

For the International Municipal Lawyer's Association - IMLA's 5 things to know for March 2nd

The Supreme Court will be meeting in conference today and as discussed yesterday it will be considering petitions in some really interesting cases for local government. Two have been hanging around for a long time and a third is significantly important in the takings arena.

1. *Kisela vs Hughes* involves a decision by the 9th Circuit to deny qualified immunity to an officer who ordered a woman with a knife to drop the knife and when she didn't and continued approaching, the officer shot her. Interestingly, the Chief Justice during argument in the *Lozman* case this week noted that the circuits were not doing a good job of following the court's instructions on qualified immunity. Here's hoping for a summary grant, vacate and remand.

<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/17-467.html>

2. A case from the 2nd Circuit involves a petition seeking to set aside an erroneous decision that reversed a defense verdict for an officer over a jury instruction. The 2nd Circuit's decision makes it much more difficult for officers to understand their authority when facing a dangerous adversary.

<http://www.scotusblog.com/case-files/cases/wilson-v-callahan/>

3. A case pushed by the Homebuilders and the Pacific Legal Foundation to reverse *Williamson County* is also being considered. The Fifth Amendment clearly protects people from a government taking property, but only uncompensated takings. Where as in *Williamson County*, a person has not sought recourse through the state comity demands that they not be allowed to bring their suit in federal court. We hope the court will deny certiorari and leave takings law settled.

<http://www.scotusblog.com/case-files/cases/knick-v-township-scott-pennsylvania/>

4. Today the 6th Circuit affirmed a lower court's denial of qualified immunity to officers based on their execution of a search warrant. The claim was that the officers did not knock and announce and that they did not provide the dwellers a copy of the warrant upon request. The 6th Circuit concluded that failing to knock and announce violates the constitution and failing to provide the warrant upon request does as well.

<http://www.opn.ca6.uscourts.gov/opinions.pdf/18a0041p-06.pdf>

5. The Virginia Supreme Court last week concluded that a petition signed by over 1800 residents to remove the elected county clerk failed to comply with a statutory requirement and upheld a lower court decision refusing to remove the clerk. Notably, the court recognized that its decision was at odds with the advice of the Attorney General and that the legislature likely did not amend the law as it relied on the AG's

opinion. It seems the court may have made one elected official very happy and some 1800 voters very unhappy.

<http://www.courts.state.va.us/opinions/opnscvwp/1170122.pdf>

Did you listen to our podcast on South Dakota vs Wayfair? Make sure you do. Also, don't forget our Seminar in DC provides a great opportunity to learn and gain CLE credits while you do. The seminar and hotel are filling up quickly and could sell out, so don't wait to register. Make sure you consider registering for our Supreme Court practice track. Get more from IMLA by joining. Not a member? Contact us. Sign up at www.imla.org. Have a great day and a great weekend and make it an inspirational one.