feet to the point of beginning.

Said tract of land lying in the NW-1/4 of Section 25, Township 5 South, Range 3 East and containing 8.887 acres, more or less.

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THE STATE OF ALABAMA

BY: Edward H. Brogden
Edward H. Brogden
Attorney for Petitioner

STATE OF ALABAMA
MONTGOMERY COUNTY

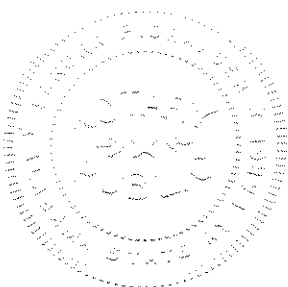
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§

Before me, Sandra P. Granger, a Notary Public in and for the State of Alabama at Large, personally appeared Edward H. Brogden who is known to me and who being by me first duly sworn, deposes and says that the statements made in the foregoing Lis Pendens are true and correct according to his knowledge, information and belief.

Edward H. Brogden

Sworn to and Subscribed before me this the 7th day of
November, 1967.

Sandra P. Granger
NOTARY PUBLIC IN AND FOR THE STATE
OF ALABAMA AT LARGE



STATE OF ALABAMA

Petitioner

vs.

RH1, Loxley
Wynelle C. Duke, , ,
Alabama; The Baldwin County
Bank; Dennis B. Howell, Jr., Tax
Collector; and any and all party
or parties claiming any right,
title, or interest in the herein-
after described real estate
situated in Baldwin County, Alabama.

Respondents

IN THE

PROBATE COURT OF

BALDWIN COUNTY

ALABAMA

CASE NO.

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ORDER APPOINTING DATE FOR HEARING

This day came the State of Alabama, by and through its Attorney of
Record, and filed in this Court its application to have condemned for certain
purposes therein stated certain lands belonging to the above-named
Defendants, or which said parties have certain interests therein, to the best
of the Petitioner's knowledge, information and belief, and with attached
sworn affidavit thereto of Edward H. Brogden
 as Attorney for the Petitioner, a description of said
property being specifically set forth in said application.

It is, therefore, ORDERED, ADJUDGED and DECREED that the
18th day of December, 1967, at 11:00 AM o'clock . m.
be appointed a day to hear said application or petition, and that notice
of the same, and of the day set to hear the same, be given at least ten days
before the day set to all interested parties as provided by law.

Done this 13th day of November, 1967.

Henry D'Almeida
JUDGE OF PROBATE

STATE OF ALABAMA

Petitioner

vs.

Route 1, Loxley
Wynelle C. Duke, ~~xxxxxx~~
Alabama; The Baldwin County Bank;
Dennis B. Howell, Jr., Tax Collector;
and any and all party or parties claiming
any right, title, or interest in the herein-
after described real estate situated in
Baldwin County, Alabama.

Respondents

IN THE
PROBATE COURT

OF

BALDWIN COUNTY, ALABAMA

CASE NO. _____

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GREETINGS: Wynelle C. Duke
~~xxxxxx Alabama~~
Route 1, Loxley,
Alabama.

You will take notice that on the 13th day of November,

19 67, an application or petition was filed in the Probate Court of Baldwin
County, Alabama, by the State of Alabama, setting forth its desire to condemn
for certain purposes certain lands, a description of said lands being set forth
specifically in said application or petition filed in this Court, and said applica-
tion or petition prays that this Court will make and enter an order appointing a
day for hearing said application or petition and for such further orders and
proceedings as may be necessary. You will further take notice that this Court
has appointed the 18th day of December, 19 67, at 11:00 AM o'clock
to hear said application at which time you may appear and contest the
same if you desire to do so.

WITNESS, my hand this 17th day of November,

19 67.

Harry D'Almeida
JUDGE OF PROBATE

Received 27 day of Nov. 1967

and on 29 day of Nov 67

I served a copy of the within Notice

on Wynelle C. Duke

By service on _____

TAYLOR WILKINS, Sheriff
BY Charles Childress

RHOU

Sheriff claims 50 miles at

Ten Cents per mile Total \$ 5.00

TAYLOR WILKINS, Sheriff
BY Charles Childress
DEPUTY SHERIFF

STATE OF ALABAMA

Petitioner

vs.

Wynelle C. Duke, a widow, Foley,
Alabama; the Baldwin County Bank;
Dennis B. Howell, Jr., Tax Collector;
and any and all party or parties claiming
any right, title, or interest in the herein-
after described real estate situated in
Baldwin County, Alabama

Respondents

IN THE
PROBATE COURT
OF

BALDWIN COUNTY, ALABAMA

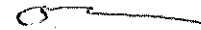
CASE NO. _____

GREETINGS: The Baldwin County Bank
Bay Minette, Alabama

You will take notice that on the 13th day of November
19 67, an application or petition was filed in the Probate Court of Baldwin
County, Alabama, by the State of Alabama, setting forth its desire to condemn
for certain purposes certain lands, a description of said lands being set forth
specifically in said application or petition filed in this Court, and said applica-
tion or petition prays that this Court will make and enter an order appointing a
day for hearing said application or petition and for such further orders and
proceedings as may be necessary. You will further take notice that this Court
has appointed the 18th day of December 1967, at 11:00 A.M. o'clock
_____ to hear said application at which time you may appear and contest the
same if you desire to do so.

WITNESS, my hand this 14th day of November,
19 67.

Harry D. Davis
JUDGE OF PROBATE

Received 27 day of Nov 1967and on 28 day of Nov 1967I served a copy of the within Notice
on Baldwin County BankBy service on M. E. DavidsonTAYLOR WILKINS, Sheriff
By W. A. Albert D. S.~~170~~

STATE OF ALABAMA

Petitioner

vs.

Wynelle C. Duke, *Rt. 1, Lotley*
Alabama; The Baldwin County Bank;
Dennis B. Howell, Jr., Tax Collector;
and any and all party or parties claiming
any right, title, or interest in the herein-
after described real estate situated in
Baldwin County, Alabama.

Respondents

IN THE
PROBATE COURT

IN

BALDWIN COUNTY, ALABAMA

CASE NO. _____

GREETINGS: Dennis B. Howell, Jr.
Tax Collector
Bay Minette, Alabama

You will take notice that on the 13th day of November
19 67, an application or petition was filed in the Probate Court of Baldwin
County, Alabama, by the State of Alabama, setting forth its desire to condemn
for certain purposes certain lands, a description of said lands being set forth
specifically in said application or petition filed in this Court, and said applica-
tion or petition prays that this Court will make and enter an order appointing a
day for hearing said application or petition and for such further orders and
proceedings as may be necessary. You will further take notice that this Court
has appointed the 18th day of December, 1967, at 11:00 AM clock
_____ to hear said application at which time you may appear and contest the
same if you desire to do so.

WITNESS, my hand this 17th day of November,
1967.

Hany D'Olive
JUDGE OF PROBATE

Received 27 day of Nov. 1967
and on 27 day of Nov 1967.

I saved a copy of the within Notice
on Dennis B. Howell, Jr.

My service on _____

TAYLOR WILKINS, Sheriff
By W A Talbot D. S.



STATE OF ALABAMA

Petitioner

VS.

Wynelle C. Duke, a widow, Et Al

Respondents

IN THE

PROBATE COURT

OF

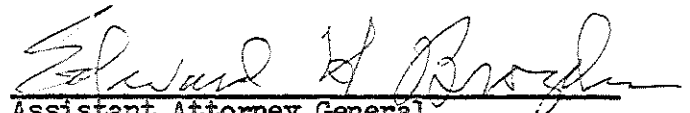
BALDWIN COUNTY, ALABAMA

CASE NO. _____

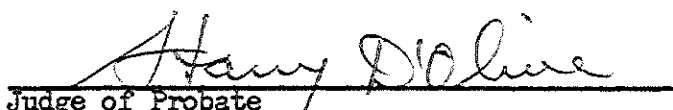
AMMENDMENT TO PETITION

Comes the petitioner in the above noted cause and amends the petition heretofore filed in said cause by adding to Paragraph 2 of said petition the following:

Petitioner avers that Herman L. Nelson as State Highway Director for the State of Alabama has determined that the property described herein for condemnation is necessary for the establishment of a public rest area and that said property is adjacent to a State or Federal highway of the State of Alabama, and is necessary to accommodate the traveling public.


Assistant Attorney General
Attorney for the State Highway Department
State of Alabama

By agreement of the attorney's and with consent of the court this ammendment was allowed and filed this 19th day of December, 1967.


Judge of Probate

STATE OF ALABAMA,)	
Petitioner,)	IN THE PROBATE COURT OF
VS.)	
WYNELLE C. DUKE, ET AL,)	BALDWIN COUNTY, ALABAMA
Respondents.)	

DEMURRER TO PETITION TO CONDEMN

Now come the defendants, Wynelle C. Duke, and the Baldwin County Bank, a corporation, each separately and severally by their attorney and demur to the petition for condemnation heretofore filed in this cause and as grounds of such demurrer assign, separately and severally, the following:

1. It does not state a cause of action.
2. No facts are alleged to show the purpose for which the property is to be acquired.
3. No facts are alleged to show that there is any valid authority for the condemnation of the property described in the said petition.
4. No facts are alleged to show that Edward H. Brogden is authorized to file and prosecute this suit on behalf of the State of Alabama.

J. B. Blackman
 Attorney for Respondents, Wynelle C.
 Duke and Baldwin County Bank, a
 corporation.

*Filed 12/18/67
 Harry D. G. King
 Judge*

STATE OF ALABAMA, 0

Petitioner, Ø

VS.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

WYNELLE C. DUKE, ET AL.,

Defendants. 8

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DECREE OVERRULING DEMURRER TO AMENDED PETITION

This cause coming on to be heard on this date is submitted on the demurrer of the defendant, Wynelle C. Duke, and on the demurrer of the defendant, Baldwin County Bank, to the amended petition to condemn, upon consideration of all of which, it is ORDERED, ADJUDGED AND DECREED by the court that the demurrer of each of the said defendants be and they are hereby overruled.

ORDERED, ADJUDGED AND DECREED on this the 18th day of
December, 1967.

Amy D'Almeida
Judge of Probate

STATE OF ALABAMA,

Petitioner

vs.

Wynelle C. Duke, a widow, Foley,
Alabama, et al

Defendants

IN

THE PROBATE COURT

OF

BALDWIN COUNTY, ALABAMA

CASE NO. _____

ORDER APPOINTING COMMISSIONERS

THIS CAUSE was submitted to the Court upon the Petition of the State of Alabama to condemn certain real estate described in said Petition for the purposes set forth therein, and the Court having granted the said Petition and it appearing to the Court that Sidney Chandler, Paul Pennington, and Brady P. Gilbert Jr., who are citizens of Baldwin County, Alabama, each possessing the qualifications of jurors, and being disinterested in the proceedings, and each being competent and proper persons to act as Commissioners of this Court to view the real estate described in said Petition and to assess the damages and compensation which the Respondent is entitled, it is therefore

ORDERED, ADJUDGED, AND DECREED by the Court that the aforesaid persons be, and they are hereby appointed Commissioners of the Court to act as Commissioners of the Court to assess the damages or compensation the Respondents are entitled for that certain real estate described as Tract No. one (1) in the said Petition heretofore filed in this cause, and whether or not they be entitled to such damages or compensation, after hearing all legal evidence affecting same and report their findings in writing to this Court within twenty days hereafter as provided by law.

DONE this the 9th day of January, 1968.

Harry D. Dine
JUDGE OF PROBATE

STATE OF ALABAMA,

Petitioner

V.

WYNELLE C. DUKE, A WIDOW,
FOLEY, ALABAMA, ET AL

Respondents

IN THE

PROBATE COURT

OF

BALDWIN COUNTY, ALABAMA

CASE NO. _____

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NOTICE TO COMMISSIONERS AS TO TRACT NO.

TO: Sidney Chandler R. Dale, Paul Pennington R. Dale
and Buddy P. Bickert R. Dale

KNOW YE, that having full faith and confidence in your integrity and competency, you have by the Probate Judge of Baldwin County, Alabama, been appointed and constituted Commissioners as to that certain real estate described as Tract(s) No. one (1) in the Petition and cause hereinabove set forth with all of the power and authority and duties vested in or which may devolve upon you as such Commissioners under and by virtue of the laws of Alabama relating to Eminent Domain.

You will be sworn as jurors are sworn, and you, or a majority of you, shall assess the damages and compensation to which the owners of the lands described in said Petition are entitled on account of any injury that may result to them by reason of the taking and condemning by the State of Alabama Highway Department.

You may view the lands or property to be condemned and you must receive all legal evidence offered by any party touching the amount of damages the owners of the lands will sustain, and the amount of compensation they are entitled to receive by virtue of having title to said property divested out of them and vested in the State of Alabama.

You must within twenty days from the date of your appointment, which was, to-wit: the 9th day of January, 1968 make a report in writing to the Court, stating the full reasonable market value of said lands or property, the basis of this proceeding, ascertained and assessed by you for the owner of the lands and file a certificate along with your award that none of you have ever been consulted, advised with or approached by any person in reference to the value of the lands, or the proceedings to condemn the same prior to your appointment.

DONE this the 9th day of Jan, 1968.

Harry D'Olive
JUDGE OF PROBATE

STATE OF ALABAMA

BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

Take notice that Sidney Chandler, Paul Pennington
and Buddy P. Bickert have been appointed Commissioners in the above stated Petition and cause and you are hereby commanded to serve the foregoing notice of their appointment upon said parties designated therein within five days after receipt hereof and make due return to this Court of such service.

This the 9th day of Jan, 1968.

10 Jan. 68
17 day of Jan 68

Notice
Sidney Chandler
Earl Pennington
Bradley P. Gilbert, Jr.

TAYLOR WILKINS, Sheriff

Barney Chace
R. H. Chace

Sheriff claims 150 miles @
Ten Cents per mile Total \$ 15.00

TAYLOR WILKINS, Sheriff
BY *Carlisle Chedress*
DEPUTY SHERIFF

STATE OF ALABAMA,

Petitioner

V.

WYNELLE C. DUKE, A WIDOW,
FOLEY, ALABAMA, ET AL

Respondents

IN THE
PROBATE COURT
OF

BALDWIN COUNTY, ALABAMA

CASE NO. _____

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OATH OF COMMISSIONERS

The undersigned Commissioners, heretofore appointed by the Probate Judge of Baldwin County, Alabama, as to that certain real estate described as Tract No. (s) one (1) in the Petition and cause hereinabove set forth, do hereby accept service of notice of said appointment and waive any and all further notice, and we do solemnly swear that we will well and truly decide the said issue now pending and submitted to our decision; that we are not directly or indirectly interested in the issue to be considered and tried; that neither of us has ever been consulted, advised with or approached by any person in the reference to the value of said lands or the proceedings to condemn the same prior to the assessment of damages; that neither of us knew anything of the same prior to this appointment; that we are not biased nor prejudiced against either of said parties and that we will render such compensation to the defendant as to us shall seem just and proper in the premises.

Sidney J. Chandler
Earl J. Rountree
Grace J. Smith

Sworn to and Subscribed before me this the 24th day of

January, 1968.

Harry D'Olive
Probate Judge, BALDWIN County,
Alabama

STATE OF ALABAMA,

Petitioner

V.

WYNELLE C. DUKE, A WIDOW,
FOLEY, ALABAMA, ET AL

Respondents

IN THE
PROBATE COURT
OF

BALDWIN COUNTY, ALABAMA

CASE NO. _____

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REPORT OF COMMISSIONERS

TO THE HONORABLE JUDGE OF SAID COURT:

The undersigned Commissioners, heretofore appointed by this Honorable Court, hereby report unto Your Honor that we have viewed the real estate sought to be condemned in this proceeding described as follows, to-wit:

see Exhibit "A"

and have received all legal evidence offered by any party relative to the amount of damages the owners of said real estate will sustain, and hereby fix the amount of compensation to which the owners are entitled to be the sum of _____

\$ 13,500.00

We certify that none of us has been consulted, advised with or approached by any person with reference to the value of the real estate, or the proceedings to condemn the said real estate prior to the assessment of damages and that we knew nothing of the same prior to our appointment.

IN WITNESS WHEREOF, we have hereunto set our hands this the

24 day of January, 19 68.

COMMISSIONERS:

James Chandler
Earl Pennington
Davis Pittard

EXHIBIT "A"

TRACT NO. 1

Commencing at the northwest corner of Section 25, Township 5 South, Range 3 East, Baldwin County, Alabama, run north $88^{\circ} 46'$ East along the north line of said section a distance of 338 feet to the point of beginning; thence continue north $88^{\circ} 46'$ East 800 feet more or less to a point on the west right of way line of U. S. Highway 90; thence south $28^{\circ} 54'$ East along said right of way line a distance of 427.2 feet to the intersection of said right of way line with the east line of the NW-1/4 of the NW-1/4 of Section 25; thence south along the East line of said NW-1/4 of NW-1/4 a distance of 46.48 feet to a point; thence $88^{\circ} 46'$ West a distance of 999.0 feet to a point; thence north $1^{\circ} 14'$ West a distance of 425 feet to the point of beginning.

Said tract of land lying in the NW-1/4 of Section 25, Township 5 South, Range 3 East and containing 8.887 acres, more or less.

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STATE OF ALABAMA,

Petitioner

V.

WYNELLE C. DUKE, A WIDOW,
FOLEY, ALABAMA, ET AL

Respondents

IN THE
PROBATE COURT

OF

BALDWIN COUNTY, ALABAMA

CASE NO. _____

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DECREE OF CONDEMNATION

THIS CAUSE was submitted to the Court for a Decree confirming the report of the Commissioners heretofore appointed in said cause and for an order of Condemnation as to the lands described in the Commissioners' Report and in the original Petition filed in this Court by the State of Alabama, and it appearing to the Court that on December 18, 1967 this Court heard the allegations of the Petition filed by the State of Alabama in this cause and all legal evidence presented by any interested party and on ~~December~~ 19, 1967 the Court made an Order granting said Petition for the condemnation of the property described as follows:

See Exhibit "A"

that the Court appointed Sidney Chandler,
Carl Pennington, and Grady P. Giebert Jr.
each being citizens of Baldwin County, Alabama, in which the lands sought to be condemned are situated, who were disinterested and who possessed the qualifications of jurors to assess the damages and compensation to which the Defendants in this cause are entitled; and it appearing to the Court that notice of the appointment of the said Commissioners was issued by this Court to the Sheriff of Baldwin County and by said Sheriff served on them as required by law; that said Commissioners were sworn and did thereafter receive

all legal evidence offered by the parties relative to the amount of damages the owners of said property will sustain and the amount of compensation to which they are entitled; that the Commissioners did on, to-wit, January 24, 1968 make their report in writing to this court stating

Thirteen thousand - five hundred dollars
(\$13,500⁰⁰)

to be the amount of damages and compensation assessed by them for the taking and condemnation of said property; and it further appearing to the Court that said Commissioners filed a certificate along with their Award stating none of them has ever been consulted, advised with or approached by any person in reference to the value of the property or the proceedings to condemn the same prior to the assessment of damages and that they knew nothing of the same prior to the assessment of damages and that they knew nothing of the same prior to their appointment, and the Court having considered and understood all of the hereinabove stated matters, it is, therefore

ORDERED, ADJUDGED, and DECREED by the Court that applicant, the State of Alabama, pay all costs incurred in this cause;

And it further appearing to the Court that the damages and compensation so ascertained and assessed by said Commissioners for the Defendants,

have been deposited in this Court;

And it further appearing to the Court that all things necessary and

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required by the laws of the State of Alabama have been done and performed by the applicant;

It is further ORDERED, ADJUDGED, and DECREED, and is the Judgment of this Court, that the property sought to be condemned by said Petition be condemned, granted, and awarded to the applicant, the State of Alabama, and all right, title, and interest prayed for in said Petition which is now condemned, granted, and awarded to the applicant in and by this Decree, be and the same is hereby divested out of said Defendants and vested in the applicant.

DONE this the 24th day of January 1968.

Harry D'Almeida
JUDGE OF THE COURT OF PROBATE
BALDWIN COUNTY, ALABAMA

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EXHIBIT "A"

TRACT NO. 1

Commencing at the northwest corner of Section 25, Township 5 South, Range 3 East, Baldwin County, Alabama, run north $88^{\circ} 46'$ East along the north line of said section a distance of 338 feet to the point of beginning; thence continue north $88^{\circ} 46'$ East 800 feet more or less to a point on the west right of way line of U. S. Highway 90; thence south $28^{\circ} 54'$ East along said right of way line a distance of 427.2 feet to the intersection of said right of way line with the east line of the NW-1/4 of the NW-1/4 of Section 25; thence south along the East line of said NW-1/4 of NW-1/4 a distance of 46.48 feet to a point; thence $88^{\circ} 46'$ West a distance of 999.0 feet to a point; thence north $1^{\circ} 14'$ West a distance of 425 feet to the point of beginning.

Said tract of land lying in the NW-1/4 of Section 25, Township 5 South, Range 3 East and containing 8.887 acres, more or less.

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STATE OF ALABAMA

VS.

WYNELLE C. DUKE, ET AL.,
Defendants.

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IN THE PROBATE COURT OF
BALDWIN COUNTY, ALABAMA

NO. 6149

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PAGE 373

NOTICE OF APPEAL

Now comes Wynelle C. Duke, one of the defendants in the above entitled cause, and appeals to the Circuit Court of Baldwin County, Alabama, from the final order of condemnation heretofore made and entered in this cause on, to-wit, January 24, 1968.

The said Wynelle C. Duke demands a trial of the said cause by jury.

Dated this 22nd day of February, 1968.

J. B. Blackburn
Attorney for Wynelle C. Duke

STATE OF ALABAMA, BALDWIN COUNTY
Filed Feb. 22, 1968 M
Recorded Harry D. O'Neil book page
Judge of Probate

STATE OF ALABAMA,

PETITIONER,

VS.

WYNELLE C. DUKE, ET AL.,

RESPONDENTS.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 6119


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PAGE 372

CROSS-APPEAL


Comes now the State of Alabama, by Kenneth Cooper, Special Assistant Attorney General, Petitioner in the above-styled cause, and files this its CROSS-APPEAL to the Circuit Court of Baldwin County, Alabama, from the Final Order Of Condemnation heretofore made and entered in this cause on, to-wit, January 24th, 1968.

The Petitioner herein demands a trial by jury in this cause.

Dated this 23rd day of February, 1968.


SPECIAL ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA

I certify that I have mailed a copy of the foregoing CROSS-APPEAL to Hon. J. B. Blackburn, Attorney At Law, Bay Minette, Alabama, Attorney for Respondents, by depositing the same in United States Mail, postage prepaid, at Bay Minette, Alabama, on this 23rd day of February, 1968.


SPECIAL ASSISTANT ATTORNEY GENERAL
STATE OF ALABAMA

STATE OF ALABAMA, BALDWIN COUNTY

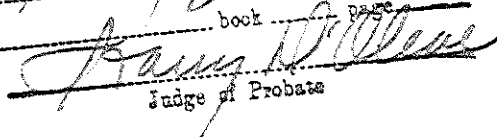
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February 23, 1968

Recorded

book

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Judge of Probate

STATE OF ALABAMA,)	
)	
Petitioner,)	IN THE CIRCUIT COURT OF
)	
VS.)	BALDWIN COUNTY, ALABAMA
)	
WYNELLE C. DUKE, ET AL,)	AT LAW NO.
)	
Defendants.)	

DEMURRER TO PETITION TO CONDEMN

Now come the defendants, Wynelle C. Duke, and the Baldwin County Bank, a corporation, each separately and severally by their attorney, and demur to the petition for condemnation heretofore filed in this cause and as grounds of such demurrer assign, separately and severally, the following:

1. It does not state a cause of action.
2. No facts are alleged to show the purpose for which the property is to be acquired.
3. No facts are alleged to show that there is any valid authority for the condemnation of the property described in the said petition.
4. No facts are alleged to show that Edward H. Brogden is authorized to file and prosecute this suit on behalf of the State of Alabama.
5. House Bill No. 853 heretofore enacted by the Legislature of the State of Alabama at its 1967 Session, which purports to authorize the State Highway Director to acquire land by condemnation adjacent to State and Federal Aid highways for rest areas, is unconstitutional and void.
6. House Bill No. 853 heretofore enacted by the Legislature of the State of Alabama at its 1967 Session, which purports to authorize the State Highway Director to acquire land by condemnation adjacent to State and Federal Aid highways for rest areas, is unconstitutional and void in that it was enacted in violation of Section 45 of the Alabama Constitution of 1901.

J. B. Blackburn
 Attorney for Defendants, Wynelle C. Duke and Baldwin County Bank, a corporation.

Filed: June 12, 1968.

Jeffrey J. Marshall
Judge

STATE OF ALABAMA,	§	IN THE CIRCUIT COURT OF
Petitioner,	§	BALDWIN COUNTY, ALABAMA
Vs.	§	AT LAW
WYNELLE C. DUKE, ET AL.,	§	CASE NO. _____
Defendants.	§	

MOTION

Comes now Plaintiff in above-styled cause, State of Alabama, by Kenneth Cooper, Esquire, its Special Assistant Attorney General, and makes known unto this Honorable Court that this cause was set for trial this past June, but that said cause was continued at the request of the attorney for Defendants, because the physical condition of the Defendant prevented her appearance; that this cause is now pending for trial on 10 September, 1968, and your Plaintiff has information that Defendant's condition may not have improved to permit her attendance on 10 September, 1968, and that Plaintiff insists upon trial of this cause at said time, for the benefit of both Plaintiff and Defendants.

THE PREMISES CONSIDERED, your Plaintiff makes this its MOTION that Your Honor forthwith appoint a guardian ad litem to represent the interest of the Defendant, Wynelle C. Duke, in the trial of this cause on 10 September, 1968, and also for any appeal which may grow out of trial of said cause.

Kenneth Cooper

ATTORNEY FOR PLAINTIFF

ORDER

The foregoing MOTION having this date been presented to the Court, and upon its being read and understood, the Court is of the opinion that Plaintiff is entitled to the relief prayed for. It is therefore

ORDERED, ADJUDGED AND DECREED by the Court that Hon. J. B. Blackburn, a practicing attorney of Bay Minette, Baldwin County, Alabama, is hereby appointed to represent the interest of the Defendant, Wynelle C. Duke, in the trial, and any appeal, of this cause of the 10th day of September, 1968.

DATED this 6th day of September, 1968.

Jessie A. Middleton
CIRCUIT JUDGE

ACCEPTANCE

I, J. B. Blackburn, of Bay Minette, Baldwin County, Alabama, hereby accept the foregoing appointment as guardian ad litem for Wynelle C. Duke, Defendant in this cause.

J. B. Blackburn

State vs -

FALL TERM
JURY LIST - SEPTEMBER 9, 1968

Wynelle
Clark

NO 8152

1. Bryars, Thomas Eugene, Brookley Field, Bay Minette
2. Pittman, Hubert, Public Works, Robertsdale
3. Quinley, Adrian L., Farmer, Bay Minette
4. Ray, Harry, Farmer, Robertsdale
5. Resmondo, Noah, Farmer, Summerdale
6. Schaff, George, Farmer, Elberta
7. Showers, Charlie, Bricklayer, Lillian
8. Sibley, Robert, Civil Service, Stapleton
9. Singleton, Homer C., Salesman, Foley
10. Sopr, Joseph, Farmer, Silverhill
11. Teamer, Richard, Banker, Fairhope
12. Thleme, W. H., Foreman, Foley
13. Wynn, Harry, Farmer, Summerdale
14. Head, Hannis, Civil Service, Stapleton
15. Wallace, Jimmy R., Feed Mill, Robertsdale
16. Weeks, Stanley, Farmer, Magnolia Springs
17. White, Harold A., Laborer, Foley
18. Wilson, Jack H., Merchant, Foley
19. Lowell, Clyde, Laborer, Fairhope
20. Conway, Chas. Brookley Field, Bay Minette
21. Cox, Richard L., Timberman, Stockton
22. Duck, Robert S., Nursery Mgr., Loxley
23. Durant, Harry, Timber, Stapleton
24. Durant, Joe C., Farmer, Bay Minette
25. Gee, Luther, State Employee, Bay Minette
26. Gottler, Joe, Farmer, Elberta
27. Attaway, Hubert, State Emp. Gulf Shores
28. Bishop, Daniel C., Fisherman, Barnwell
29. Boan, Jessie Forest, Farmer, Stapleton
30. Bodenhamer, O. L., Contractor, Foley
31. Carmichael, Arlee, Brookley Field, Daphne
32. Gottler, John P., Postmaster, Elberta
33. Lyrene, George A., Farmer, Silverhill
34. Martin, Auburn W., Farmer, Stockton
35. Miller, R. Cecil, Implement Dealer, Foley
36. McCants, Joe, Brookley Field, Fairhope
37. McKenzie, Elroy, Jr., Farmer, Fairhope
38. Nelson, William J., Produce Man., Fairhope
39. Nespor, Frank E., Maintenance, Loxley
40. Kinsey, Daniel, Insurance, Foley
41. Klein, Raymond, Farmer, Fairhope
42. Inge, McKinley, Clerk, Bay Minette
43. James, Willie Lewis, Mill Worker, Stockton
44. Kostelecky, Jerry, Farmer, Silverhill
45. Krieger, Andrew J., Jr., Farmer, Lillian
46. Lazzari, A.V., Jr., Farmer, Belforest
47. Lipscomb, Ira., Farmer, Magnolia Springs
48. Little, Marshall, State Employee, Lottle

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