

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

Texas Department of Transportation v. Self

Supreme Court of Texas - May 17, 2024 - S.W.3d - 2024 WL 2226295

Landowners brought action against Texas Department of Transportation (TxDOT) and its contractor, alleging inverse condemnation and negligence arising from contractor's alleged removal of trees from portion of landowners' property that was outside TxDOT right-of-way across property while contractor was in the process of removing trees from the right-of-way.

The 97th District Court denied TxDOT's plea to the jurisdiction. TxDOT appealed, and the Fort Worth Court of Appeals affirmed in part and reversed in part.

The Supreme Court held that:

- Subcontractor's workers were not in the paid service of TxDOT and therefore were not TxDOT employees;
- TxDOT employees did not operate or use motor-driven equipment that cut down trees on landowners' property; and
- Allegations and evidence established claim for inverse condemnation, even if TxDOT did not intend to cut down any trees outside of easement.

Landowners' allegations and evidence that Texas Department of Transportation (TxDOT) intended to damage their property while clearing trees from easement were sufficient to establish claim for inverse condemnation, even if TxDOT did not intend to cut down any trees outside of easement; landowners' allegations and evidence included that a TxDOT employee expressly directed TxDOT's agents to cut down the trees at issue, which destroyed their personal property, landowners owned the land on which the trees stood, and thus the trees themselves, both within and outside TxDOT's right-of-way easement, at least 20 of the felled trees were wholly or partially outside the easement, and there was evidence TxDOT directed the trees' destruction as part of exercising its authority to maintain the highway right-of-way for public use.