

CASE NO. 19-8538

IN THE
SUPREME COURT OF THE UNITED STATES

JEFFREY SMILES

Petitioner

v.

**COUNTY OF BERKS A/K/A BERKS COUNTY, BERKS COUNTY TAX CLAIM
BUREAU, BRENDA S. SHAW, KATHIE E. STANISLAW, LILLIAN B.
CRAMSEY, AND STACY A. PHILE**

Respondents

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

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

- I. Whether the District Court has subject matter jurisdiction in this matter over Petitioner's cause of action when the Tax Injunction Act prohibits a federal court from enjoining the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State?

RELATED CASE STATEMENT

JEFFREY SMILES v. COUNTY OF BERKS, BERKS COUNTY TAX CLAIM BUREAU, BRENDA S. SHAW, in her individual capacity, KATHIE E. STANISLAW, in her individual and official capacity, LILLIAN B. CRAMSEY, in her individual and official capacity, and STACEY A. PHILE, in her individual and official capacity; The United States Eastern District Court of Pennsylvania; Case 5:18-cv-03833-EGS; Case No. 18-3833; Date of entry of the judgment: February 20, 2019.

JEFFREY W. SMILES v. COUNTY OF BERKS A Political Subdivision of the Commonwealth of Pennsylvania also known as BERKS COUNTY; BERKS COUNTY TAX CLAIM BUREAU An Agency of the Treasurer's Office of Berks County; S. SHAW, in her Individual Capacity; KATHIE E. STANISLAW, in her Individual and Official Capacity; LILLIAN B. CRAMSEY, in her Individual and Official Capacity; STACEY A. PHILE, in her Individual and Official Capacity; The United States Court of Appeals for the Third Circuit; Case No. 19-1622; Date of entry of the judgment: November 29, 2019.

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STATEMENT OF THE CASE

Petitioner/Plaintiff, Jeffery Smiles, brought a cause of action against Respondents on the basis of raising civil rights claims and claims under the federal criminal statutes. Petitioner's claims against Respondents are solely related to the collection of real property taxes from Petitioner. Petitioner additionally claims that he does not need to pay taxes because he is a "non-taxpayer" and "one of the sovereign people of the Commonwealth of Pennsylvania."

Petitioner initiated this matter in the United States Eastern District Court of Pennsylvania (hereinafter "district court"). The district court ultimately dismissed Petitioner's cause of action on the basis that the district court did not have subject matter jurisdiction to hear Petitioner's real property taxes related claims.

Petitioner subsequently appealed the district court's decision to the United States Court of Appeals for the Third Circuit (hereinafter "Third Circuit"). The Third Circuit agreed with the district court that the Tax Injunction Act prohibits a federal court from enjoining the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such state. The Third Circuit affirmed the decision of the district court because the Commonwealth of Pennsylvania's state courts already have a plain, speedy, and efficient remedy for challenges to a local government's assessment of real property taxes. The Third Circuit also agreed that the Commonwealth of Pennsylvania continues to have a fully-developed administrative and judicial apparatus" by which a taxpayer, like Petitioner, may adequately challenge an assessment of his

property. In its decision the Third Circuit held that the district court did not err in dismissing Petitioner's complaint for lack of subject matter jurisdiction and affirmed the district court's judgment.

Petitioner has now filed this Petition for Writ of Certiorari in the Supreme Court of the United States.

SUMMARY OF REASONS FOR DENYING THE PETITION

Petitioner mischaracterizes his cause of action under the guise of raising civil rights claims and claims under federal criminal statutes when Petitioner's claims are related to the collection of real property taxes. The Tax Injunction Act prohibits a federal court from enjoining the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State. As such, the district court is not the proper venue for entertaining Petitioner's tax claims as Petitioner's claims should be reviewed by the states courts in the Commonwealth of Pennsylvania.

Pennsylvania's state courts provide a "plain, speedy, and efficient" remedy for challenging a county's assessment of real property taxes, and as such, Petitioner's claims should be brought under the state's courts and not the federal court system. Petitioner has not shown that Pennsylvania's system for challenging a county's assessment of real property taxes is inadequate or unavailable for any reason. Since Petitioner has not demonstrated that Pennsylvania's system for addressing real property taxes is not inadequate by any means, the district court does not have subject matter jurisdiction over Petitioner's claims.

REASONS FOR DENYING THE PETITION

The decisions below do not conflict with a decision of this Court or any court of appeals nor do they implicate a federal question that has not been decided by this Court. Rather, Petitioners ask this court to gage a local state tax issue under the guise of raising civil rights claims and claims under federal criminal statutes. Since the Tax Injunction Act prohibits a federal court from enjoining the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such state, the Petition herein should be denied.

I. The District Court Does Not Have Subject Matter Jurisdiction Over Petitioner's Cause Of Action.

Petitioner's claim involves a cause of action against Berks County for attempting to collect real property taxes from Petitioner. Petitioner has attempted to classify his cause of action as multiple civil rights claims and claims under federal criminal statutes. Petitioner states that he does not need to pay real property taxes because he is a "non-taxpayer" and "one of the sovereign people of the Commonwealth of Pennsylvania."

Although Petitioner considers himself a non-taxpayer and believes his claims are related to a violation of his civil rights, Petitioner's cause of action is actually a question on taxation and the state's ability to collect real property taxes from Petitioner. As such, Petitioner's cause of action raises issues regarding taxes and does not properly raise questions regarding civil rights issues or any federal criminal statutes.

The Tax Injunction Act prohibits a federal court from enjoining “the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State.” *See*, 28 U.S.C. § 1341. Furthermore, this Court has previously held that “taxpayers are barred by the principle of comity from asserting § 1983 actions against the validity of state tax systems in federal courts” so long as “plain, adequate, and complete” remedies are available in state court. *Fair Assessment in Real Estate Ass’n, Inc. v. McNary*, 454 U.S. 100, 116 (1981). This Court stated in *McNary* that no significant difference, for purposes of the principles recognized in this case, between remedies which are “plain, adequate, and complete,” as that phrase has been used in articulating the doctrine of equitable restraint, and those which are “plain, speedy and efficient,” within the meaning of § 1341. Therefore, the conjunction of the Tax Injunction Act and the Court’s decision in *McNary* dictates that a federal court cannot entertain a suit posing either an equitable or a legal challenge to state or local taxes . . . if a sufficient remedy . . . is available in state court.” *Kerns v. Dukes*, 153 F.3d 96, 101 (3d Cir. 1998).

The Third Circuit has consistently held that Pennsylvania state courts provide a “plain, speedy, and efficient” remedy for challenges to a county’s assessment of real property taxes.” *See, Gass v. County of Allegheny, Pa.*, 371 F.3d 134, 137-38 (3d Cir. 2004). Since Petitioner has failed to demonstrate that Pennsylvania’s “fully-developed administrative and judicial apparatus” by which a taxpayer may challenge an assessment of his property is inadequate or unavailable

by any means, the district court lacks subject matter jurisdiction of Petitioner's claims.

CONCLUSION

The district court does not have subject matter jurisdiction in this matter over Petitioner's cause of action because Pennsylvania's state courts have a plain, speedy, and efficient remedy for challenges to a local government's assessment of real property taxes. Therefore, Respondents respectfully request that the Petition be denied.

Respectfully submitted,

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