

Bond Case Briefs

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EMINENT DOMAIN - FEDERAL

United States v. Bennett

United States Court of Appeals, Fifth Circuit- July 24, 2025 - F.4th - 2025 WL 2078190

United States, which built border wall on easement it held on private property abutting the border with Mexico, brought condemnation action to take that portion of the land and areas surrounding it to further build up the wall and make related improvements.

Landowner sought compensation for the value of the wall, contending the United States exceeded the scope of the easement when it built the wall, and sought to introduce expert testimony regarding the value of the wall, which the United States moved to exclude.

The United States District Court for the Southern District of Texas granted the motion to exclude and certified the question for interlocutory appeal.

The Court of Appeals sitting by designation, held that:

- Government built border wall in easement for public purposes and thus was acting through its eminent domain power such that trespass rule could not apply to grant landowner title to the wall, and
- Wall did not exist when the taking occurred, and thus no compensation was due, as the government had not built the wall when it entered into possession.