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Supreme Court Removes Obstacle for Plaintiffs Asserting Takings Claims in Federal Court

In a decision issued on June 21, in *Knick v. Township of Scott,* 588 U.S. ___ (2019), the Supreme Court of the United States eliminated a long-standing rule that a property owner may not seek redress in federal court for an actual or regulatory "taking" of its property by a state or local government until its claim has first been denied in state court.

Prior to *Knick*, the controlling precedent on this issue was set forth in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985). In that case, the Court addressed the Takings Clause of the Fifth Amendment, which provides that "private property [shall not] be taken for public use, without just compensation." The Takings Clause is applicable when a public body takes actual possession of private property, and also when there is a regulatory taking, which means that government regulations have been applied to such a degree that the property owner is effectively deprived of the use or value of the property. In *Williamson County*, the Court's majority held that if a private owner contends that a state or local government has effected a regulatory taking, and there is an adequate procedure for the property owner to seek just compensation under state law, then the property owner must first avail itself of the state procedure, and be denied just compensation, before it can claim a violation of the Takings Clause of the Fifth Amendment in federal court.

The *Williamson County* rule was eliminated in *Knick*. Chief Justice John Roberts, writing for the majority, noted that the *Williamson County* rule had come under fire in light of the Court's more recent holding in *San Remo Hotel v. City and County of San Francisco*, 545 U.S. 323 (2005), providing that a state court's resolution of a claim for just compensation under state law will generally carry preclusive effect in any subsequent federal suit. In *San Remo* itself, four Justices—Chief Justice Rehnquist, Justice Kennedy, Justice O'Connor and Justice Thomas—issued a concurring opinion to note that the "justifications for [*Williamson County*'s] state-litigation requirement are suspect, while its impact on takings plaintiffs is dramatic." Fourteen years later, a majority of the Court echoed those concerns in *Knick*. The Court reasoned that under *Williamson County* a "takings plaintiff ... finds himself in a Catch-22: He cannot go to federal court without going to state court first; but if he goes to state court and loses, his claim will be barred in federal court." The *Williamson County* rule was therefore an "unjustifiable burden" on a property owner's right to seek federal review of its claim for unconstitutional treatment by state officials and, as such, was overruled. The new rule, as articulated by the *Knick* majority, is simply stated: "A property owner has an actionable Fifth Amendment takings claim when the government takes his property without paying for it." A property owner need no longer exhaust available state procedures to seek redress in federal court for an actual or regulatory taking by a state or local government. No more will "federal takings claims ... be singled out to be confined in state court." *San Remo*, 545 U.S. at 351 (Rehnquist, C.J., concurring in the judgment).

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