

Road

DOCKET No. 6

Number

Term

Year

4

Dec ss 1928

Petition of Peter Montaro to assess
damages in Beccaria Twp

Versus

X

TO THE HONORABLE THE JUDGE OF THE COURT OF QUARTER SESSIONS OF
CLEARFIELD COUNTY:

The Petition of Peter Montaro respectfully represents:-

1. That he is a resident of Beccaria Township, Clearfield County, Pennsylvania.

2. That he is the owner of a lot or piece of land situate in the Township of Beccaria through which a State Highway, known as No.234 Route 53, goes through; said highway running in part between the Borough of Irvona and the Borough of Glen Hope.

3. That the Commonwealth of Pennsylvania has constructed, through its Department agents and employees, the said highway and in so doing has appropriated and taken for highway purposes certain lands of your petitioner, the plan, location and the manner and extent of the taking of the land of your petitioner being shown upon the plans and specifications of the Highway Department of Pennsylvania as well as upon the ground which is the property of your petitioner.

4. That as a result of the construction of the said Highway, the property of your petitioner has been damaged, in that many forest trees and fruit trees, ranging in size from 18" in diameter to 1 foot in diameter, have been destroyed. The land of your petitioner has been taken for a considerable distance as shown upon the maps and plans of the State Highway Department of Pennsylvania filed in the office of the County Commissioners of Clearfield County. Your petitioner has been further damaged by reason of the fact that he will be required to build additional fencing and sink numerous posts in order to have his ground properly inclosed.

5. That the said Highway Department has appropriated for Highway purposes a spring which was the only source of water

supply of your petitioner and in order for him to secure water, it will be necessary for him to lay considerable pipe.

6. That under and by virtue of the laws of the Commonwealth of Pennsylvania, the County of Clearfield is responsible for said damages; that your petitioner has endeavored to obtain a satisfactory settlement from the Commissioners of the County of Clearfield for the damages sustained by your petitioner, by reason of the alteration and change of the said Highway, but the Commissioners and your petitioner cannot agree upon the amount of damages which would justly and fairly compensate your petitioner for the injuries sustained by him.

Your petitioner therefore prays your honorable Court to appoint viewers as provided by the laws of the State of Pennsylvania to view and assess the damages sustained by your petitioner, by reason of the reconstruction and altering the course of said Highway.

And he will ever pray, etc.

Peter Montaro

STATE OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

PETER MONTARO being duly sworn according to law, deposes and says that the facts contained in the foregoing Petition are true and correct.

Sworn and subscribed before :
me this 6th day of :
October, A. D. 1928 :

Peter Montaro

Wes H. Ralston :

Prothonotary

O R D E R

NOW, *Oct 5th* 1928 day of October, 1928, the
within petition read and considered, and *A. S. Kramer*.....
and *Harry Kase*..... and *J. S. Mitchell*.....
are hereby appointed Viewers, to view and assess the damages to
the lands and buildings of Peter Montaro situate in the Town-
ship of Beccaria, County of Clearfield and State of Pennsylvania,
and to arrive at a just and fair award of the damages sustained
by the said Peter Montaro by reason of the construction, alter-
ing that portion of the State Highway known as Route 53, No. 234
through the premises of the said Peter Montaro.

BY THE COURT,

J. B. Chase P.J.

Lap over margin

#4 Rec 551928

IN THE COURT OF QUARTER- SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA.
PETER MONTARO -VS- COUNTY OF CLEARFIELD
P E E T I O N
<div>FILED OCT 8 - 1928 GEO. W. RALSTON CLERK</div> <div>W</div>
LAW OFFICES J. MITCHELL CHASE MOORE TEMPLE BLDG. CLEARFIELD, PA. \$4.00 paid by attorney CORRECTION: MONTARO, P. CLEARFIELD, PA.

That the Commonwealth of Pennsylvania has constructed, through its Department agents and employees, the said highway and in so doing has appropriated and taken for highway purposes certain lands of your petitioner, the plan, location and the manner and extent of the taking of the land of your petitioner being shown upon the plans and specifications of the Highway Department of Pennsylvania as well as upon the ground which is the property of your petitioner.

That as a result of the construction of the said Highway, the property of your petitioner has been damaged, in the many forest trees and fruit trees, ranging in size from 18" in diameter to 1 foot in diameter, have been destroyed. The land of your petitioner has been taken for a considerable distance as shown upon the maps and plans of the State Highway Department of Pennsylvania filed in the office of the County Commissioners of Clearfield County. Your petitioner has been further damaged by reason of the fact that he will be required to build additional fencing and sink numerous posts in order to have his ground properly inclosed.

That the said Highway Department has appropriated for Highway purposes a spring which was the only source of water supply of your petitioner and in order for him to secure water, it will be necessary for him to lay considerable pipe.

That under and by virtue of the laws of the Commonwealth of Pennsylvania, the County of Clearfield is responsible for said damages; that your petitioner has endeavored to obtain a satisfactory settlement from the commissioners of the County of Clearfield for the damages sustained by your petitioner, by reason of the alteration and change of the said Highway, but the Commissioners which would justly and fairly compensate your petitioner for the injuries sustained by him

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 8th day of October
in the year of our Lord one thousand nine hundred
twenty eight

Peter Montaro

Judge of the same Court: Upon the petition of ~~xxxxxx~~
~~xxxxxx~~ of the Township of Beccaria

in said County, setting forth that he is the owner of a
lot or piece of land situate in the Township of Beccaria through which a
State Highway known as No 234 Route 53, goes through; said highway running in
part between the Borough of Irvona and the Borough of Glen Hope.

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 A. G. Kramer, Esq.,
Harry Reese and J. S. Michaels

who have been duly appointed by the Court and filed their oaths of office and are duly quali-
fied 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 or 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 plot or~~
~~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 declivity 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, releases from any~~
~~damages that may accrue to them on opening the same; but if the owner or owners of such land~~
refuse to release 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. Palston, 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

and that notices thereof were posted ~~along the route of the~~ road, that the said view would be held on the 30th day of October

A. D. 1928, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 31st day of October, 1928, at 9 o'clock A. M. That

the viewers appointed by the said order viewed the ~~ground proposed for the above~~ mentioned road, and that there were present at the view

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 31st day of October, A. D. 1928, when the following appearances were noted:

After the view and hearing above mentioned, the undersigned, ~~the~~ viewers 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 any road front 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 use the following described road, to wit Beginning

That Peter Montaro the petitioner a resident of the Township of Becaria County of Clearfield and State of Pennsylvania sets forth, that he is the owner of a small tract of land situate in the Township of Becaria; County and State aforesaid near the Borough line of Irvona containing acres; Through which the State Highway Commissioner by his contractor and employees lately constructed a State Highway to supply the Township road leading from the Borough of Irvona to the Borough of Glen Hope which said State Highway lately constructed passes through the entire length of the said claimants land a distance of (1722) feet in length; which on an average including the Born, drains and slopes on each side of the road makes the road forty two (42) feet in width and takes near one and a fourth ($1\frac{1}{4}$) acre of his land in addition to part of the former Township road bed used before the construction of the present State Highway, taken about one and a fourth ($1\frac{1}{4}$) acres of the claimants land taken fixes the damages at the value placed on the land at fifty (\$50.00) an acre or for the one and a fourth ($1\frac{1}{4}$) acre of his land take at (\$50.00 an acre or sixty two dollars for the one and a fourth ($1\frac{1}{4}$) acre of land taken or the total value or damages at (\$62.00 for land taken The damages the claimant suffered by the destruction of the three (3) maple trees being to far away from the house to be of any particular benefit to be of much account or value for shade or of any other particular value the viewers fix the value of each tree at ten (\$10.00) and for the three trees assess the damages at thirty (\$30.00) dollars

For the small appleton tree being too young and small to bear, and not able to adjudge the kind of frute it would bear and there being no testimony as to the other frute trees to adjudge the value thereof the viewers the viewers have adjudged the value of all the other frute trees being worth not more than five (\$5.00) dollars and the loss sustained by the destruction of the apple trees and plum trees assess the value at (\$5.00) to wit at the same value one dollar (\$1.00) apiece for each tree.

For the cost or expenses of the erection of a bridge across the drain at the upper side of the road so as not to effect the drainage of the public road and allow the claimant free access from the road across the drain from the road into his building and from his buildings out onto the road including the cost of the necessary material and the labor necessary to construct the same assess the damages at \$25.00 as to the cost of the material and labor for the reconstruction of a new fence along the side and along the front of his house and lot same as it was before would cost all of twenty five (\$25.00), the amount of the damages assessed. at twenty five (\$25.00) Dollars.

As to the damages caused by the house, the viewers to damages for the occasional overflow of the Spring located along the state road some eighty (80) feet from the house the water of which is not regularly used mostly to water his stock as he has another spring near the house where he nearly always gets his water used in and by the services for the house which by very heavy forces the water from the drain of the State road up into the spring and that when it rains the road showing courses and distances and the properties affected attached and made a part hereof, said road being at an elevation not exceeding five degrees, excepting

Which in the opinion of the viewers of such a nature of damages or render the county liable for same the viewers therefore for all consider the County liable and therefore assess no damages when it was not practical to preserve it within the same.

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 releases from

as hereinbefore set forth and aggregate a total amount of \$150.00

the following persons having refused to release the damages to which they respectively may be entitled by reason of the location and opening of the said road, 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.

WITNESS our hands and seals this 20th day of November.

A. D. 1923.

A. G. Kramer Seal
H. A. Reese Seal
J. S. Michael Seal

ORDER

To view and assess damages to
~~road~~ Peter Montaro
 township of Beccaria,
 Clearfield County

Sessions, 19____,
 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.

*Answer Jan 7th 1928
 report confirmed
 absolutely
 by the court
 H. Chase*

Filed _____ 19____
 Fees \$1.25 paid by _____

J. Mitchell Chase

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.

Reviewers 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	AM'T.
A. G. Kramer	4	74	\$33.70
H. A. Reese	3	112	\$25.10
J. S. Michaels	2	140	\$22.00

*Witnesses
 H. Chase 2 days \$2.00
 H. Chase 2.10
 Melag 35 miles 2.00
 J. B. Miller 2.10
 one day
 Melag 35 miles 2.00
 H. Chase 2.00
 Melag 35 miles 2.00*



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. 192____.

 Seal

 Seal

 Seal

 Seal

TO THE COUNTY COMMISSIONERS OF CLEARFIELD COUNTY PA.

You are hereby notified, that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pennsylvania to view and assess the damages the petitioner Perter Montare of Becaria Township County and state aforesaid has sustained by the construction of the public highway lately constructed by the state Highway Commission between the Borough of Irvona and the Borough of Glen-Hope in the ^{of} Township Becaria County and state aforesaid ,

You are therefore hereby notified that the said viewers will meet for the discharge of the duties of their appointment on the premises of the petitioner to view measure and inspect the same in order to be able to adjudge and measure the amount of damages the said claimant has suffered and sustained by the construction of the said state highway through his property, will meet on his premise in Becaria Township County and state aforesaid on Tuesday October the thirtieth (30th) 1928 at nine (9) o'clock A. M. to perform the duties of their appointment 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 in the assessment of the damages the said claimant has sustained before the filing of their report in Court. will meet in the Arbitration Room in the Court house on Wednesday October the thirty first (31) day of 1928 at nine thirty (9.30) o'clock A. M. at which time and place all parties interested may appear with their witnesses if any and will be heard.

A. G. Kramer
H. A. Reed
J. S. Michaels
Viewers.

Now October 20 1928 service accepted for the County Commissioners of Clearfield County and personal service waived.

L. C. Morris
Clerk.

TO Mr, PETER MONTARO.

Sir.

YOU are hereby notified that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pa to view and assess the damages you sustained by the construction of the State Highway through your property leading from the Borough of Irvona to the Borough of Glrn Hope in Beccaria Township in Clearfield County by the amount of land taken and otherwise damaged by the distruction of his spring and some growing timber .

You are therefore hereby notified that the said viewers will meet on your premises to inspect the same to ascertain the damages the damages you have sustained will in the discharge of the duties of their appointment meet on your said premises , to view and inspect the same to ascertain the damages you have sustained and discharge the duties of their appointment; on Tuesday October the 30th Thirtieth A. D. 1928 at nine thirty (9.30 o'clock A. M. 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 before the filing of their report in Court in order to give all parties interested in the said damages to be assessed to appear and be heard will meet in the Arbitration Room in the Court House in Clearfield Pa on Wednesday October the (31th) thirty first day at (9.30) o'clock A. M. at which time and place all parties with their witnesses may appear and be heard.

Now October 20th 1928 service accepted for Peter Montaro the claimant and personal service waived.

Arturo Chase
Attorney for Peter Montaro