

Bond Case Briefs

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EMINENT DOMAIN - ARKANSAS

GSS, LLC v. CenterPoint Energy Gas Transmission Co.

Supreme Court of Arkansas - April 3, 2014 - S.W.3d - 2014 Ark. 144

Gas pipeline company petitioned to acquire property by eminent domain to allow construction of pipeline, and property owner counterclaimed for unlawful taking, violation of the Arkansas Civil Rights Act, trespass, and outrage. The Circuit Court entered judgment for property owner in the amount of \$64,000 as just compensation. Property owner appealed.

The Supreme Court of Arkansas held that:

- Circuit Court did not abuse its discretion in excluding evidence of an appraisal of a nearby tract of land for purposes of showing comparable sales;
- The 'quick take' state statutory procedures used by gas pipeline company to enter upon property owner's land and proceed with pipeline construction were not preempted by the Natural Gas Act;
- Summary judgment evidence was sufficient to demonstrate that pipeline company negotiated with property owner in good faith as required by the Natural Gas Act; and
- Pipeline company did not violate property owner's due process rights and its rights under the Arkansas Civil Rights Act.

The "quick take" state statutory procedures used by gas pipeline company to enter upon property owner's land and proceed with pipeline construction were not preempted by the Natural Gas Act. The Natural Gas Act contained no language to indicate Congress's intention to preempt the state statute, but instead specifically contemplated the use of state condemnation procedure in proceedings under the federal statute, and pipeline company's petition for condemnation and a declaration of taking had already been granted after the estimated amount of just compensation had been deposited into the registry of the court.