22-300

United States Supreme Court for the Third Circuit No. 20-2223 Civil Proceedings
No. 12-5486
No. 13-1398

Wessie Sims

Petitioner Pro-se,

Vs.

City of Philadelphia

Respondent,

On petition for a Writ of Certiorari to the United States Supreme Court

Petition For A Writ Of Certiorari

Lynette Brown Sow
Chairwoman
Carol B. Tinari
Anthony Lewis
Sam Staten Jr.
Martin G. Bednarek
Mary Jane McKinney
Board Administrator
Larissa Klevan
Planning Commissioner
Christine Quinn
Plans Examiner
John V. Wolfe
Dept of License and Inspection City and County of Philadelphia

Wessie Sims
4925 West Stiles Street
Philadelphia, P.A. 19131
No. 267-748-4641

Questions Presented

Whether the Court of Appeals is in conflict with Catlin.

Whether the District Court is in conflict with Catlin.

Catlin v. United States 324 U.S. 229, (1945) argued February 1, 2, (1945) motion to vacate the judgment and to dismiss the petition held no final decision under 128 of the judicial code. The right of appeal may be exercised only when final judgment disposing of the cause in its entirety has been rendered. P.324 U.S. 240. 142 F. 2d, 781, affirmed.

Whether the Philadelphia Zoning Board of Adjustment is in Conflict with zoning decisions handed down by the Law of the Land in 1926.

Case- Village of Euclid v. Ambler 272 U.S. 365

United States Supreme Court Landmark case argued in (1926).

Case- Nectow v. City of Cambridge 277 U.S. 183 (1928).

Whether common pleas court order is in conflict with zoning.

Where the court had jurisdiction pursuant to 42 pa. C.S.A. 933 and Philadelphia Zoning Code 14-1807. Order attached.

Disclosure Statement
F.R.A.P. 26.1

Wessie Sims, hereinafter referred to as the appellant has no parent companies, non-wholly owned subsidiaries, or affiliates that have issued shares to the public.
The appellees, city of Philadelphia, et. al is a government entity and respective government employees.

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Table of Authorities

Cases **Pages**

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Appendix V

Citations of the Official and Unofficial Reports of Opinions and Orders Entered in the Case.

United States Supreme Court Catlin V. United States 32 U.S.2229 (1945)

No. 419 U.S. Reports

28 U.S.C. 1291 Final decisions of district courts.

Title 28 Judiciary and Judicial procedure part IV Jurisdiction and Venue Chapter 83 Courts of Appeal Sec. 1291.

Opinions Below

Orders of the District Court affirmed by the Third Circuit Court of Appeals.
No. 12- 5486
No. 13- 1398

Appellate Jurisdiction
28 U.S.C. 1291
The District Court had jurisdiction pursuant to 28 U.S.C. 1331

Statement of jurisdiction Court of Common Pleas Philadelphia County civil action law October term 2010 No- 01619 this court had jurisdiction pursuant to 42 PA.C.S.A. 933 and Philadelphia Zoning Code 14-1807.

United States Court of Appeals for the Third Circuit Opinion Filed April 5, 2022 No. 20-2223 order enclosed, I am seeking review of this order.

Constitutional and Statutory
provisions involved
XIV Amendment I

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside no state shall make or enforce any law that shall abridge the privileges or immunities of citizens of the United States. Nor shall any state deprive any person of life, liberty, or property without due process of law nor deny any person within its jurisdiction the equal protection of the laws.

Statutory provisions Title VI of the Civil Rights act 1964 prohibits discrimination on the grounds of race, color or national origin under program or activities receiving federal financial assistance.

Statement of the Case

Appellant applied to the Philadelphia Department of Licenses and Inspections for a zoning permit to establish a five room boarding house. The department denied the permit in January 2010 concluding that the rear yard of appellants property did not meet the minimum required square footage for a boarding house under 14-205 of the zoning code. This code did not apply to appellants property because code 14-205 pertains to six or more occupants, appellant applied for five occupants.

Appellant appealed the decision to the Philadelphia Zoning Board of Adjustment. The board held a public hearing March3, 2010. Four members of the board shall constitute a quorum for any public hearing under title 14-1805 of the four present, only two voted. The third vote came from Sam Staten Jr. who merely voted based on a reading of the hearing transcript but was not actually in attendance at the hearing; this vote did not meet the requirements set forth in title 14-1805.
Vote of the board attached.

Petitioner appealed to the Common Pleas Court County of Philadelphia. The appeal was denied August 24, 2011. The zoning board's decision was affirmed. Court order attached.

On 9-25-12 petitioner filed a Civil Rights complaint in the District Court under 42 U.S.C. 1983. The case was assigned to the Honorable Legrome D. Davis.The case was never heard. Motion for final judgment was filed 1-21-2020. The motion was denied. It was filed pursuant to28 U.S.C. 1291. An initial judgment was entered June 11, 2013 and the case was closed. Order Attached

Appendix III
Reasons for Granting the Writ of Certiorari

Because the appellant believes the Court of Appeals is in error when it affirms the District Court order.

I. Where the District Court dismissed the claims against the defendants pursuant to federal rules of civil procedure 4 (m) for improper service and without personal jurisdiction.

II. Personal jurisdiction may be conferred by consent of the parties expressly or by failure to object. Petrowski v. Hawkeye Security U.S. 350, 495, 76 S. Ct. 490, 100 L. Ed. 639, (1956).

III. I A Barron and Holtzoff, Supra at 370 a court may not sua Sponte dismiss for want of personal jurisdiction where a defendant has entered an appearance by filing a motion or otherwise.

IV. The court below was in error in dismissing the action without the issue having been raised below by appellees, and therefore any objections to service of process are deemed to have been waived. Zelson v. Thomforde 412 - F. 2d. 56, (1969).

V. The order of the court below was reversed and the case was remanded for further proceedings.

VI. Here, the opinion of the court of appeals states Wessie Sims sought relief from the final judgment of the District Court.

VII. There was no final Judgment.

VIII. There was no initial judgment and the case was closed. Order attached.

IX. A final judgment resolves all issues in dispute and settles the parties rights with respect to those issues. A final judgment leaves nothing except decisions on how to enforce the judgment, whether to award costs, and whether to file an appeal. None of this was done in the instant case. Here the court states the complaint filed in federal courts asserted violations of 42 U.S.C. 1983. In connection with the denial of the zoning permit.

A. Where there was a vote of the Board which pertained to the zoning permit, the vote was invalid because it was less than a quorum.

B. United States v. Ballin et al. Feb. 29, 1892. The constitution provides that a majority of each House shall constitute a quorum to do business.

C. All that the Constitution requires is the presence of the majority.
Vote of the Board attached. (read transcript was not present.)

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 20-2223

WESSIE SIMS,
Appellant

v.

CITY OF PHILADELPHIA: ZONING BOARD OF ADJUSTMENTS: LYNETTE M. BROWN, SOW, CHAIRWOMAN; CAROL B. TINARI; ANTHONY LEWIS; SAM STATEN, JR.; MARTIN G. BEDNAREK; MARY JANE MCKINNEY, BOARD ADMINISTRATOR; LARISSA KELVAN, PLANNING COMMISSIONER; CHRISTINE QUINN, PLANS EXAMINER; JOHN V. WOLFE, DEPARTMENT OF LICENSE AND INSPECTION; CITY AND COUNTY OF PHILADELPHIA; STATE OF PENNSYLVANIA

On Appeal from the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civil No. 2:12-cv-5486)
District Judge: Honorable Joshua D. Wilson

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
April 4, 2022

Before: CHARGES, Chief Judge, SHWARTZ, Circuit Judge, and PRATTER, District Judge*

(Opinion filed: April 5, 2022)

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* Honorable Gene E.K.Pratter, United States District Judge for the Eastern District of Pennsylvania, sitting by designation.

OPINION

CHAGARES, Chief Judge.

Plaintiff Wessie Sims appeals the District Court's order denying her post- judgment motion that sought relief from the final judgment in this action. Because Sims fails to advance a proper basis for such relief, we will affirm.

I.

The factual background of this appeal is set forth in our prior decision affirming the District Court's dismissal of the complaint, so our summary is brief. See Sims v. City of Philadelphia, 552 F. App'x 175 (3d Cir. 2014). In December 2009, Sims was denied a zoning permit to operate a five-room boarding house in Philadelphia. Id. at 176. Proceeding pro se, she filed a complaint in federal court against the City of Philadelphia (the "City") and various individual defendants asserting violations of 42 U.S.C. § 1983 in connection with the denial of the zoning permit. Id. The District Court dismissed the claims against the individual defendants pursuant to Federal Rule of Civil Procedure 4(m) for improper service and the claims against the City pursuant to Rule 12(b)(6) because Sims failed to plausibly allege municipal liability. Id. The District Court entered final judgment in February 2013, and Sims timely appealed. We affirmed the District Court's dismissal as to all defendants. Id. at 177-78.

** This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Following our decision, Sims has made several attempts in the District Court to reopen the case and seek relief from the final judgment. Sims's most recent attempt was in November 2019, when she filed a motion titled "Final Judgment Title 28 U.S.C.A. 1291." Appendix ("App.") 8. As the District Court noted, section 1291 " is not a basis for relief; it is a statute conferring jurisdiction on Courts of Appeals to review District Courts' final judgments. Id. Sims now appeals the District Court's denial of her November 2019 motion.

II.

The City challenges whether we have appellate jurisdiction. This is a threshold issue that we review de novo. Montanez v. Thompson. 603 F.3d 243, 248, (3d Cir. 2010).

While the scope of our appellate is limited, we conclude that the District Court's denial of Sims's November 2019 motion is properly before us. The District Court's order entered May 3, 2020 denying this motion constituted a final order, and Sims filed her timely notice of appeal on June 8, 2020. Fed. R. App. P. 4 (a)(1)(A). We therefore have jurisdiction under 28 U.S.C. § 1291 to review the denial of Sims's November 2019 motion. See Long v. Atl. City Police Dep't, 670 F.3d 436,446 n. 19 (3d Cir. 2012)

The District Court had subject matter jurisdiction under 28 U.S.C. § 1331.

(observing that this Court has "jurisdiction to review a timely appealed order disposing of an untimely motion for reconsideration"). But we do not have jurisdiction to review the underlying dismissal of Sims's complaint, which this Court has previously affirmed, or any of Sims's prior post-judgment motions where the time for appeal has long since passed. See Smith v. Evans, 853 F.2d 155, 158 n. 1 (3d Cir. 1988) ("We note that even though Rule 60(b) preserves the right to appeal may bring up only the subject matter of the 60(b) motion and the underlying case."") overruled on other grounds by Lizardo v. United States, 619 F. 3d 273, 276-77 (3d Cir. 2010).

III.

Sims's November 2019 motion apparently seeks to relitigate the merits of her complaint and, although a final judgment was previously entered, requests both a final judgment and default judgment against certain defendants. Considering Sims's pro se status before the District Court, we construe this motion as either a motion for reconsideration pursuant to Rule 59 (e) or for relief from judgment pursuant to Rule 60(b). See United States v. Fiorelli, 337 Fd 282, 287-88 (3d Cir. 2003) ("[T]he function of

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To the extent that Sims asks us to consider whether her complaint was properly dismissed, our prior decision is the law of the case. Under the law of the case doctrine, there is no basis for us to consider these previously decided issues. See In re City of Phila. Litig., 158 F.3d 711, 717 (3d Cir. 1998) ("Under the law of the case doctrine, one panel of an appellate court generally will not reconsider questions that another panel decided on a prior appeal in the same case.").

the motion, and not the caption, dictates which Rule is applicable,"). We review the denial of Sims's post-judgment motion for an abuse of discretion. Jang v. Boston Sci. Scimed, Inc., 729 F.3d357, 367 (3d Cir. 2013).

Any motion pursuant to Rule 59(e) or Rule 60(b)(1),(2), or (3) was filed well after the allowed time period following final judgment. Even assuming that the motion was within a reasonable time, "Fed R. Civ. P. 60(c)(1), it sets forth no proper basis to find "extraordinary circumstances" that would justify relief under Rule 60(b)(6), and Sims has not advanced any reasons for relief under Rule 60(b)(4) or (5). See Budget Blinds, Inc. v. White, 536 F. 3d 244, 255 (3d Cir. 2008) (explaining that extraordinary circumstances under Rule 60(b)(6) "involves a showing that without relief from the judgment, an extreme and unexpected hardship will result") (citation and internal quotation marks omitted). As a result, we hold that the District Court did not abuse its discretion in denying Sims's post-judgment motion.

IV.

For the foregoing reasons, we will affirm the District Court's order.

Therefore, in light of the forgoing, it is ordered that Ms. Sims' Motion for final Judgment Pursuant to 28 U.S.C. § 1291 (ECF No. 38) and her Notice of Motion (ECF No. 40) are **DENIED.**

BY THE COURT:

_____

Hon. Joshua D. Wolson
United States District Judge

Appendix IV

District Court and Court of Appeals Orders.

Order in Question

Therefore, in light of the foregoing, it is ordered that Ms. Sims motion for final judgment pursuant to U.S. C. 1291 (E C F No. 38) and her Notice of Motion (E C F No. 40) are denied.

By the court

Hon. Joshua D. Wolson

United States District Judge

Section 3. The inhibition contained in the Fourteenth Amendment means that no agency of the state or of the officers or agents by whom her powers are exerted shall deny to any person within her jurisdiction the equal protection of the laws. Whoever by virtue of his public position under a state deprives another of life, liberty, or property, without due process of law, or denies or takes away the equal protection of the laws, violates that inhibition and as he acts in the name of and for the state, and is clothed with her power, his act is her act. Otherwise the inhibition has no meaning, and the state has clothed one of her agents with power to annul or evade it.

Section 4. That Amendment was ordained to secure equal rights to all persons. To render its purpose effectual, Congress is vested with power to enforce its provisions by appropriate legislation. Such legislation must act, not upon the abstract thing denominated a state, but upon the persons who are its agents in the denial of the rights which were intended to be secured. Such is said act of March 1, 1875 and is fully authorized by the Constitution.

The misuse of power by virtue of State law and made possible only because the wrongdoer is clothed with the authority of State law is action taken under color of State law was founded on the rule announced in ex parte Virginia 100. U.S. 339,346-347, (1880) that the actions of a state officer who exceeds the limits of his authority constitutes state action for the purposes of the XIV Amendment.

Sect. 2. The section of the act entitled to protect all citizens in their civil and legal rights approved March 1, 1875 authorized by the XIII and XIV Amendment.

Sect. 19. Of the criminal code making it a crime to conspire to injure or oppress any citizen in the free exercise of any right or privilege secured to him by the United States Constitution.

April 9, 1866 reenacted an act to protect all persons in the United States in their civil rights and furnish the means of their vindication. The Civil Rights Bill reenacted 1866, CH. 31. Vol. XIV. p. 27. Sections sixteen and seventeen hereof shall be enforced according to the provisions of said act. Sec. sixteen. And be it further enacted, that all persons have the same right in every state and territory to the full and equal benefits of all laws, as enjoyed by white citizens. Sec.seventeen. And be it further enacted penalty for violation of provisions of preceding section.

April 20, 1871 any person under color of any law of any State depriving another of any right secured by the Constitution of the United States made liable to the party injured, proceedings to be in the courts of the United States.

Where co-defendant are in default Fed. R. Civil p. 55 for failure to appear. This default embraces the idea of dishonesty and of wrongful act. Never answered the complaint nor filed a responsive pleading Rule 55.

Statement of None Related Cases

There are no cases or proceedings related to this case pending at this time in any United States Courts.

United States Supreme Court

The policy maker is responsible for the policy or through acquiescence for the custom as stated by the Supreme Court in Jett v. Dallas Independent School District, U.S. 109 S. Ct. 2702 2723, 105, L. Ed. 598, (1989). Municipal policy inflicts the injury 42 U.S. C.A. 1983.

Local governing bodies and local officials sued in their official capacities can be sued directly under 1983 for monetary, declaratory and injunctive relief in those situations the policy statement, ordinance, regulation or decision officially adopted or promulgated by those who edicts or acts may fairly be said to represent official policy. Municipalities have no reliance interest that would support an absolute immunity pp. 699-700. Decision maker established a policy or well settled custom.

The policy maker was deliberately indifferent to the need. The municipal action was taken with deliberate indifference to its known or obvious consequences. The policy maker has failed to act affirmatively at all. The need to take some action to control its employees.

Monell supra, at 694. It is when the execution of the government's policy or custom inflicts the injury that the municipality may be held liable under 1983 Springfield v. Kibbe 480 U.S. 257, 267, (1987).

The court added:

Only where a municipality's failure to train its employees in a relevant respect evidences a deliberate indifference to the rights of its inhabitants can such a shortcoming be properly thought of as a city policy or custom that is actionable under 1983.

The court continued:

Petitioner's constitutional claim rests entirely on the due process clause of the Fourteenth Amendment. The most familiar office of that clause is to provide a guarantee of fair procedure in connection with any deprivation of life, liberty or property by a state.

See: Daniels v. Williams 474 U.S.327, 331 (1986).

272 U.S. 365, Supreme Court
Village of Euclid v. Ambler Realty Co.
No. 39 argued Jan. 27, (1926).

Top opinion of the court was delivered by Mr. Justice Sutherland Holding:

(a) If the Validity of the legislative classification for zoning purposes be fairly debatable the legislative judgment must be allowed to control p. 388.

(b) Radice v. New York
267 U.S. 292, 294.

(c) The Court Held:

(1) The ordinance is assailed on the grounds that it is in derogation of 1 of the Fourteenth Amendment, XIV. to the Fed. Const. in that it deprives appelle of liberty and property without due process of law, and denies it the equal protection of the law.

(2) The court below held the ordinance to be unconstitutional and enjoined its enforcement. 297 Fed. 307 reversed.

(3) The equitable jurisdiction is clear. The existence of the ordinance in effect constitutes a present invasion of appellee's property rights.
See: Terrace v. Thompson 263 U.S. 197, 215, and:
Pierce v. Society of Sisters 268 U.S. 510

(4) The ordinance violates the Constitutional protection to the right of property.

(5) Appeal from a decree of the District Court , relief was sought upon the ground that because of the building restrictions imposed deprived appellee of liberty and property without due process of law p. 379.

United States Court of Appeals
for the Third Circuit No. 13_1398

This cause came on to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to third circuit Lar 341 (a) on November 8, 2013, on consideration whereof, it is now hereby ordered and adjudged by this court that the orders of the District Court entered January 9, 2013, January 10, 2013 and February 6, 2013 be and the same are hereby affirmed cost shall be taxed against the appellant in this matter, all of the above in accordance with the opinion of this court.
Dated January 9, 2014

Attest
Marcia M. Waldron
Clerk

Title 42 U.S. C.A. 1983 Rev. Stat 1979
Derived from 1 of the Civil Rights act of
April 20, (1871) 17 Stat. 13 provides:

That any person who under color of any law statute, ordinance, regulation, custom, or usage of any state shall subject, or cause to be subjected any person within the jurisdiction of the United States to the deprivation of any rights, privileges or immunities secured by the Constitution of the United States shall, any such law, statue, ordinance, regulation, custom, or usage of the state to the contrary notwithstanding be liable to the party injured in any action at law suit in equity or other proper proceeding for redress. Such proceedings to be prosecuted in the several district or circuit courts of the United States. 42 U.S.C.A. 1983 provides a federal cause of action for a plaintiff whose constitutional rights have been violated by a person acting under color of State Law. Natale v. Camden County Corr. Facility 318 F. 3d. 575, 580, 81 third cir. 2003.

United States Supreme Court
404 U.S. 519, 520-21
No. 70. 5025
Decided Jan. 13, 1972
Haines v. Kerner

Syllabus

Prisoner's prose complaint seeking to recover damages for claimed physical injuries and deprivation of rights in imposing disciplinary confinement should not have been dismissed without affording him the opportunity to present evidence on his claims 427 F. 2d, 71 reversed and remanded.

1988 proceedings in vindication of Civil Rights Act of April 9, 1866. The jurisdiction in civil and criminal matters conferred on the District Courts by the provision of Titles 13, 24, and 70 of the revised statutes for the protection of all persons in the United States in their Civil Rights.

(a) Resolving clause:

(b) Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.

(c) An act to protect all persons in the United States in their civil rights and furnish the means of their vindication April 9, 1866.

Title 42 U.S.C. 1988

In relevant part provides:

(a) The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this title, and of title civil rights and of title crimes for the protection of all persons in the United States in their civil rights, and enforced in conformity with the laws of the United States.

Village of Euclid V, Ambler 272 U.S. 365 argued January 27, 1926 reargued October 12, 1926 decided November 22, 1926.

Ambler Realitys filed suit against the Village claiming the ordinance violated the Fourteenth Amendment's protections of liberty and property described in the due process and equal protection clauses.

A federal district court agreed and issued an injunction against enforcement of the ordinance. Whether the court of appeals on April 5, 2022 is in conflict with Village of Euclid v. Ambler.

Nectow v. City of Cambridge 277 U.S. 183, 1928 United States Supreme Court case in which the court reversed the Massachusetts Supreme Judicial court ruling, and found that the invasion of the plaintiffs property right was serious and highly injurious. The attack upon the ordinance is that as specifically applied to plaintiff in error. It deprived him of his property without due process of law. In contravention of the Fourteenth Amendment. The case came on to be heard by a Justice of the Court. The court sustained the ordinance as applied to the plaintiff in error and dismissed the Bill 260 mass. 441. Whether the court of appeals opinion is in conflict with the U.S. Supreme Court case Nectow v. City of Cambridge.

Appendix I Philadelphia Zoning Board
Philadelphia Code:
Title - 14 - 1805. Zoning Board:

(1) Four members of the board shall constitute a quorum for any public hearing required under this title.

(2) The vote of a majority constituting a quorum is required by action by the Zoning Board.

(a) The March 2010 hearing on the 3rd of March was less than a quorum.

(A) Benintendi v. Kenton Hotel
294 N.Y. 112, 60 N.E. 2d. 829, 831.

The idea of a quorum is that, when that required number of persons goes into a session as a body the votes of a majority thereof are sufficient for finding action. In both Houses of Congress a quorum consists of a majority of those chosen and sworn. In the absence of any law, or rule fixing the quorum consists of a majority of those entitled to act. Vote of the Board attached.

Appendix II
Statement of Issues

1. The District Court dismissed the pro-se complaint.
2. Without the opportunity to be heard
3. Without the opportunity to present evidence.
4. Without a trial:
5. Fed. Rule 43.1 Conduct of trial must be on the trial of an issue or fact.
6. Local Rule 40.1 where a case is filed and assigned to a judge who shall thereafter have charge of the case for all purposes. The Judge never heard the case.
7. The District Court had jurisdiction over this matter under 12 U.S.C. 1331.
8. The concept of due process of law as it is embodied in the Fifth Amendment that a law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a reasonable and substantial relation to the object being sought. U.S. v. Smith D.C. Iowa 249 F. Supp. 515, 516. The Honorable Judge Legrome D. Davis was my Judge.

Oklahoma City v. Tuttle
471 U.S. 808, 817 (1985)

The court held:

A local government can not be sued under 1983 for an injury inflicted solely by its employees or agents, it is when execution of a government's policy or custom whether made by its lawmakers or by those who edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under 1983 id 691, 694.

In Monell the court held that congress intended municipalities and other local government entities to be included among those persons to whom 1983 applies 436 U.S. at 690. They held that the proof of a single incident of unconstitutional activity could suffice to establish municipal liability and that the Sherman Amendment would have held municipalities responsible for damage to person or property caused by private persons. Riotously and Tumultuously assembled. Cong. Globe, 42d Cong. 1st sess. 749, 187.

United States Court of Appeals
For the Third Circuit.
No. 20- 2223

April 4, 2022
This cause came to be considered on appeal from the United States District Court for the Eastern District of Pennsylvania and was submitted on April 4, 2022 on consideration whereof, it is now hereby ordered and adjudged by this court that the order of the District Court entered May 13, 2020, is affirmed, cost to be taxed against appellant, all of the above in accordance with the opinion of this court.

Dated April 5, 2022

Attest
Patricia S. Dodszuweit
Clerk

The court struck down the dismissal of an action on the basis of the statute of limitations where that defense had not been raised. The court said the raising of the defense of the statute of limitations is a personal privilege of the defendant, if it fails to take advantage of the privilege in the manner provided by law it is waived, it was no concern of the District Court and that court had no right to apply the statute of limitations 307 F. 2d. At 412.

Village of Euclid v. Ambler Realty Co.
272 U.S. 365

Argued January 27, 1926 reargued October 12, 1926, decided Nov. 22, 1926, a suit to enjoin the enforcement of a zoning ordinance with respect to the plaintiffs land need not be preceded by any application on his part for a building permit or for relief under the ordinance from the board which administers it, where the Gravamen of the Bill is that the ordinance of its own force operates unconstitutionally to reduce the value of the land destroy its marketability, and the attack is not against specific provisions, but against the ordinance in its entirety p. 272 U.S. 386. United States Supreme Court Landmark Case, 1926.

Conclusion

Wherefore, your petitioner prays writ of certiorari be granted.

Respectfully Submitted
Wessie Sims pro-se litigant
4925 W. Stiles Street
Philadelphia P.A. 19131
No. 267-748-4641
Date 9—16 2022
Wessie Sims