

SUPREME COURT OF SOUTH CAROLINA

Hardin v. South Carolina Department of Transportation; Tallent v. South Carolina Department of Transportation, 371 S.C. 598

641 S.E.2d 437 (2007) · No. No. 26262 · Decided February 12, 2007

SUMMARY

The Supreme Court of South Carolina considered whether road closures and realignments by the South Carolina Department of Transportation constituted compensable takings under the state and federal constitutions. The court reversed judgments for the property owners, holding that no taking occurred because their access easements and access to the public road system were not disturbed; a separate opinion disagreed as to the Tallent property.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Chief Justice Toal; Toal, C.J.; Burnett, J.; Moore, J.; Pleicones, J.; Waller, J.
JURISDICTION	South Carolina
DECIDED	February 12, 2007
DOCKET	No. 26262
DISPOSITION	reversed
PROCEDURAL POSTURE	Consolidated appeals by the South Carolina Department of Transportation from separate South Carolina Court of Appeals decisions affirming trial-court judgments that road closures and realignments effected compensable takings.
STANDARD OF REVIEW	The court applied de novo constitutional takings analysis, examining the character of the government action and whether it interfered with the owners' actual property interests and easements.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	South Carolina Department of Transportation v. John A. Hardin and Martha Hardin Curran, as Trustees of Marital Trust 2 under the will of Martha S. Hardin, Deceased, Elisha B. Tallent, d/b/a Elisha's California Hair

TOPICS

takings clause easements eminent domain constitutional law real estate

PRACTICE AREAS

constitutional law real estate eminent domain property law inverse condemnation

QUESTIONS PRESENTED

1. Whether closing a median opening that prevents property owners from turning in one direction onto a public highway constitutes a compensable taking.
2. Whether realigning public roads and effectively placing a commercial property on a cul-de-sac constitutes a compensable taking when the owner retains access to the public road system.
3. Whether South Carolina's prior special-injury analysis for road closures should continue to govern takings claims involving public-road access.

HOLDINGS

1. A public-road closure or realignment does not constitute a compensable taking unless it takes or directly interferes with the owner's property interest in an access easement. Retaining access to the public road system means the owner's access easement remains intact.
2. The court overruled the special-injury analysis in this area and held that takings claims arising from road reconfigurations must focus on whether an access easement was taken or disturbed.
3. The Hardin owners did not suffer a compensable taking because they continued to have access to Dave Lyle Boulevard and the public road system; the inability to turn in one direction was irrelevant.
4. The Tallent plaintiff did not suffer a compensable taking because no aspect of her property was physically taken and the court concluded that her access easement was not taken.

KEY QUOTATIONS

"An easement is either taken or it is not." (609)

"road closings and realignments which do not "take" land or an easement from a property owner do not give rise to compensable takings because these actions do not directly interfere with an owner's rights in the property as a whole." (608)

FACTUAL BACKGROUND

In Hardin, SCDOT closed a median opening at the Garrison Road and Dave Lyle Boulevard intersection after constructing a new intersection approximately 1,000 feet away. The closure prevented traffic from turning left at the former intersection, but the owners retained access to Dave Lyle Boulevard and the public road system. In Tallent, SCDOT reconfigured Highway 123 and Old Easley Bridge Road, closed through-access points, removed a traffic light, and converted Old Easley Bridge Road into a cul-de-sac, leaving the plaintiff's salon accessible only through secondary roads.

PROCEDURAL HISTORY

In *Hardin*, the trial court found a compensable taking after SCDOT closed a median opening at the intersection of Garrison Road and Dave Lyle Boulevard, and the Court of Appeals affirmed. In *Tallent*, the trial court found a compensable taking after SCDOT reconfigured roads so that the plaintiff's commercial property was effectively placed on a cul-de-sac, and the Court of Appeals affirmed. The Supreme Court of South Carolina consolidated the appeals and reversed both decisions.

DISPOSITION

reversed

CASES CITED

- *Byrd v. City of Hartsville*, 365 S.C. 650, 620 S.E.2d 76 (2005)
- *Georgia v. Randolph*, 547 U.S. 103, 126 S. Ct. 1515, 164 L. Ed. 2d 208 (2006)
- *Westside Quik Shop, Inc. v. Stewart*, 341 S.C. 297, 534 S.E.2d 270 (2000)
- *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 112 S. Ct. 2886, 120 L. Ed. 2d 798 (1992)
- *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104, 98 S. Ct. 2646, 57 L. Ed. 2d 631 (1978)
- *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 102 S. Ct. 3164, 73 L. Ed. 2d 868 (1982)
- *South Carolina State Highway Department v. Allison*, 246 S.C. 389, 143 S.E.2d 800 (1965)
- *City of Rock Hill v. Cothran*, 209 S.C. 357, 40 S.E.2d 239 (1946)
- *Gray v. South Carolina Department of Highways and Public Transportation*, 311 S.C. 144, 427 S.E.2d 899 (Ct. App. 1992)
- *South Carolina State Highway Department v. Carodale Associates*, 268 S.C. 556, 235 S.E.2d 127 (1977)
- *Tuggle v. Tribble*, 177 Ark. 296, 6 S.W.2d 312 (1928)
- *Chicago, Burlington & Quincy Railroad Co. v. City of Chicago*, 166 U.S. 226, 17 S. Ct. 581, 41 L. Ed. 979 (1897)
- *Gasque v. Town of Conway*, 194 S.C. 15, 8 S.E.2d 871 (1940)
- *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985)
- *Mill Creek Properties v. City of Columbia*, 944 So. 2d 67 (Miss. Ct. App. 2006)
- *Mississippi State Highway Commission v. Fleming*, 248 Miss. 187, 157 So. 2d 792 (1963)
- *Kick's Liquor Store, Inc. v. City of Minneapolis*, 587 N.W.2d 57 (Minn. Ct. App. 1998)
- *DuPuy v. City of Waco*, 396 S.W.2d 103 (Tex. 1965)
- *Boehm v. Backes*, 493 N.W.2d 671 (N.D. 1992)
- *Cady v. North Dakota Department of Transportation*, 472 N.W.2d 467 (N.D. 1991)
- *Sease v. Spartanburg*, 242 S.C. 520, 131 S.E.2d 683 (1963)
- *Hardin v. South Carolina Department of Transportation*, 359 S.C. 244, 597 S.E.2d 814 (Ct. App. 2004)
- *Tallent v. South Carolina Department of Transportation*, 363 S.C. 160, 609 S.E.2d 544 (Ct. App. 2005)

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