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Rose Mary Knick v. Township of Scott

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 16-3587

ROSE MARY KNICK,
Appellant

v.

TOWNSHIP OF SCOTT;
CARL S. FERRARO, Individually and in his Official
Capacity as Scott Township Code Enforcement Officer

On Appeal from the United States District Court
for the Middle District of Pennsylvania
District Court No. 3-14-cv-02223
District Judge: The Honorable A. Richard Caputo

Petition for Writ of Certiorari Granted
On Remand from the Supreme Court of the United States
Submitted on Remand July 23, 2019

Before: SMITH, *Chief Judge*, McKEE, and RENDELL, *Circuit Judges*

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JUDGMENT ORDER ON REMAND
FROM THE SUPREME COURT
OF THE UNITED STATES

By opinion and judgment entered July 6, 2017, this Court affirmed the United States District Court for the Middle District of Pennsylvania's dismissal of appellant Rose Mary Knick's Fourth Amendment challenge for lack of standing and her Fifth Amendment takings claim without prejudice pending exhaustion of state-law compensation remedies under *Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985).

By opinion filed June 21, 2019, the Supreme Court of the United States overruled its prior holding in *Williamson County* that a property owner whose property has been taken by a local government has not suffered a violation of his Fifth Amendment rights and cannot bring a federal takings claim in federal court until a state court has denied his claim for just compensation under state law. Thus, the Supreme Court vacated this Court's judgment and remanded for further proceedings.

In light of the action taken by the Supreme Court overruling *Williams County*, it is hereby O R D E R E D that this Court's prior opinion is vacated with respect to the Fifth Amendment takings claim. This Court's determination that Knick lacked standing to advance a Fourth Amendment claim was not considered by the Supreme Court of the United States on certiorari review. As such, this Court's opinion stands with respect to the Fourth Amendment claim.

Accordingly, it is now hereby ADJUDGED and ORDERED that the judgment of the District Court entered September 8, 2016, be and the same is hereby AFFIRMED as to the dismissal of the Fourth Amendment claims, VACATED as to the dismissal of the Fifth Amendment claims, and REMANDED for further proceedings. The parties shall bear their own costs.

By the Court,

s/ D. Brooks Smith
Chief Judge

ATTEST:

s/ Patricia S. Dodzuweit
Clerk

Date: August 9, 2019