
Introduction

The development of regulatory takings theory has flourished over the past century thanks to efforts by the U.S. Supreme Court to fine-tune the appropriate tests and factors for nonphysical takings effected by land use regulation. Unfortunately, application and use of such tests have been seriously diminished by the ripeness barrier *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City* raised for many property owners seeking relief for a valid regulatory takings claim.¹ The Supreme Court's recent decision in *Knick v. Township of Scott*² has been aptly described by some commentators as the most significant property rights case of the last decade. In *Knick*, the Court found the regulatory takings claim, which had not yet been denied compensation in state court, was ripe nonetheless.³ In doing so, the Court explicitly overturned the second prong of the so-called *Williamson County* ripeness test that required property owners to seek a remedy through state action—usually just compensation—for the alleged taking before coming to federal court.

What follows is a summary of federal court regulatory takings jurisprudence (with emphasis on total or categorical regulatory takings after *Lucas v. South Carolina Coastal Council*),⁴ ripeness under *Williamson County*,⁵ the principal features of *Knick*, the circuit split that ripened the issue for review by the Court, and the exceptions to total taking: nuisance and background principles of a state's law of property.

1. 473 U.S. 172 (1985).

2. *Knick v. Twp. of Scott*, 139 S.Ct. 2162, 2179–80 (2019).

3. *See id.* at 2179.

4. 505 U.S. 1003 (1992)

5. 473 U.S. 172 (1985).