

SUMMARY STATEMENT

Idaho Trans. Dep't v. HJ Grathol, Docket No. 41068

The Idaho Supreme Court unanimously affirmed the Kootenai County district court's just compensation award to HJ Grathol ("Grathol"), vacated and remanded the district court's denial of attorney fees to the Idaho Transportation Department ("ITD"), and affirmed the district court's award of costs to ITD. The Court also unanimously awarded attorney fees and costs to ITD on appeal.

This eminent domain case arose when ITD acted to condemn 16.314 acres of Grathol's 56.8 acres in order to improve U.S. Highway 95. After a bench trial, the district court held that just compensation would be based on the 56.8-acre parcel's value and the property remaining suffered no severance damages. Grathol argued on appeal that the district court should have based just compensation on a 30-acre parcel. Grathol also argued that the district court ignored Grathol's severance damage evidence and improperly excluded testimony about damages from a proposed frontage road. Grathol also appealed the district court's award of costs to ITD, arguing that condemners are not entitled to costs. ITD cross-appealed, arguing that the district court should have awarded ITD reasonable attorney fees under *Ada County Highway District v. Acarrequi*, 105 Idaho 873, 673 P.2d 1067 (1983).

Contrary to Grathol's assertions that the district court ignored the law and evidence, the Idaho Supreme Court found substantial and competent evidence supported the district court's findings that the parcel valued was 56.8 acres and that the remainder suffered zero severance damages. The Court also found the district court did not err by excluding testimony about impacts from an alleged frontage road because this Court held in a prior decision that ITD had no intent to condemn land for that road.

As to attorney fees, the Court vacated the district court's denial of attorney fees based on Idaho Code section 12-117 because that statute is not the exclusive source of fees for state agencies. The Court reasserted that it held in *Acarrequi* that courts can award attorney fees to a condemner in extreme and unlikely cases. The Court then adopted a three-part test to determine when a case is extreme and unlikely. The Court remanded for the district court to analyze attorney fees within the new "extreme and unlikely case" parameters. As to attorney fees on appeal, the Court found that this was in fact an "extreme and unlikely case" and awarded ITD its reasonable attorney fees to be paid by Grathol. The Court found Grathol's arguments on appeal were unreasonable and frivolous because Grathol asked this Court to re-weigh the evidence and second guess the district court without any legal or factual basis to support its arguments.