

## SUPREME JUDICIAL COURT OF MAINE

### Paul Dyer et al. v. Department of Transportation

951 A.2d 821 (Me. 2008); 2008 ME 106 · No. Wal-07-493 · Decided June 26, 2008

#### SUMMARY

The Maine Supreme Judicial Court affirmed summary judgment for the Maine Department of Transportation in a challenge to the taking of the Dyers' five-acre property for construction of a replacement bridge. The court held that the extent of a taking is primarily a political determination and may be overturned only upon a showing of no rational basis, bad faith, or abuse of power. Because the Dyers offered only conclusory assertions and no evidence contradicting DOT's stated safety, construction, and design-related reasons, no genuine issue of material fact existed.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                  |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Judicial Court of Maine                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Alexander, J.; Saufley, C.J.; Clifford, J.; Levy, J.; Silver, J.; Mead, J.; Gorman, J.                                                                                                                                                                                                                                           |
| JURISDICTION          | Maine                                                                                                                                                                                                                                                                                                                            |
| DECIDED               | June 26, 2008                                                                                                                                                                                                                                                                                                                    |
| DOCKET                | Wal-07-493                                                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | The Dyers appealed from a Superior Court summary judgment entered in favor of the Maine Department of Transportation in their action challenging the legality and scope of an eminent-domain taking.                                                                                                                             |
| STANDARD OF REVIEW    | Summary judgment is reviewed de novo, viewing the evidence in the light most favorable to the nonmoving party. The court reviews the agency's eminent-domain determination deferentially, asking whether there was a rational basis for finding a public exigency and whether the agency acted in bad faith or abused its power. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                   |
| PARTIES               | Paul Dyer, Robert Dyer v. Maine Department of Transportation                                                                                                                                                                                                                                                                     |

#### TOPICS

[eminent domain](#)[summary judgment](#)[judicial review of agency action](#)[administrative law](#)[civil procedure](#)

## PRACTICE AREAS

eminent domain

constitutional law

administrative law

civil procedure

summary judgment

## QUESTIONS PRESENTED

1. Whether the Department of Transportation's taking of all five acres was beyond the scope of its eminent-domain authority because the full property was not necessary for the bridge project.
2. Whether the Dyers presented a genuine issue of material fact concerning bad faith or abuse of power sufficient to defeat summary judgment.
3. Whether the Superior Court improperly prohibited inquiry into the mental processes of Department decision-makers.

## HOLDINGS

1. A court may not substitute its judgment for the Department's political determination regarding the extent of property necessary for a public transportation project unless the determination lacks a rational basis or was made in bad faith or through an abuse of power.
2. Summary judgment was proper because the Dyers failed to identify evidence creating a genuine dispute of material fact regarding the necessity of the taking, bad faith, or abuse of power.
3. The Superior Court did not abuse its discretion in restricting inquiry into the mental processes of administrative decision-makers because the Dyers failed to make a strong showing of bad faith or improper behavior.

## KEY QUOTATIONS

*"There is 'no constitutional right on the part of the land owner to have the question of the necessity of the taking [including the extent thereof] submitted to a court' except to resolve whether the 'determination of the necessity . . . [was] made in bad faith or through an abuse of power.'"* (951 A.2d at 826-827)

*"An owner's opinion that DOT'S taking was greater than necessary is not, by itself, sufficient to create a dispute as to the material fact that there has been bad faith or an abuse of power."* (951 A.2d at 827)

## FACTUAL BACKGROUND

The Dyers owned the Sail Inn Restaurant and approximately five acres adjoining U.S. Route 1 near the Waldo-Hancock Bridge. After inspections revealed serious deterioration in the bridge's cables, the Department decided to replace the bridge on an expedited design-build schedule. The Department took the entire property, citing traffic-safety concerns, construction staging and blasting needs, uncertainty about final bridge and roadway design, and the undesirability of continued restaurant operations at the location. The Dyers did not dispute the public purpose or the need for a replacement bridge, but argued that only a portion of the property was necessary and relied primarily on their own assertions.

## PROCEDURAL HISTORY

The Department took approximately five acres owned by the Dyers for construction of a replacement bridge and associated highway work. After the State Claims Commission increased the compensation award to \$470,000, the Dyers filed a Superior Court complaint alleging that the Department exceeded its eminent-domain authority by taking more land than necessary. The Superior Court granted the Department's motion for summary judgment, and the Supreme Judicial Court of Maine affirmed.

#### DISPOSITION

affirmed

#### CASES CITED

- Stanley v. Hancock County Commissioners, 2004 ME 157, 864 A.2d 169
- Botka v. S.C. Noyes & Co., 2003 ME 128, 834 A.2d 947
- Farrington's Owners' Association v. Conway Lake Resorts, Inc., 2005 ME 93, 878 A.2d 504
- MP Associates v. Liberty, 2001 ME 22, 771 A.2d 1040
- Vives v. Fajardo, 472 F.3d 19 (1st Cir. 2007)
- Benoit v. Technical Manufacturing Corp., 331 F.3d 166 (1st Cir. 2003)
- Caban Hernandez v. Philip Morris USA, Inc., 486 F.3d 1 (1st Cir. 2007)
- Finks v. Maine State Highway Commission, 328 A.2d 791 (Me. 1974)
- In re Bangor Hydro-Electric Co., 314 A.2d 800 (Me. 1974)
- Fuller v. Town of Searsport, 543 A.2d 361 (Me. 1988)
- Ace Ambulance Service v. City of Augusta, 337 A.2d 661 (Me. 1975)
- Frye v. Inhabitants of Town of Cumberland, 464 A.2d 195 (Me. 1983)
- Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402 (1971)
- Scott v. Harris, 550 U.S. 372 (2007)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)