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Bent Creek Ltd v. Silver Spring Twp

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-3887

BENT CREEK LIMITED PARTNERSHIP,
Appellant

v.

SILVER SPRING TOWNSHIP AUTHORITY

On Appeal from the
United States District Court
for the Middle District of Pennsylvania
Civil No. 00-cv-01372
District Judge: Hon. Yvette Kane

Submitted Pursuant to Third Circuit LAR 34.1
May 24, 2002
Before: Alito, McKee and Wallace, Circuit Judges

(Filed May 31, 2002)

OPINION OF THE COURT

McKEE, Circuit Judge.

Plaintiff developer appeals the district court's dismissal pursuant to Fed. R. Civ. P. 12(b)(6) of its complaint, in which plaintiff alleged a denial of its right to equal protection under the Constitutions of the United States and the Commonwealth of Pennsylvania, as well as a violation of its statutory rights under the Pennsylvania Municipal Authorities Act. 53 P.S. 306 et seq. For the reasons that follow, we will affirm.

Inasmuch as we write only for the parties and the district court, we need not reiterate the factual background of this appeal. Plaintiff concedes that its equal protection claim is subject to a "rational basis" analysis as no fundamental right is involved, and plaintiff is not afforded the protections that result from suspect classification such as race. We have reviewed the thoughtful Memorandum and Order of the district court filed on January 23, 2001, as well as the subsequent order filed October 15, 2001 in which the district court clarified its memorandum and order. We will affirm substantially for the reasons set forth by the district court in its Memorandum Opinion and subsequent clarification.

TO THE CLERK OF THE COURT:

Please file the foregoing Opinion.

/s/ Theodore A. McKee
Circuit Judge