



Bridging The Gap

P R O D U C T I O N S

Knick v. Township of Scott

BIO of Kevin Norris

- ▶ THIRTY-NINE YEARS OF EXPERIENCE IN LAND SURVEYING, MINOR ENGINEERING, AND LAND DEVELOPMENT.
- ▶ LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF MARYLAND SINCE 2002.
- ▶ LICENSED ATTORNEY IN THE STATE OF MARYLAND & TEXAS
- ▶ SOLO PRACTITIONER AND SELF-EMPLOYED SURVEYOR

Disclosure

- ▶ I AM NOT GIVING ANY LEGAL ADVICE; AND I AM NOT CREATING A CLIENT/ATTORNEY RELATIONSHIP WITH ANYONE IN THE LIVE PRESENTATION OR ANY SUBSEQUENT PRESENTATION.

What is the importance of this case?

- ▶ This case overturned the law in place since 1985.
- ▶ The prior law was established in Williamson Cty. Reg'l Planning Comm'n v. Hamilton Bank, 473 U.S. 172, 194, (1985)
 - ▶ The law was that a person claiming inverse condemnation had to exhaust all of their administrative remedies then all of their state court remedies prior to moving to Federal Court.
- ▶ Since the change in the law (2019) this case has been cited over 1,100 times.

Facts of the Case

- ▶ Rose Mary Knick owned 90 acres in the Township of Scott. Her family owned it since the 1970s.
- ▶ She was an antagonist of the Board of Supervisors. Publicly questioning their decisions and practices.
- ▶ Beginning in 2008, the Supervisors frequently questioned the existence of an ancient burial ground on her property.
- ▶ In December 2012, the Township of Scott passed ordinance 12-12-20-001 requiring that “all cemeteries within the Township ... be kept open and accessible to the general public during daylight hours” and that no owner could unreasonably restrict nor charge any fee to access the cemetery (the “public-access provision”).
- ▶ Additionally, the ordinance permitted a Township officer to enter any property within the Township to determine whether there is a cemetery on the property, in order to enforce the public-access provision.

Facts of the Case

- ▶ On April 10, 2013, a Township officer enters the property of Rose Mary Knick without a warrant and identified certain stones as grave markers.
- ▶ On April 11, Knick was cited with a zoning violation. Knick disputes that a cemetery exists on her property and filed a lawsuit to challenge.
- ▶ Knick files certain claims for injunctive relief and declaratory judgment in the Court of Common Pleas for Lackawana County
- ▶ The Court of Common Pleas does not rule on the matter and an agreed stay is lifted. She is cited again.
- ▶ Knick files a complaint in the Middle District of Pennsylvania for violations of her rights under the 1st, 4th, 5th, and 14th Amendments.
- ▶ The District Court grants the motion to dismiss by the Township at summary judgment in part because Knick had not exhausted all of here state remedies.

Facts of the Case

- ▶ Knick appealed the dismissal of her claims to the Third Circuit.
- ▶ The Third Circuit affirmed the dismissal
 - ▶ finding that she lacks Article III standing because she failed to demonstrate an injury-in-fact and redressability as to her Fourth Amendment claim, and
 - ▶ that her Fifth Amendment claims are not ripe until she has sought and been denied just compensation using state inverse-condemnation procedures as required in the US Supreme Court's 1985 decision in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*.
- ▶ In 2017, Knick appeals to the Supreme Court of the United States and her case is accepted.

Rose Mary Knick with a headstone in the background



SCOTUS Findings

- ▶ Roberts, C. J., delivered the opinion of the Court, in which Thomas, Alito, Gorsuch, and Kavanaugh, JJ., joined. Thomas, J., filed a concurring opinion.
- ▶ Kagan, J., filed a dissenting opinion, in which Ginsburg, Breyer, and Sotomayor, JJ., joined.
- ▶ 5-4 along party lines
- ▶ The state-litigation requirement of Williamson County is overruled. A property owner may bring a takings claim under §1983 upon the taking of his property without just compensation by a local government. The judgment of the United States Court of Appeals for the Third Circuit is vacated, and the case is remanded for further proceedings consistent with this opinion. *Knick v. Twp. of Scott*, 588 U.S. 180, 206 (2019)

Final Outcome for Knick

- ▶ SCOTUS overturns the Third Circuit and remands for proceedings on Knick being able to bring a Fifth Amendment Claim
- ▶ The Township of Scott, rescinds their ordinance and no longer requires cemeteries to be open to the public.
- ▶ The Township paid damages to Knick as part of a settlement.

Take Away for Surveyors

- ▶ Zoning is usually seen as permissible regulation because it generally applies to everyone in that jurisdiction.
- ▶ While the Scott Township ordinance applied to the whole township, it affected Mrs. Knick so much so that she was unable to use her property.
- ▶ Effectively, the ordinance took her property during daylight hours without compensation.

Take Away for Surveyors

▶ Conclusion:

- ▶ We as surveyors see and understand ordinances far better than the general public.
- ▶ We need to recognize the effect of legislation on our clients and be prepared to inform them.
- ▶ Additionally, the survey working with an attorney becomes a team able combat overreaching zoning that renders a client's property unusable.

Contact Information

- ▶ KEVIN NORRIS, LS, ESQ.
 - ▶ BRIDGING THE GAP PRODUCTIONS, LLC
 - ▶ Kevin Scott Norris Law, LLC
 - ▶ Kevin Norris Surveying, LLC
- ▶ WWW.BRIDGINGTHEGAPPRODUCTIONS.COM
- ▶ KEVIN@KSNLAWLLC.COM
- ▶ (240) 561-7427

