LII
legal information institute

Supreme Court Collection

SAN REMO HOTEL, L. P. V. CITY AND COUNTY OF SANFRANCISCO (04-340)
364 F.3d 1088, affirmed.

Syllabus	Opinion [Stevens]	Concurrence [Rehnquist]
HTML version PDF version	HTML version PDF version	HTML version PDF version

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued.
The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader.
See United States v. Detroit Timber & Lumber Co., 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

SAN REMO HOTEL, L. P., et al. *v.* CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, et al.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 04—340.Argued March 28, 2005–Decided June 20, 2005

Petitioners, hoteliers in respondent city, initiated this litigation over the application of an ordinance requiring them to pay a $567,000 fee for converting residential rooms to tourist rooms. They initially sought mandamus in California state court, but that action was stayed when they

filed suit in Federal District Court asserting, *inter alia*, facial and as-applied challenges to the ordinance under the Fifth Amendment's Takings Clause. Although the District Court granted the city summary judgment, the Ninth Circuit abstained from ruling on the facial challenge under *Railroad Comm'n of Tex.* v. *Pullman Co.*, 312 U.S. 496, because the pending state mandamus action could moot the federal question. The court did, however, affirm the District Court's ruling that the as-applied claim was unripe. Back in state court, petitioners attempted to reserve the right to return to federal court for adjudication of their federal takings claims. Ultimately, the California courts rejected petitioners' various state-law takings claims, and they returned to the Federal District Court, advancing a series of federal takings claims that depended on issues identical to those previously resolved in the state courts. In order to avoid being barred from suit by the general rule of issue preclusion, petitioners asked the District Court to exempt their federal takings claims from the reach of the full faith and credit statute, 28 U.S.C. § 1738. Relying on the *Williamson County Regional Planning Comm'n* v. *Hamilton Bank of Johnson City*, 473 U.S. 172, 195, holding that takings claims are not ripe until a State fails "to provide adequate compensation for the taking," petitioners argued that, unless courts disregard §1738 in takings cases, plaintiffs will be forced to litigate their claims in state court without any realistic possibility of ever obtaining federal review. Holding, *inter alia,* that petitioners' facial attack was barred by issue preclusion, the District Court reasoned that §1738 requires federal courts to give preclusive effect to any state-court judgment that would have such effect under the State's laws. The court added that because California courts had interpreted the relevant substantive state takings law coextensively with federal law, petitioners' federal claims constituted the same claims the state courts had already resolved. Affirming, the Ninth Circuit rejected petitioners' contention that general preclusion principles should be cast aside whenever plaintiffs must litigate in state court under *Pullman* and/or *Williamson County*.

Held: This Court will not create an exception to the full faith and credit statute in order to provide a federal forum for litigants seeking to advance federal takings claims. Pp. 11—23.

(a) The Court rejects petitioners' contention that whenever plaintiffs reserve their federal takings claims in state court under *England* v. *Louisiana Bd. of Medical Examiners*, 375 U.S. 411, federal courts should review the reserved federal claims *de novo*, regardless of what issues the state court may have decided or how it may have decided them. The

England Court's discussion of the "typical case" in which reservations of federal issues are appropriate makes clear that the decision was aimed at cases fundamentally distinct from petitioners'. *England* cases generally involve federal constitutional challenges to a state statute that can be avoided if a state court construes the statute in a particular manner. *Id.*, at 420. In such cases, the purpose of abstention is not to afford state courts an opportunity to adjudicate an issue that is functionally identical to the federal question, but to avoid resolving the federal question by encouraging a state-law determination that may moot the federal controversy. See *id.*, at 416—417, and n. 7. Additionally, the Court made clear that the effective reservation of a federal claim was dependent on the condition that plaintiffs take no action to broaden the scope of the state court's review beyond deciding the antecedent state-law issue. *Id.*, at 419. Because the Ninth Circuit invoked *Pullman* abstention after determining that a ripe federal question existed as to the petitioners' facial takings challenge, they were entitled to insulate from preclusive effect that one federal issue while they returned to state court to resolve their mandamus petition. Petitioners, however, chose to advance broader issues than the limited ones in the mandamus petition, putting forth facial and as-applied takings challenges to the city ordinance in their state action. By doing so, they effectively asked the state court to resolve the same federal issue they had previously asked it to reserve. *England* does not support the exercise of any such right. Petitioners' as-applied takings claims fare no better. The Ninth Circuit found those claims unripe under *Williamson County,* and therefore affirmed their dismissal. They were never properly before the District Court, and there was no reason to expect that they could be relitigated in full if advanced in the state proceedings. Pp. 11—17.

(b) Federal courts are not free to disregard §1738 simply to guarantee that all takings plaintiffs can have their day in federal court. Petitioners misplace their reliance on the Second Circuit's *Santini* decision, which held that parties who are forced to litigate their state-law takings claims in state court pursuant to *Williamson County* cannot be precluded from having those very claims resolved by a federal court. The *Santini* court's reasoning is unpersuasive for several reasons. First, both petitioners and *Santini* ultimately depend on an assumption that plaintiffs have a right to vindicate their federal claims in a federal forum. This Court has repeatedly held to the contrary. See, *e.g.*, *Allen* v. *McCurry*, 449 U.S. 90, 103—104. Second, petitioners' argument assumes that courts may simply create exceptions to §1738 wherever they deem them appropriate. However, this Court has held that no such exception will be recognized unless a later statute contains an express or implied partial repeal. *E.g.*,

Kremer v. *Chemical Constr. Corp.*, 456 U.S. 461, 468. Congress has not expressed any intent to exempt federal takings claims from §1738. Third, petitioners have overstated *Williamson County*'s reach throughout this litigation. Because they were never required to ripen in state court their claim that the city ordinance was facially invalid for failure to substantially advance a legitimate state interest, see *Yee* v. *Escondido*, 503 U.S. 519, 534, they could have raised the heart of their facial takings challenges directly in federal court. With respect to those federal claims that did require ripening, petitioners are incorrect that *Williamson County* precludes state courts from hearing simultaneously a plaintiff's request for compensation under state law together with a claim that, in the alternative, the denial of compensation would violate the Fifth Amendment of the Federal Constitution. Pp. 17—23.

364 F.3d 1088, affirmed.

Stevens, J., delivered the opinion of the Court, in which Scalia, Souter, Ginsburg, and Breyer, JJ., joined. Rehnquist, C. J., filed an opinion concurring in the judgment, in which O'Connor, Kennedy, and Thomas, JJ., joined.

copyright | about us | help