

The McDonald Special Road District brought an action in the Circuit Court of Barry County, Missouri, for an injunction restraining property owners from obstructing and damaging a public road, together with damages. The road in question, known as Willow Branch Road, was established by order of the County Court pursuant to Statute in 1956. The 1956 action was a relocation of the road from another location on the property owners' tract. The road was utilized until November of 1981, when the property owner fenced the east and west ends of the road, disced the road and seeded it. The then Highway Commissioners of the District had assented to the action taken by the property owner by regrading the former road in use prior to 1956.

Missouri statutes provide that a road once established by order of the county court and used as a public highway for more than ten years may only be vacated by order of the County Court with notice, or by non-use by the public for five continuous years. Neither action was taken in this case. Notwithstanding the foregoing, the Circuit Court entered judgment in favor of the property owners on an estoppel theory that the former Commissioners by their ultra vires action, had bound the District.

On appeal to the Missouri Court of Appeals, the Circuit Court was reversed in McDonald Special Road District v. Pickett, 694 S.W. 2d 273 (July 1985). The Court finding that the actions of the Commissioners in 1981, assenting to the action taken by the property owner, was an unauthorized act, and thus not binding on subsequent commissioners. "The protection of the public and the declared public policy requires public officials to comply with mandatory statutory provisions, and such requirements may not be avoided by a compliance only when the official sees fit to comply." The mistakes of the Commissioners in taking the action in 1981 were their own mistakes and not binding upon the sovereign. "To permit the Picketts to relocate Road A by the methods employed here, would thwart the legislative intent and would promote scheming and contrivances between a landowner and public officials who lack the authority to act in the manner requested."

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