

Bond Case Briefs

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EMINENT DOMAIN - PENNSYLVANIA

PBS Coals, Inc. v. Department of Transportation

Supreme Court of Pennsylvania - January 20, 2021 - A.3d - 2021 WL 190970

Coal companies brought action against Pennsylvania Department of Transportation (DOT), alleging that condemnation of property deprived companies of access to coal estate.

After a hearing, the Court of Common Pleas ruled that a de facto taking had not occurred and sustained Department's preliminary objections to companies' petition for appointment of a board of viewers. Companies appealed. The Commonwealth Court reversed and remanded. DOT petitioned for review.

The Supreme Court held that:

- Insufficient evidence existed to demonstrate that coal companies possessed any beneficial use and enjoyment of their unmined coal estate, as required to prove a de facto taking;
- Trial court's determination that a permit to mine coal estate was not likely to issue went directly to whether coal companies could establish that DOT's highway construction substantially deprived coal companies of the beneficial use and enjoyment of their coal estate, while the suggestion that until a permit was secured there was no estate, and thus no value in the estate, went to damages;
- Sufficient evidence existed to support the trial court's conclusion that coal companies' ability to obtain approval for a surface mining permit was too speculative and uncertain, and thus, that coal companies could not meet their burden to establish that a de facto taking had occurred.