

DOCKET No. 5

Number	Term	Year
1	May	1926

Petition of Joe Corney for appt. of
viewers to assess damages in
Burnside Twp

Versus

X

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA.

In re: Reconstruction of :
Route No. 62 State Highway. :
Damages of Joe Corney :
:

PETITION.

To the Honorable A.R. Chase, President Judge of said Court.

The petition of Joe Corney respectfully represents:-

(1). That he is the owner of a certain farm situated in Burnside Township, Clearfield County, Pennsylvania, containing 110 acres, more or less, title to which was derived by deed from Wm. H. Fuller et al., Executors of Fred Fuller, dated May 20, 1914 and recorded in Clearfield County in Deed Book 203 page 207.

(2). That the State Highway Commissioner of the State of Pennsylvania has undertaken and proceeded with the construction of an improved State Highway, being Route No. 62, particularly the portion thereof between McGees Mills and Burnside, which passes through the premises of the petitioner aforesaid.

(3). That the petitioner has sustained damages by reason of the reconstruction of said State Highway, the course of which has been considerably changed and upon which a change of width and existing lines and locations has been occasioned; and that the construction of said portion of the State Highway has proceeded so that the grading thereof has been done.

(4). That the said petitioner has been damaged by the taking of a substantial quantity of ground, destruction of fruit trees and crops, destruction of a shed and in various other particulars.

(5). That your petitioner has been unable to agree with the County Commissioners of Clearfield County on the amount of damages to be paid to your petitioner for the land appropriated and other injury resulting to your petitioner.

YOUR PETITIONER THEREFORE PRAYS your Honorable Court to appoint viewers to appear upon the premises and to view and assess the damage and injury which your petitioner is entitled

to receive compensation for by reason of the appropriation of his land and other injury incident to the reconstruction and relocation of the said State Highway.

x Joe Corney.

STATE OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :

Joe Corney, being duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct.

Sworn and subscribed before me
this 1st day of Feb
A.D. 1926.

x Joe Corney.

Mrs. Lida Prowell

By Commissioner W.P. 14
Feb 1st, 1926

AND NOW February 2nd, 1926, upon presentation of
the foregoing petition, the Court appoints Aaron Kramer
Harry Reese and Jack Michaels
Viewers to view and assess the damages to the premises of
Joe Corney mentioned in the foregoing petition.

By the Court,

A.W. Chase.

President Judge.

IN THE COURT OF MARCHER SESSIONS
OF CLEARFIELD COUNTY,
PENNSYLVANIA.

May 20 1926
In re: Reconstruction of

Route No. 62 State Highway.

Damages of Joe Corney.

PETITION.

RECEIVED
FEB 8 1926
CITY OF W. RAILROAD
CHARGE

W. WALLACE SMITH
ATTORNEY AT LAW
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF JUDICIAL SESSIONS OF CLEARFIELD COUNTY.

Joe Kony

of Appraiser Term, 190....

No.....

Versus

Clearfield County

Bill of Costs

At..... Term, 190....

		Dollars	Cents
Chand (Indstry)	1 Days in attendance.....	3.6	Miles direct travel
Frank Dill	1 Days in attendance.....	3.6	Miles direct travel
John (Hans)	Days in attendance.....		Miles direct travel
D. E. Baird	1 Days in attendance.....	3.6	Miles direct travel
	Days in attendance.....		Miles direct travel
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	Days in attendance.....		Miles direct travel
	Days in attendance.....		Miles direct travel
	Days in attendance.....		Miles direct travel
	Serving subpoenas.....		Witness.....
	Miles distance.....		
Whole amount of bill.....			

CLEARFIELD COUNTY, SS:

Personally appeared before me..... *Joe Kony*, who being duly sworn, saith the above Bill of Costs is correct, that the witnesses named were subpoenaed, necessary, material, and in attendance as above stated, and that the mileage is correct as he believes.

Sworn to and subscribed before me this

10th day of *March*, A. D. 1906.

Geo W Robeson, Prothonotary

John J. Kony

No. Term 190.....

Versus

Bill of Costs

For..... Term 190

Date..... 190.....

Amount - - - \$.....

TO: JESSE, E, DALE, T, R, WEIMER, AND, B, W, MCCRACKEN.
County Commissioners of Clearfield County Pennsylvania.
Gentlemen.

You are hereby notified; that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County and State aforesaid, to view and assess the damages that Joe Corney of Burnside Township County and State aforesaid sustained by the construction of an improved State Highway through his property; situate in Burnside Township County and State aforesaid by the State Highway Commissioner on Route Number 62, leading from the Borough of Burnside to the village of McGees in Bell Township; County and State aforesaid; will meet on the premises of the said claimant in Burnside Township County and State aforesaid on Tuesday March the ninth (9th) A. D. 1926 at ten (10) o'clock A. M. to attend to the duty assigned them of which time and place you will please take notice.

And that the public hearing as required by the act of Assembly and the Rules of Court to be held by the viewers before the filing of their report in Court in order to give all parties interested a chance to be heard by the viewers, will be held by the viewers in the Arbitration Room in the Court House in Clearfield Pa on Wednesday March the tenth (10th) A. D. 1926 at ten (10) o'clock A. M. at which time and place all parties interested with their Attorneys and witnesses may appear and be heard.

A G Kraemer
H A Reesl
J J Michaels

VIEWERS.

Now February 27th 1926. service accepted for the county Commissioners of Clearfield County.

L O Morris
Clerk.

TO: Mr, Joe, Corney.

Dear, Sir,

You are hereby notified, that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County State of Pennsylvania, to view and assess the damages that you sustained on your real estate by the construction of an improved State Highway through your property situate in Burnside Township County and State aforesaid by the State Highway Commissioner on Route Number 62, leading from the Borough of Burnside to the village of McGees in Bell Township County and State aforesaid; will meet on your said premises in Burnside Township in said County on Tuesday March the ninth (9th) A. D. 1926 at ten o'clock A. M. to attend to the duty assigned them of which time and place you will please take notice.

And that the public hearing as required by the act of Assembly and the Rules of Court to be held by the viewers before the filing of their report in court in order to give all parties interested a chance to be heard by the viewers, will be held by the viewers in the Arbitration Room in the Court House in Clearfield Pa on Wednesday March the tenth (10th) A. D. 1926 at ten (10) o'clock A. M. at which time and place all parties interested, with their Attorney and witnesses may appear and be heard.

A G Kramer
H A Reesl
J S Michaels,

VIEWERS.

Now February 27, 1926 service accepted for Joe, Corney the claimant the claimant and personal services waived.

R Deller Frist

That the claimant Joseph Korney is the owner of a certain tract of land consisting of one hundred and ten (110) acres situate in Burnside township Clearfield County Pennsylvania which is partly improved and under cultivation; the balance is uninproved woods land.

That during the year 1925 the State Highway Commissioner by his contractor and employees constructed a State Highway through mostly the farm land of the said petitioner on the State Highway Route number (62) leading from the Borough of Burnside to the village of McGees, in Bell township in the county and State aforesaid. That the State Highway Commissioner by exercising the authority conferred upon him by the act of Assembly of May the 31st 1911 P, L, 468 and the supplements and amendments thereto has located the bed of the said road or highway so laid out through the land of the said claimant forty five feet including the slopes and fills in width by thirteen hundred and fifty (1350) feet in length. Making after ~~after~~ deducting the amount of the old road bed used of one acre of the claimants land taken for which the county is liable and the damages as herein-after stated, as follows:

As to the damages the claimant sustained, the viewers allow or assess the same as follows.

For the one acre of land taken for the road bed and the damages to the fence damaged they assess the damages to the claimant at one hundred (\$100.00) dollars.

As to the eight apple trees destroyed, there was no evidence produced, as to the kind or size of trees they were or as to whether they good young or bearing trees or not, or as to the kind of fruit they bore or whether the fruit was of any account or value, or whether it was small scrubby or good grafted fruit, some apples are worth considerable more than others and as the only information the viewers had was mere guess statements as to the nature or kind of fruit the only thing the viewers can do is to guess as to what ~~they~~ ^{they were} worth some apple trees are dear at twenty (\$20.00) a tree while others are cheap at fifty (\$50.00) dollars a tree. so on account of the lack of any testimony as to the kind of fruit the trees destroyed bore the viewers value and appraise the same at twenty (\$20.00) dollars a tree or the eight trees at one hundred and -

sixty (\$160.00) dollars.

As to the plum trees destroyed there was no evidence produced as to kind of trees they were; whether large or small old or young or whether tame or wild plums or as to what kind of fruit the bore and as plum trees are generally short lived the viewers dont consider the trees of any great value, they therefore value and appraise them at ten (\$10.00 a tree or twenty (\$20.00) dollars for the two trees. (10.00) (10.00)

As to the cherry trees destroyed there was no testimony or evidence produced as to what kind of fruit they bore whether sweet or sour cherries or whether they were tame or wild cherries or how large or old the trees were the viewers are therefore in the dark as to the value of them; they therefore value and appraise the same at ten dollars (\$10.00) a tree or twenty (\$20.00) for the two trees.

As to the black walnut tree they value and appraise the same at twenty (\$20.00) dollars:

As to the timber cut and destroyed judging from the timber standing adjoining the timber destroyed must have been principally small second growth and not of very much value the viewers therefore from the best information they have value and appraise the same at twenty five (\$25.00) dollars as a fair value for the same.

Clearfield County, ss:

At a Court of Quarter Sessions of the Peace of the County of Clearfield, held at Clearfield, Pa., in and for said County, on the 2nd day of February in the year of our Lord one thousand nine hundred twenty six

Joe Corney

Judge of the same Court: Upon the petition of ~~sunday xix~~
~~xxxv~~ inhabitants of the Township of Burnside

in said County, setting forth that he is the owner of a certain farm situated in Burnside Twp. containing 110 acres, more or less.

That the State Commissioner of the State of Penna. has undertaken the construction of an improved State Highway, being Route No. 62. particularly the portion thereof between McGees Mills and Burnside. which passes through the premises of the petitioner. That the petitioner has sustained damages by the taking of a substantial quantity of ground, destruction of fruit trees and crops, destruction of a shed and various other particulars, and has been unable to agree with the County Commissioner as to the amount of damages sustained.

assess damages

and therefore, praying the Court to appoint proper persons to view and lay out the road between the points mentioned, whereupon the Court upon due consideration had of the premises, do order and appoint from and among the County Board of Viewers Aaron G. Kramer, Esq., Harry Reese and Jack Michaels

who have been duly appointed by the Court and filed their oaths of office and are duly qualified to perform the duties of their appointment with impartiality and according to the best of their judgement, are to view the ground proposed for the said road, and if they view the same, and a majority of the actual viewers agree that there is occasion for such road they shall proceed to lay out the same, as agreeable to the desire of the petitioner as may be, having respect to the best ground for a road and the shortest distance, in such a manner as to do the least injury to private property, and shall make report thereof, stating particularly whether they judge the same necessary for a public or private road, together with a plan, draft thereof, and the courses and distances and references to the improvements through which the same may pass; (and wherever practicable, the viewers shall lay out the said road at an elevation not exceeding five degrees, except at the crossing of ravines and streams, when by moderate filling and bridging the declination of the road may be preserved within that limit,) to the next Court of Quarter Sessions to be held for the said County.

And if the viewers aforesaid shall decide in favor of locating a public road, they shall obtain from the persons through whose lands the said road shall pass, damages from any damages that may arise to them on opening the same; but if the owner or owners of such land refuse to allow their claim to damages, the said viewers shall assess the same, taking into view the advantages as well as disadvantages arising from said location, and make report of such assessments, which report they shall in like manner transmit to the next Court of Quarter Sessions, with the draft or plot aforesaid. In which said reports they shall state that they have been sworn or affirmed according to law, and that due and legal notice was given of the time when, and place where, they should meet, to view and lay out said road, and the time and place of hearing

By order of the Court.

Geo W Ralston, Clerk.

RETURN OF VIEWERS

To the Honorable the Judge of the Court of Quarter Sessions of the Peace for the County of Clearfield:

We, the undersigned viewers, duly appointed by your Honorable Court by the foregoing order from and among the County Board of Viewers who have been duly appointed by your Honorable Court and have filed their oaths of office in the Court of Common Pleas of Clearfield County, be leave to report as follows:

That notice of the time of view and of the hearing day was duly served according to law upon the Commissioners of Clearfield County and the ~~Board of Supervisors of the Township of~~
~~claimant~~ and that ~~notices thereof were posted along the route of the~~
~~proposed road, that the said view would be held on the 9th day of March~~
A. D. 1926, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 10th day of March, 1926, at (9) o'clock A.M. That ~~the~~ viewers appointed by the said order viewed the ~~proposed road~~ mentioned road, and that there were present at the view ~~the claimant besides the~~
~~viewers, and viewed, measured and inspected the same:~~

~~PROCEEDINGS~~ That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 10th day of March, 1926, when the following appearances were noted: and called to testify as witnesses, for the claimant Joseph Korney or corney the claimant with his Attorney W. Wallace Smith Esq. and Frank Deihl and D. E. Bear who were called as witnesses and A. M. Liveright Attorney for the county Commissioners together with the County Commissioners.

After the view and hearing above mentioned, the undersigned, the majority of the said viewers, do agree that there is no occasion for a road as desired by the petitioner, and that the same is not necessary for a State road: And having had respect to the shortest distance and the best ground for such road we have laid out in such manner as shall do the least injury to private property and as far as practicable agreeably to the desire of the petitioner and do return for no use the following described road, to wit Beginning

As to the damage sustained to the coal dump and coal shed as the lumber used was not destroyed and can be used for replacing the same the damage cannot be very heavy and in the opinion of the viewers can be replaced in as good condition as before for the sum not exceeding thirty (\$30.00) dollars they therefore assess the damages to the road to the coal bank and coal shed at the sum of thirty (\$30.00) dollars.

For the cost of the drain pipe necessary for the drain on each side of the State road and the filling of the four approaches one on each side of the State road for each of the two crossing over the State road and the filling at each crossing of the two approaching on each side of the road will cost at least for the piping and filling will cost at least twenty (\$20.00) for each of the four approaches one on each side of the road for each of the two crossing or the sum of eighty (\$80.00) dollars

As the construction of the State road through his property past his buildings is in the opinion of the viewers as much benefit as the cost of the moving of his pig pen chicken house and smoke house and the value of the grain destroyed they therefore the one for the other and therefore assess no damages for the moving of the buildings and the value of the grain destroyed.

The viewers therefore assess the damages awarded to Joseph Korney. as follows.

For the one acres of land taken for the road bed and the damages to the fence	\$100.00
For the eight (8) apple trees destroyed	160.00
For two plum trees destroyed	20.00
For the two cherry trees destroyed	20.00
For the one Black walnut tree destroyed	20.00
For the injury to the coal tipple and coal shed	30.00
For the timber destroyed	25.00
For the cost of the sewer pipe and the filling of the approaches in the construction of the two crossings over the State road	80.00
Total amount of damages awarded.	\$455.00

Amount of witnesses cost for witnesses called at the hearing as per bill of cost attached \$8.32

and that a plan or draft of said road showing courses and distances and the properties affected is hereto attached and made a part hereof, said road being at an elevation not exceeding five degrees, excepting

where it was not practical to preserve it within that limit.

The undersigned further report that they endeavored to procure from all the owners of the land over which the said road passes releases in writing of all claims to damages that may arise from opening the same, and that they procured such release from

the following persons having refused to release the damages to which they respectfully may be entitled by reason of the location and opening of the said road we, the undersigned viewers, after having considered the advantages to be derived to them, do assess them damages and make report thereof as follows:

and we herewith return releases obtained and copy of the notices, served.

WITNESS our hands and seals this 16th day of March, 1926.

A. G. Kramer Seal
M. A. Reese Seal
J. J. Michaels Seal
Seal

No. 1 May 26 Sessions, 1926

ORDER

To view and assess damages to a road for Joe Corney use in the township of Burnsides, Clearfield County, Penn Marcell 25-26/1926

Sessions, 1926

read and confirmed Ni. Si. Road to be opened 33 feet wide, except where there is side hill cutting or embankment and bridging, there to be 16 feet wide.

By the court
of Clearfield Co.
of Pennsylvania

Row Nine 26 1926
comprised absolutely
by the court
of Clearfield Co.
of Pennsylvania

Filed 1926
Fees \$1.25 paid by _____

W. Wallace Smith, Atty.

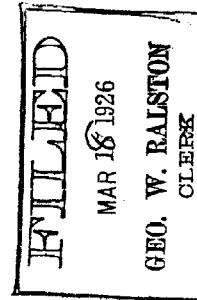
NOTE.—In case of a private road, the release must be executed in favor of the petitioner for said road.

Also, viewers will carefully note the number of days employed and set the amount out at the foot of their return.

Viewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the reviewers.

N. B.—If the viewers believe the parties are not entitled to damages, taking into consideration the advantages as well as the disadvantages of the road, they will report to that effect.

	Days	Miles	W.M.T.



RELEASE OF DAMAGES

Know all Men by these Presents, that we, the undersigned, owners of lands through which the road located by the viewers, under the annexed order, passes for and in consideration of the sum of one dollar to us respectively paid by _____

at and before the ensealing and delivery hereof, have remised, released and forever quit-claimed, and do hereby remise, release and forever quit-claim to the said _____

all damages that may arise to us respectfully by reason of the location and opening of the said road, so that neither we nor any of us, nor any person claiming under us, can or may hereafter ask, sue for, demand, have or receive any damages for injuries arising or growing out of the location and opening of the road aforesaid.

Witness our hands and seals this _____ day of _____

A. D. 1926 _____

Seal

Seal

Seal

Seal