No. 24-150

IN THE

Supreme Court of the United States

JOHN R. STENSRUD, MARIA B. STENSRUD,

Petitioners,

v.

ROCHESTER GENESEE REGIONAL TRANPORTATION AUTHORITY,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Did the District Court and the Second Circuit Court of Appeals err in concluding that all of the Petitioners' claims in their Federal Action were barred by *res judicata*?

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INTRODUCTION

In August 2015, the Respondent Rochester Genesee Regional Transportation Authority ("Respondent" or "RGRTA") used its eminent-domain authority to take a multifamily residential property (the "Property") from the Petitioners to make way for a planned expansion in Rochester, New York. After this taking, the Petitioners brought a claim in State Court. While the Petitioners' State Court Action was pending, this Court decided *Knick v. Township of Scott, Pennsylvania*, 588 U.S. 180, 182 (2019), which overruled its prior holding in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985), that "a property owner whose property has been taken by a local government has not suffered a violation of his Fifth Amendment rights—and thus cannot bring a federal takings claim in federal court—until a state court has denied his claim for just compensation under state law." *Knick,* 588 U.S. at 184. With *Williamson County* no longer a bar, the Petitioners brought this action in Federal Court, asserting claims nearly identical to the ones they had brought in State Court.

While the federal case was pending, the State Court held a bench trial and entered judgment awarding the Petitioners $509,000 for the taking of the Property. In light of the State Court's judgment, the District Court granted summary judgment to RGRTA on the ground that all of the

Petitioners' claims in their Federal Action were barred by *res judicata*.

On May 10, 2024, the Second Circuit Court of Appeals affirmed the District Court's decision. *See Stensrud v. Rochester Genesee Reg'l Transportation Auth. v. Stensrud*, No. 23-765, 2024 WL 2104604 (2d Cir. May 10, 2024).

STATEMENT OF THE CASE

John and Maria Stensrud ("Petitioners") are seeking this Court's review of the dismissal of their complaint, which was brought pursuant to 42 U.S.C. § 1983 and alleged that RGRTA took their property without paying just compensation.

The sole issue in this action was the amount of just compensation due to Petitioners as a result of the taking of the Property by eminent domain. The measure of just compensation is well-settled: it is "to be measured by 'the market value of the property at the time of the taking.' " *Horne v. Dep't of Agric.*, 576 U.S. 350, 368-369 (2015) (quoting *United States v. 50 Acres of Land*, 469 U.S. 24, 29 (1984)).

This issue has been resolved, in its entirety, by the New York State Supreme Court, Monroe County (Doyle, JSC). Specifically, on September 26, 2022, the Supreme Court concluded that "the fair market value of the property at the time of the taking was $509,000" and thereafter awarded the same "as just compensation for the taking of the

subject property." On May 3, 2024, the Supreme Court, Appellate Division, Fourth Department, State of New York affirmed the Monroe County Supreme Court judgment and held that the lower court's determination of the Property's value was based on a fair interpretation of the evidence. *See Matter of Rochester Genesee Regional Transp. Auth. v. Stensrud*, 227 AD3d 1416, 1417 (4th Dept 2024).

After reviewing the full record of the State Court proceedings, the District Court concluded, in pertinent part,

> There is no dispute that the claims asserted in the instant action arise out of the same transaction or series of transactions as the claim resolved by the state trial court's decision and judgment—namely, the taking of the Property by RGRTA in August of 2015. Nor is there any dispute that the claims could have been heard by the state trial court. Indeed, [Petitioners'] counsel conceded as much at oral argument. Further, [Petitioners] and RGRTA were parties to the state trial court proceeding. As such, [Petitioners'] claims appear to be barred by claim preclusion under New York law.

(App. B, 15a).

On May 10, 2024, the District Court's Decision and Order was affirmed by the Second Circuit

Court of Appeals. In doing so, the Second Circuit held, in pertinent part,

> The [Petitioners'] second argument, that the Supreme Court's decision in *Knick* allows their federal-court action to proceed, is equally unavailing. In *Knick*, the Supreme Court overruled the state-court exhaustion requirement that *Williamson County* had effectively established, holding instead that a property owner asserting a Takings Clause claim need not seek just compensation in state court before bringing his claim in federal court. *Knick*, 588 U.S. at 185. But as we have previously explained, when a plaintiff has in fact brought his claims in state court and litigated those claims to a judgment, the district court is "required by federal law to apply collateral estoppel"—and *res judicata*—"to issues decided in those proceedings," notwithstanding *Knick*. *Morabito v. New York*, 803 F. App'x 463, 468 (2d Cir. 2020); *see San Remo Hotel*, 545 U.S. at 336; 28 U.S.C. § 1738. We are not alone in reaching this conclusion. *See Tejas Motel, L.L.C. v. City of Mesquite ex rel. Bd. of Adjustment*, 63 F.4th 323, 334 (5th Cir. 2023) ("[N]othing in *Knick* nullifies long-settled principles of res judicata."); *Ocean Palm Golf Club P'ship v. City of Flagler Beach*, 861 F. App'x 368, 371 (11th Cir. 2021) ("The *Knick* Court did not overrule or oth-

> erwise modify its precedent in *San Remo*."). The [Petitioners'] attempts to distinguish these cases are unpersuasive.

Stensrud, 2024 WL 2104604, at * 2.

A. The Taking of the Property by RGRTA

RGRTA is a New York public authority vested with the power of eminent domain by Section 1299-ii of the New York State Public Authorities Law. RGRTA began planning for its Main Street Campus Improvement project (the "Project") in 2009. (A-987[1]). The Project was an expansion and redesign of RGRTA's office campus and bus terminal in the City of Rochester. (A-986). The Project involved a multi-phase plan that included a new 9,429 square foot addition to the existing administration building, new 9,887 square foot operations center, 39,500 square foot garage, 13,500 square foot warehouse building, a 9,568 square foot non-revenue building to house non-revenue vehicles, a quick clean shelter for the cleaning of buses and additional spaces for employee and visitor parking. (A-986-987). RGRTA met with various stakeholders, including the Beechwood Neighborhood Association, in connection with the design and layout of the Project. The initial Project design was to have the parking areas on East Main Street and the buildings in the back of the campus. (A-987). This

[1] All references to "A" refer to the Petitioners' Appendix filed with the Second Circuit.

design was not well received by various stakeholders, including the Beechwood Neighborhood Association. (A-987).

After significant public participation and input, RGRTA determined that the best layout for the neighborhood would be to move the parking to the back of the campus and the buildings along Main Street. This change would require RGRTA to acquire twenty-one (21) properties on Chamberlain Street and Haywood Avenue to the west of the then-existing Main Street Campus. One of these properties was located at 36-38 Chamberlain Street, which the Petitioners purchased in 2011 (the "Property"). (A-987-988).

RGRTA received final environmental approval and permission to proceed with the Project in 2013. At that point, RGRTA formally notified affected property owners and renters about the Project and anticipated property acquisitions pursuant to the New York State Eminent Domain Procedure Law ("EDPL") and the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act ("URA"). (A-987). Members of the public were invited to submit comments about the Project, and, on May 29, 2013, RGRTA held a public hearing, at which members of the public were invited to comment. On September 16, 2013, RGRTA issued its EDPL Findings and Determination. (A-988).

RGRTA engaged in numerous communications with Petitioner John Stensrud regarding the Project and the anticipated acquisition of the Property

from shortly after the Petitioners purchased the Property in 2011 until the date of the taking. RGRTA repeatedly advised Mr. Stensrud that at the appropriate time in the EDPL process when RGRTA was able to move forward with the acquisition on the Property, it would be limited to paying the appraised fair market value for his Property. However, Mr. Stensrud believed the Property to be worth significantly more than what an appraiser would estimate. (A-988-990).

On June 23, 2015, RGRTA filed a Verified Petition in New York State Supreme Court, Monroe County (the "State Court"), seeking an order pursuant to section 402 of the New York Eminent Domain Procedure Law ("EDPL") authorizing the filing of an acquisition map and vesting of title to the Property in RGRTA. By Order dated August 10, 2015, the State Court granted RGRTA's Verified Petition and an acquisition map vesting title with RGRTA was thereafter filed with the Monroe County Clerk's office, on August 13, 2015. The taking of the Property was complete as of that date. (A-993).

B. Petitioners' Claim in State Court

Pursuant to the August 10, 2015 State Court Order, and in accordance with EDPL § 503 (B), Petitioners filed a claim on December 30, 2015, seeking compensation for the taking. In this claim, Petitioners asked the court to award direct damages in the sum of $1,386,257, plus "consequential damag-

es" in a variety of categories totaling approximately $155,540 (the "Claim"). (A-996; A-993).

The parties exchanged appraisal reports. *See* 22 NYCRR § 202.61. Petitioners' appraisal report included an analysis of the Property's purported value using an "investment value" methodology, and disclosed an "expert" witness, whose testimony they intended to offer at trial on the issue of the "investment value" of the Property.

RGRTA made a motion *in limine* to strike Petitioners' appraisal report to the extent that it was based on an "investment value" methodology, on the ground that it is not a recognized valuation methodology for determining the amount of compensation to be awarded in eminent domain cases in New York. RGRTA's motion *in limine* also sought to preclude Petitioners from offering the proposed testimony of their non-appraiser expert witness at trial, because in a proceeding for compensation under the EDPL, "all parties shall be limited in their affirmative proof of value to matters set forth in their respective appraisal reports." 22 NYCRR § 202.61(e).

RGRTA's motion was granted. (A-996-997; A-62-71).

On February 6, 2017, RGRTA served a Note of Issue and Certificate of Readiness, certifying that Petitioners' Claim for compensation was ready for trial. (A-997). Petitioners simultaneously served a Notice of Appeal with respect to the State Court

Order granting RGRTA's motion *in limine*, which resulted in RGRTA's Note of Issue being vacated to permit Petitioners to perfect their appeal.

In fact, by the time the Claim proceeded to trial in 2022, Petitioners' Claim had been trial-ready for several years and the State Court had attempted to schedule the trial on multiple occasions, but was prevented from doing so by Petitioners' pursuit of various motions and appeals, all of which have been related to the State Court's December 12, 2016 Order on RGRTA's motion *in limine*. (A-997).

The State Court's Order was eventually modified in part and affirmed in part by a June 7, 2019, Memorandum and Order of the New York State Supreme Court, Appellate Division, Fourth Department (the "Appellate Division"). (A-110-112). The Appellate Division agreed that Petitioners could not offer evidence outside of that contained in the appraisal report, but allowed as evidence that part of the Petitioners' appraisal report that was based on the "investment value" methodology and permitted Petitioners' proposed expert witness to testify regarding the "investment value" of the Property to the extent that such testimony was consistent with the "investment value" set forth in Petitioners' appraisal report. (A-110-112).

Petitioners moved in the Appellate Division to reargue the June 7, 2019 Memorandum and Order or for leave to appeal to the New York State Court of Appeals, which was denied. Petitioners then sought permission from the Court of Appeals for

leave to appeal, which motion was also denied. (A-998).

The State Court Action proceeded to trial on June 6, 2022. On September 26, 2022, the State Court issued a decision and order awarding Petitioners $509,000 for the taking of the Property. (A-1658-1682; A-2474-2475). On May 3, 2024, the Appellate Division affirmed this award and held that the lower court's determination of the Property's value was based on a fair interpretation of the evidence. *See Matter of Rochester Genesee Regional Transp. Auth.*, 227 AD3d at 1417.

C. Compensation Paid to the Petitioners

In addition to the $292,000 payment made by RGRTA to the Petitioners in 2015, after receiving a higher appraisal value than the original appraisal and before the State Court trial, on April 22, 2022, RGRTA paid to the Petitioners an additional $174,800 in compensation for the taking of the Property. (A-993-994). After the State Court awarded Petitioners $509,000 at trial, RGRTA satisfied the Second Amended Judgment (for $509,000) issued in full. (A-2477-2478).

D. Petitioners' Federal Court Action

Petitioners commenced this Federal Court Action on October 9, 2019, and filed an Amended Complaint on September 29, 2021. (A-246-267).

Petitioners brought their Federal Court Action after the decision of the United States Supreme Court in *Knick*. In *Knick*, the Court held that a property owner has a viable and actionable claim under the Takings Clause of the Fifth Amendment to the United States Constitution "as soon as a government takes his property for public use without paying for it," and may bring suit to vindicate his constitutional right to just compensation for the taking under 42 U.S.C. § 1983 at that time, without first exhausting any available state court remedies. *Knick*, 139 S.Ct. at 2170.

In their federal case, Petitioners alleged that RGRTA took their Property without paying just compensation, in violation of their rights under the Fifth and Fourteenth Amendments to the United States Constitution and Article 1, Section 7(a) of the New York State Constitution. Petitioners' Complaint also set forth second and third causes of action sounding in "Indirect/Consequential Damages." (A-263-266). Petitioners sought money damages to address the alleged deprivation of their right to just compensation arising out of the taking of their Property by eminent domain on August 13, 2015—relief that is identical to their Claim in the State Court Action.

After discovery, RGRTA moved for summary judgment and to preclude Petitioners' expert witness. (A-755; A-1067). The State Court issued its decision following the trial while the motion for summary judgment was pending. (A-1657). RGRTA

informed the District Court of the State Court's decision awarding just compensation to the Petitioners for the taking.

On November 30, 2022, the District Court requested supplemental briefing "regarding the impact, if any, of the state trial court decision on the pending motion for summary judgment." (A-1683). After the requested briefing, the District Court denied, without prejudice, the pending summary judgment and preclusion motions and directed RGRTA to file a motion for summary judgment addressed "solely to the issues of *res judicata* and/or collateral estoppel based on the state court trial decision." (A-1685). RGRTA complied with this directive, and on April 14, 2023, the District Court granted RGRTA's motion for summary judgment and concluded that all of Petitioners' claims in the Federal Court Action were barred by *res judicata*. (App B, 8a–24a). As previously noted, this determination was affirmed by the Second Circuit.

REASONS FOR DENYING THE PETITION

The Second Circuit's decision does not conflict with any decision of this Court or the Circuit Courts of Appeals. Petitioners fully acknowledge this inasmuch as they are now seeking the creation of a "new" exception to *res judicata*. Accordingly, Petitioners have not carried their burden of demonstrating any "compelling reasons" for *certiorari* to be granted and the Petition should be denied. *See* Sup. Ct. R. 10.

THE SECOND CIRCUIT APPLIED SETTLED LAW AND AFFIRMED THE DISMISSAL OF PETITIONERS' COMPLAINT

Under the Full Faith and Credit Act, 28 U.S.C. § 1738, a federal court must apply New York preclusion law to New York state court judgments. *Hoblock v. Albany Cty. Bd. of Elections*, 422 F.3d 77, 93 (2d Cir. 2005). Federal courts have "consistently accorded preclusive effect to issues decided by state courts." *Allen v. McCurry*, 449 U.S. 90, 95-96 (1980) ("Congress has specifically required all federal courts to give preclusive effect to state-court judgments whenever the courts of the [s]tate from which the judgments emerged would do so."); *see also Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S. 75, 81 (1984). To qualify for full faith and credit under the Act, the "state proceedings need do no more than satisfy the minimum procedural requirements of the Fourteenth Amendment's Due Process Clause." *Kremer v. Chem. Constr. Corp.*, 456 U.S. 461, 481 (1982). "Federal courts may not 'employ their own rules . . . in determining the effect of state judgments,' but must 'accept the rules chosen by the State from which the judgment is taken.' " *Matsushita Elec. Indus. Co. v. Epstein*, 516 U.S. 367, 373 (1996).

In *Knick,* this Court simply held that a takings petitioner need not first turn to state court for relief before bringing a federal suit. *See* 139 S. Ct. at 2167, 2170.

But *Knick* did not displace the well-settled principles regarding *res judicata*. *See Ocean Palm Golf Club P'ship v. City of Flagler Beach*, 2020 WL 13379338, at *12 (M.D. Fla. June 10, 2020), *aff'd*, 861 F. App'x 368 (11th Cir. 2021); *Morabito v. New York*, 803 F. App'x. 463, 468 (2d Cir. 2020) (holding *Knick* "inapposite, . . . because the district court did not dismiss [the plaintiffs'] claims for failure to exhaust state remedies (as in *Knick*)" rather "the fact is that the [plaintiffs] brought their claims in state court, where they lost. The district court was required by federal law to apply collateral estoppel to issues decided in those proceedings."). The Eleventh Circuit provided the following pertinent and instructive analysis:

> The Club argues that *Knick* . . . "allows it to bring its federal taking claims in federal court notwithstanding" the application of res judicata, but it misreads that decision. In *Knick*, the Supreme Court eliminated the requirement enunciated in *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City*, 473 U.S. 172, 105 S.Ct. 3108, 87 L.Ed.2d 126 (1985), that a landowner whose property is taken by local government exhaust state compensation procedures before he can bring a federal takings claim in federal court. 139 S. Ct. at 2167–68. But in *San Remo Hotel, L.P. v. City and County of San Francisco*, 545 U.S. 323, 125 S.Ct. 2491, 162 L.Ed.2d 315 (2005), the Court held that the deci-

> sion of a state court on a claim for just compensation under state law generally has preclusive effect in a later federal action. And in *Knick*, the Court explained that *San Remo* revealed the flaws in the *Williamson County* exhaustion requirement. 139 S. Ct. at 2167; *see Fields v. Sarasota Manatee Airport Auth.*, 953 F.2d 1299, 1303 (11th Cir. 1992) (highlighting the same flaws). The *Knick* Court did not overrule or otherwise modify its precedent in *San Remo*.

Ocean Palm Golf Club P'ship, 861 F. App'x at 371.

And more recently, the Fifth Circuit stated:

> *Knick* did not purport to overrule *San Remo*, which held that state adjudications of federal takings claims have res judicata effect. One of our sister circuits has already recognized that pre-*Knick* adjudications of federal takings claims in state court are still preclusive in the wake of that decision. Although that opinion is unpublished, its analysis is sound. *San Remo* is still good law. Thus, a state court's judgment on a federal takings claim issued before *Knick* is still preclusive after *Knick* (provided that the elements of res judicata are otherwise satisfied). Because the elements of res judicata are met here, we are bound to respect the state court decision.

> One can sympathize with Tejas's procedural plight. It was forced into state court by *Williamson County*, and now cannot avoid the consequences of the adverse judgment it received. But nothing in *Knick* nullifies long-settled principles of res judicata. State courts are competent to adjudicate federal claims, and their judgments are entitled to full faith and credit in federal court. Because the Texas Court of Appeals issued a final judgment on the merits of Tejas's constitutional claim, the motel does not get a second bite at the apple.

Tejas Motel, L.L.C. v. City of Mesquite by & through Bd. of Adjustment, 63 F.4th 323, 334-335 (5th Cir. 2023) (internal citations omitted).

Res judicata (claim preclusion) and collateral estoppel (issue preclusion) clearly apply here. The parties are the same, and the issues framing the state takings claim are the same as those involved in the instant federal takings claim. The State Court Action was exhaustively litigated, and resolved on the merits, and is therefore entitled to full faith and credit. *See Ocean Palm Golf Club P'ship*, 2020 WL 13379338, at *12 ("*Knick* in no way provides past taking claimants should be relieved from past state court judgments so as to allow them to bypass the preclusive effect of the judgment—such a ruling would be in direct contravention of the Full Faith and Credit Clause."); *Demarest v. Town of Underhill*, 2022 WL 911146,

at *13 (D. Vt. Mar. 29, 2022), *aff'd*, 2022 WL 17481817 (2d Cir. Dec. 7, 2022) ("Plaintiff fails to cite support for the proposition that *Knick* somehow resurrects claims barred by *res judicata*.").

"*Knick* eliminated the requirement for takings plaintiffs to exhaust state judicial remedies, but it did not change the substantive law about what constitutes a taking under the federal Constitution. Said another way, the merits of [Petitioners'] claim would be adjudicated under the same judicial rules with and without *Knick*." *Tejas Motel, L.L.C.*, 63 F.4th at 334.

As concluded by the Second Circuit, "once the state court's judgment issued, [Petitioners'] claims in this case were barred by *res judicata* as defined under New York law." *Stensrud*, 2024 WL 2104604, at * 4.

PETITIONERS PROVIDE NO GROUNDS FOR THE CREATION OF AN EXCEPTION TO *RES JUDICATA*

"Federal courts . . . are not free to disregard 28 U.S.C. § 1738 simply to guarantee that all takings plaintiffs can have their day in federal court." *San Remo Hotel, L.P. v. City & Cty. of San Francisco*, 545 U.S. 323, 338 (2005). Despite the clear precedent on this issue, Petitioners desperately assert that it was RGRTA that forced them to trial in State Court when it saw how fast the federal case was progressing. The record supports the opposite conclusion. The State Court action was commenced

in December 2015, and it was RGRTA that filed the trial Note of Issue and Certificate of Readiness for Trial on February 6, 2017, representing that it was ready for trial. After this, it was only the Petitioners that sought to vacate the Note of Issue, preventing the case from proceeding to trial. The Petitioners conveniently ignore the well documented history of the State Court Action, which very clearly shows that it was the Petitioners that caused the delays in resolution. A significant portion of that delay pre-dated *Knick*. (A-1383-1385; A-2433-2435).

Of particular relevance to this issue, on June 3, 2022 (the Friday before trial in the State Court Action was scheduled to commence, and two days after the State Court denied Petitioners' request for yet another stay) at 2:57 p.m., Petitioners filed a motion with the District Court asking that it stay the trial in the State Court Action that was scheduled to start at 9:30 am on June 6. (A-1365-1368). Apparently, as a result of the State Court's repeated refusal to stay the proceeding, Petitioners thought that they could convince another court to do so. Appropriately, the District Court issued a decision on Sunday, June 5, denying Petitioners' request. In doing so, the District Court noted (in part):

> [Petitioners] have failed to adequately explain why they waited until the eve of the state court trial to file this motion, when the state case has been pending for several

> years and, according to [RGRTA], the trial has been scheduled for almost three months, i.e., since March 9, 2022. If [Petitioners] believed that the state court trial posed an irreparable injury, they should have acted diligently and filed a motion for a TRO at the time the trial was scheduled. Their delay further counsels denial of their motion.

(A-1387).

Regardless of whether the State Court Action faced delays and regardless of which party was the reason for those delays, the salient point is that Petitioners litigated their claim for just compensation and were awarded $509,000 plus interest after trial. The Petitioners subsequently challenged this result, and the Appellate Division disagreed and held that the lower court's determination of the Property's value was based on a fair interpretation of the evidence. *See Matter of Rochester Genesee Regional Transp. Auth.*, 227 AD3d at 1417.

CONCLUSION

Based on the foregoing, the Petition for a Writ of *Certiorari* should be denied.

Dated: September 10, 2024

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