

Bond Case Briefs

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Fulton v. Fulton County Board of Commissioners

United States Court of Appeals, Eleventh Circuit - July 31, 2025 - F.4th - 2025 WL 2166416

Property owner brought action against county, alleging county took his horses without justification and without paying for them in violation of the Takings Clause of the Fifth Amendment.

The United States District Court for the Northern District of Georgia denied owner's motion to amend complaint to substitute county for board of commissioners and to add alternative claim directly under the Takings Clause, and dismissed claim against board of commissioners without prejudice. Owner appealed.

The Court of Appeals held that:

- District court had federal question jurisdiction to independently evaluate merits of Takings Clause claim that was not patently without merit;
- Owner's state-law claim for recovery of personal property taken by county seven years previously was barred for not providing that notice to county under state procedural requirement
- Four-year statute of limitations applied to claim directly under Takings Clause in Georgia for recovery of personal property taken by county;
- On issue of first impression, a litigant in Georgia can sue a county, a political subdivision of the state, directly under the Takings Clause to obtain just compensation for a taking;
- On issue of first impression, direct cause of action against county under Takings Clause was available to horse owner;
Georgia, as exclusive forum, unilaterally and unconstitutionally imposed procedural bar on horse owner's Takings claim, assuming owner could have ever sought relief in Georgia courts, because of Monell; and
- On issue of first impression, sovereign immunity did not bar direct cause of action against county under Takings Clause by horse owner.