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INVERSE CONDEMNATION - CALIFORNIA

Smith v. County of Santa Cruz

United States District Court, N.D. California., San Jose Division - November 26, 2013 - Not Reported in F.Supp.2d - 2013 WL 6185238

Plaintiff brought Fifth Amendment regulatory takings claim for eminent domain through inverse condemnation. Specifically, his allegations suggested that Defendants improperly tagged Plaintiff's property for violating local housing code. However, as Plaintiff failed to pursue inverse condemnation remedies in state court, he failed to allege the second element of an as-applied takings claim under the Fifth Amendment.

The remarkable part of this case is the following deadpan statement by the court, "Plaintiff appears to allege that these incidents led to the deprivation of his constitutional rights, which caused physical and emotional injuries, but other parts of the complaint suggest that Plaintiff may be dead."

Plaintiff was granted leave to amend, with the stipulation that, "Any amendment should clear up the ambiguity in the current complaint with regard to whether Plaintiff is alive."