

Bond Case Briefs

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EMINENT DOMAIN - PENNSYLVANIA

Transcontinental Gas Pipe Line Company, LLC v. Permanent Easements for 2.14 Acres and Temporary Easements for 3.59 Acres in Conestoga Township

United States Court of Appeals, Third Circuit - October 30, 2018 - F.3d - 2018 WL 5571434

Gas company brought separate condemnation actions against landowners to obtain the rights of way company required to build natural gas pipeline.

The United States District Court for the Eastern District of Pennsylvania granted company's motions for partial summary judgment and omnibus motion for a preliminary injunction giving company immediate possession of the rights of way on the landowners' properties. Landowners appealed.

The Court of Appeals held that:

- District court did not effect an unauthorized quick take;
- Fifth Amendment's due process and takings clauses did not require natural gas company to pay just compensation to landowners before it could take possession of the rights-of-way;
- Procedure followed by district court did not usurp legislative power or otherwise overstep the boundaries of its judicial power, in violation of the separation of powers; and
- District court's procedure did not deprive landowners of opportunity to challenge Federal Energy Regulatory Commission's (FERC) determination to issue company the required certificate of public convenience and necessity.