

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

CITY OF KANSAS CITY, MISSOURI,

Respondent,

v.

TELESTER AMEENA POWELL,

Appellant.

DOCKET NUMBER WD76861
(Consolidated with WD77187 and WD77917)

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: October 7, 2014

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable Sandra C. Midkiff, Judge

JUDGES

Division One: Pfeiffer, P.J., and Mitchell and Witt, JJ.

CONCURRING.

ATTORNEYS

Alexandra Muesenfechter, Assistant City Attorney
Kansas City, MO

Attorney for Respondent,

Telester Ameena Powell
Kansas City, MO

Appellant, *pro se.*

entire parcel, Powell was not prejudiced because subsequent filings clearly indicated the City's intent to condemn the entire parcel.

4. Homestead damages are set by statute and awarded by the court; they are not tools for negotiation and the value is not determined by the commissioners (though facts related to whether they are implicated can be).
5. The right to propose alternate locations and receive a response from the condemning authority does not arise with respect to the taking of an entire parcel of property.
6. The building and maintenance of a police station and crime lab constitute a public use.
7. The court defers to a legislative determination of necessity unless the challenging party can demonstrate fraud or bad faith. But where the party does not raise such a challenge, the legislative determination of necessity is conclusive.
8. The appointment of a single set of commissioners in multiple cases involving property being condemned for a single purpose does not render the commissioners interested.
9. Additionally, the fact that the commissioners receive compensation for their time, which is statutorily required, does not render them interested.
10. In the absence of a showing of cause, a motion for change of judge filed beyond the deadline provided in Rule 51.05 is untimely.
11. Rulings against a party do not demonstrate bias or prejudice rising to the level of cause for change of judge.
12. An accumulation of non-errors does not amount to error.
13. Property owners are entitled to discovery on a condemnation petition only when they challenge, through a motion to dismiss, the condemning authority's claim of necessity as constituting fraud, bad faith or an arbitrary and unwarranted abuse of discretion.
14. Though no responsive pleadings are required upon the filing of a condemnation petition, if a party wishes to assert an affirmative defense, she must do so through a timely filed answer.
15. The project influence doctrine is inapplicable under the facts of this case.

Opinion by: Karen King Mitchell, Judge

October 7, 2014

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.