SUPREME COURT OF OKLAHOMA

STATE OF OKLA. ex rel. COMMISSIONERS OF LAND OFFICE v. STEPHENS AND JOHNSON OPERATING COMPANY, INC.

2020 OK 84 (Okla. 2020) · No. 116229 · Decided October 6, 2020

SUMMARY

The Oklahoma Supreme Court held that Stephens and Johnson Operating Company was not entitled to attorney fees and costs under the Surface Damages Act after demanding a jury trial and obtaining a verdict more favorable than the appraisers' award. The court rejected the operator's arguments that the railroad condemnation fee provision applied to permit recovery or that equal protection required a prevailing-party award. The court granted certiorari, withdrew the Court of Civil Appeals' opinion, and affirmed the trial court's denial of fees and costs.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Gurich, C.J.; Kauger, J.; Winchester, J.; Edmondson, J.; Colbert, J.; Combs, J.; Kane, J.; Rowe, J.
JURISDICTION	Oklahoma
DECIDED	October 6, 2020
DOCKET	116229
DISPOSITION	affirmed
PROCEDURAL POSTURE	On certiorari review, the Oklahoma Supreme Court reviewed the Court of Civil Appeals' affirmance of the district court's denial of the operator's application for attorney fees and costs under the Surface Damages Act.
STANDARD OF REVIEW	Whether attorney fees are authorized by law is reviewed de novo; the reasonableness of an attorney-fee award is generally reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Stephens and Johnson Operating Company, Inc. v. State of Oklahoma ex rel. the Commissioners of the Land Office

TOPICS

oil and gas · statutory interpretation · remedies · writ of certiorari · standard of review

PRACTICE AREAS

oil and gas law · mineral and surface rights · attorney fees · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether the Surface Damages Act authorizes attorney fees and costs for an operator that demanded a jury trial and obtained a verdict more favorable than the appraisers' award.
2. Whether the Surface Damages Act incorporates the attorney-fee provision of the railroad condemnation statutes, 66 O.S. 2011, § 55(D), to authorize fees for a successful operator or condemnor.
3. Whether limiting the statutory attorney-fee remedy to qualifying surface owners violates equal protection.

HOLDINGS

1. The Surface Damages Act does not authorize attorney fees and costs for the operator because § 318.5(F) permits recovery only by the non-jury-demanding party when the jury-demanding party fails to obtain a verdict more favorable than the appraisers' award. The operator demanded the jury trial and obtained a more favorable verdict, so the statutory condition was not satisfied.
2. Even if § 55(D) is incorporated into Surface Damages Act proceedings, it authorizes attorney fees only for successful landowners, not for a successful operator or condemnor. The operator therefore was not entitled to fees under § 55(D).
3. The statutory authorization of attorney fees for qualifying landowners, without a corresponding authorization for condemning operators, does not violate equal protection.

KEY QUOTATIONS

> *"This is not a prevailing party provision."* (¶7)

> *"Consequently, Operator, the party demanding the jury trial in this case, is not entitled to an award of attorney fees under Oklahoma statutory or case law."* (¶17)

FACTUAL BACKGROUND

Stephens and Johnson drilled and completed four oil and gas wells on property owned by the Commissioners of the Land Office. Because the parties could not agree on surface damages, three court-appointed appraisers issued reports, with the majority assessing damages at $450,000 and the minority assessing $120,515. The operator demanded a jury trial, and the jury awarded the surface owner $206,192.97, less than the majority appraisers' award. The operator then sought attorney fees and costs as the purported prevailing party.

PROCEDURAL HISTORY

The State sought surface damages after the parties failed to agree on compensation for oil and gas drilling operations. Court-appointed appraisers assessed damages at $450,000 by majority report, and the operator demanded a jury trial. The jury awarded the State $206,192.97, after which the operator sought $359,458.71 in attorney fees and costs. The district court denied the request, the Court of Civil Appeals affirmed, and the Supreme Court granted certiorari, withdrew the Court of Civil Appeals' opinion, and affirmed the district court.

DISPOSITION

affirmed

CASES CITED

- Davis Oil Co. v. Cloud, 1986 OK 73, 766 P.2d 1347
- Boston Avenue Management, Inc. v. Associated Resources, Inc., 2007 OK 5, 152 P.3d 880
- TRW/Reda Pump v. Brewington, 1992 OK 31, 829 P.2d 15
- Kay v. Venezuelan Sun Oil Co., 1991 OK 16, 806 P.2d 648
- Beard v. Richards, 1991 OK 117, 820 P.2d 812
- Tower Oil & Gas Co., Inc. v. Keeler, 1989 OK 104, 776 P.2d 1277
- State ex rel. Department of Transportation v. Moore, 2009 OK CIV APP 63, 217 P.3d 165
- TXO Production Corp. v. Stanton, 1992 OK CIV APP 101, 847 P.2d 821
- Bays Exploration, Inc. v. Jones, 2007 OK CIV APP 111, 172 P.3d 217
- Andress v. Bowlby, 1989 OK 78, 773 P.2d 1265
- Union Oil Co. of California v. Heinsohn, 43 F.3d 500
- Oklahoma Turnpike Authority v. New Life Church, 1994 OK 9, 870 P.2d 762
- YDF, Inc. v. Schlumar, Inc., 2006 OK 32, 136 P.3d 656
- Tower Oil & Gas Co., Inc. v. Paulk, 1989 OK 105, 776 P.2d 1279
- McAlester Urban Renewal Authority v. Cuzalina, 1973 OK 144, 520 P.2d 656
- Root v. Kamo Electric Co-op., Inc., 1985 OK 8, 699 P.2d 1083
- State ex rel. Department of Transportation v. Lamar Advertising of Oklahoma, Inc., 2014 OK 47, 335 P.3d 771