

Bond Case Briefs

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EMINENT DOMAIN - FEDERAL

Welty v. United States

United States Court of Appeals, Federal Circuit - June 14, 2019 - F.3d - 2019 WL 2479594

Landowners filed suit against United States, claiming taking of their property for public use through inverse condemnation, without exercising power of eminent domain and without providing just compensation, by approving construction and maintenance of levee on conservation easement on adjacent property downstream from landowners' farm that resulted in frequent and severe upstream flooding damaging landowners' property and permanently preventing all beneficial use of landowners' farm as productive agricultural land.

The United States Court of Federal Claims granted government's motion to dismiss for failure to state a claim. Landowners appealed.

The Court of Appeals held that:

- Landowners failed to plead facts plausibly establishing either that adjacent property owner was acting as an agent of the government or that actions of adjacent property owner related to the levee were the product of coercion by the United States Department of Agriculture (USDA), and thus landowners failed to state a takings claim;
- Alleged receipt of financial compensation by adjacent property owner for participating in conservation reserve program (CRP) was insufficient, standing alone, to show that property owner was acting as an agent of the United States; and
- Fact that USDA provided financial incentive for participating in CRP was insufficient, standing alone, to show that construction and maintenance of levee was the product of government coercion.