DeVillier v. *Texas*, No. 22-913

Today, the Supreme Court unanimously held that, because Texas landowners could assert a Takings Clause claim through a cause of action created by Texas law, the Court would not address whether the Takings Clause creates its own independent cause of action.

Background: To deal with flooding, Texas built several barriers along a highway; the barriers rerouted water onto Plaintiffs' property, causing massive damage. Plaintiffs sued Texas, asserting claims under the Texas Constitution and the Fifth Amendment's Takings Clause. Texas moved to dismiss, arguing that the Takings Clause does not create an independent cause of action. The Fifth Circuit agreed with Texas, holding that the Takings Clause does not create a cause of action for takings claims against a state.

Issue: Whether the Takings Clause provides a cause of action for private parties to recover just compensation in the event their property is taken.

Court's Holding: In a unanimous opinion authored by Justice Thomas, the Supreme Court declined to address whether the Takings Clause creates an independent cause of action. The Court observed that the U.S. Constitution typically does not give private litigants an enforceable cause of action and did not reach whether the Takings Clause is an exception to that general rule. Texas had stated at oral argument that Plaintiffs could bring their federal Takings Clause claim under a state statute. Based on that concession, the Court concluded that it had no occasion to address the federal constitutional issue. Instead, it vacated the judgment and remanded the case to allow Plaintiffs to amend their complaint to assert the federal Takings Clause claim pursuant to the Texas state statute.

Read the opinion here.