

COURT OF APPEALS OF GEORGIA

Department of Transportation v. Crapps

193 Ga. App. 846 (Ga. Ct. App. 1989) · Decided October 31, 1989

SUMMARY

The Georgia Court of Appeals affirmed a condemnation award involving the Department of Transportation and Crapps. The court held that the trial court properly refused a requested jury instruction concerning loss of parking space because the evidence did not establish that Crapps used the public right-of-way as a parking lot.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Pope; Banke, P. J.; Sognier, J.
JURISDICTION	Georgia
DECIDED	October 31, 1989
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Department of Transportation appealed from a condemnation award entered in favor of the appellees, arguing that the trial court improperly refused a requested jury instruction concerning compensation for loss of parking space on a public highway.
STANDARD OF REVIEW	Whether refusal to give a requested jury charge was error; the requested charge must be entirely correct and accurate and adjusted to the pleadings, law, and evidence.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Department of Transportation v. Crapps

TOPICS

- eminent domain
- real estate
- appellate procedure
- preservation of error

PRACTICE AREAS

- eminent domain
- real estate
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by refusing DOT's requested jury charge concerning an abutting landowner's lack of entitlement to compensation for loss of parking space on a public highway.

HOLDINGS

1. The trial court properly refused the requested charge because the testimony did not establish that Crapps used the highway right-of-way as a parking lot, and the proposed charge was broader than the evidence warranted.

KEY QUOTATIONS

“In order for a refusal to charge to be error, the written requests therefor must be entirely correct and accurate, and must be adjusted to the pleadings, the law, and the evidence in the case.” (846)

FACTUAL BACKGROUND

The condemnation proceeding involved property abutting a public highway and a condemnation award to Crapps. DOT argued that evidence supported an instruction stating that an owner is not entitled to compensation for loss of highway parking space. DOT's expert speculated that vehicles parked in a certain manner might partially occupy the right-of-way, but Crapps testified that vehicles ordinarily parked parallel and remained on his property, although a vehicle might sometimes overhang the sidewalk.

PROCEDURAL HISTORY

Following a condemnation proceeding and award to the appellees, the trial court refused DOT's requested charge regarding an abutting landowner's alleged use of the highway right-of-way for parking. DOT appealed, and the Court of Appeals of Georgia affirmed the judgment. Rehearing was denied on December 7, 1989.

DISPOSITION

affirmed

CASES CITED

- Wilkes v. Dept. of Transp., 176 Ga. App. 739, 742 (337 S.E.2d 404) (1985)