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QUIET TITLE ACT

Is the Quiet Title Act's 12-Year Statute of Limitations Jurisdictional, or Is the Time Limit Subject to Equitable Tolling?

CASE AT A GLANCE

Montana residents Larry (Wil) Wilkins and Jane Stanton live along a one-mile-long road connecting Bitterroot National Forest and a public highway. The road is an easement held by the federal government to access the public highway from the forest. Wilkins and Stanton brought claims against the government under the Quiet Title Act, 28 U.S.C. § 2409a, contending the government exceeded the scope of the easement by opening the road to the public. The district court dismissed the complaint for lack of subject-matter jurisdiction because Wilkins and Stanton failed to file their claims prior to the expiration of the Act's statute of limitations, and Wilkins and Stanton appealed to the Supreme Court, arguing the Act's statute-of-limitations provision is not jurisdictional and should be equitably tolled.

Wilkins v. United States

Docket No. 21-1164

Argument Date: **November 30, 2022** From: **The Ninth Circuit**

by Stephen S. Davis

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Introduction

When questions arise regarding the federal government's title to real property, an individual with an interest in that property may file an action under the Quiet Title Act. The Quiet Title Act provides that, with some exceptions, the "United States may be named as a party defendant in a civil action...to adjudicate a disputed title to real property in which the United States claims an interest." Another statute, 28 U.S.C. § 1346(f), grants federal district courts "exclusive original jurisdiction of civil actions under [the Quiet Title Act] to quiet title to an...interest in real property in which an interest is claimed by the United States." The Quiet Title Act contains a statute of limitations providing that an action brought pursuant to the act (except an action brought by a state) "shall be barred unless it is commenced within twelve years of the date upon which it accrued."

When Wilkins and Stanton filed this lawsuit challenging the federal government's interest in the road on which they live, the federal government successfully argued to the district court that their claim was jurisdictionally barred by the Quiet Title Act's 12-year statute of limitations. The Ninth Circuit affirmed the district court's decision that the Quiet Title Act's statute of limitations is jurisdictional. Wilkins and Stanton appealed to the Supreme Court, arguing that the Quiet Title Act's statute of limitations is not a jurisdictional bar preventing them from bringing their claim against the government, but instead is a "claim-processing rule" that can be equitably tolled.

Issue

Is the Quiet Title Act's statute of limitations jurisdictional, meaning that a district court cannot adjudicate any claim

disputing the federal government's title to real property not filed within 12 years of the time the claim accrued, or instead, should the statute of limitations provision be interpreted as a "claim-processing rule" that may be equitably tolled?

Facts

Wil Wilkins and Jane Stanton each own residential property on a dirt road known as Robbins Gulch Road in Ravalli County, Montana, near the boundary of the Bitterroot National Forest, a 1.6-million-acre forest in western Montana and eastern Idaho in the northern Rocky Mountains. Robbins Gulch Road provides a route of access between a public highway and the forest. The government allows both timber production and public recreation in the forest, including hunting, fishing, water sports, camping, and hiking along 1,600 miles of trails.

Wilkins, a military veteran and outdoorsman, purchased his property near the forest in 2004 for its scenic beauty and quiet privacy. Stanton, now a widow, purchased her property in 1991. In 1962, the prior owners of Wilkins's and Stanton's properties, along with the owners of neighboring properties, granted the United States government a roadway access easement across their land from the highway to the forest boundary, a distance of about one mile, via two deeds. Robbins Gulch Road is that roadway easement. The deeds conveyed a 60-foot-wide easement "for a road as now constructed and in place and to be re-constructed, improved, used, operated, patrolled, and maintained and known as the Robbins Gulch Road, Project Number 446." A cover letter accompanying the deeds further provided that the "[p]urpose of the road" was for "timber harvest."

Exactly when the federal government began allowing public access along Robbins Gulch Road is disputed. According to Wilkins and Stanton, the government's oversight and use of the road did not present a problem until 2006, and the government did not open the road to the general public until that time. But the government asserted that the recreational public has used the road for decades, and the only time the government ever restricted public use of the road was during a temporary closure of the road to the general public beginning in May 2006. Wilkins and Stanton point to the Forest Service's posting of a sign along the road in September 2006, which read, "PUBLIC ACCESS THRU PRIVATE LANDS." Wilkins and Stanton claim that the posting of the sign initiated

the problematic public use of the road, which resulted in a proliferation of traffic on the road, vandalism, trespassing, property theft, traffic noise, and traffic-related soil erosion. One driver even shot Wilkins's cat. In consequence of these problems, some of Wilkins's and Stanton's neighbors moved away.

In 2007, the government initiated a study of Bitterroot National Forest to identify roads and trails within the forest where motor vehicle use was permitted. In September 2007, the Forest Service issued a Travel Management Planning Proposed Action document concluding that, despite Robbins Gulch Road's "high motorized recreation value, we propose closing it to motorized access..." The Forest Service's final issuance of the travel management plan in May 2016, however, called for the opening of Robbins Gulch Road to public use. In December 2017 and then again in May 2018, Wilkins asked the government to address the problems associated with public use, but the Forest Service maintained that its easement allowed the government to grant public access to the road.

Wilkins and Stanton filed this lawsuit in August 2018, alleging that the scope of the government's easement does not include access by the general public and that the government has a duty under the terms of the 1962 deeds to maintain and patrol the road, ensuring the use of the easement does not unreasonably burden the adjacent landowners' property. The government filed a motion to dismiss the complaint for lack of subject-matter jurisdiction, arguing the claims had accrued prior to the Forest Service's posting of the sign in 2006 and after the statute of limitations expired. The district court granted the government's motion, and the Ninth Circuit affirmed.

Case Analysis

In their Quiet Title Act dispute of the government's title to the roadway easement, Wilkins and Stanton argue the government exceeded the scope of its easement—the government's right to use Wilkins's and Stanton's land for a certain purpose—across their land by allowing the general public to access and use the road. Wilkins and Stanton asked the district court to issue an order "declaring that the easement may be utilized only by" government agents and contractors. But the government successfully argued the district court lacked jurisdiction to review the title dispute because the lawsuit was not filed within 12 years of the date their claims accrued.

The government argued that, regardless of the factual issues surrounding the question of when the government allowed the general public to use Robbins Gulch Road, Wilkins and Stanton (or their predecessors-in-title) knew or should have known prior to August 2006 that the government's interest in the easement included public access. The district court held that "[a]lthough the Government does not pin down precisely when Plaintiffs' claims expired, the Government offers enough evidence for the Court to conclude that the statute of limitations ran before August 23, 2006..." The evidence the district court pointed to was "a series of historic Bitterroot Forest maps," which "[told] a clear story" that "the Forest Service has been informing the public since, at least, 1972 that it may access the Bitterroot National Forest by using unrestricted Robbins Gulch Road. "What's more," the court continued, "the public heard this message and has been using the road as a public access route since that time." Because the Quiet Title Act's 12-year statute of limitations is jurisdictional, the district court dismissed the complaint for lack of subject-matter jurisdiction.

Wilkins and Stanton argue that the Quiet Title Act's statute of limitations is not jurisdictional and instead constitutes a "claim-processing rule," which is subject to equitable tolling. In *Irwin v. Department of Veterans Affairs*, 498 U.S. 89 (1990), the Supreme Court dispensed with its "old ad hoc, law-by-law approach" to determining whether statutes of limitations are jurisdictional and instead established a rebuttable presumption that statutes of limitations are subject to equitable tolling, even in "suits brought against the United States under a statute waiving sovereign immunity." As the government explained in *Irwin*, "[g]iven th[e] harsh consequences" of jurisdictional bars, "the Government must clear a high bar to establish that a statute of limitations is jurisdictional." The Court held that statutes of limitations "cabin a court's power only if Congress has 'clearly stated' as much" (quoting *Sebelius v. Auburn Regional Medical Center*, 568 U.S. 145 (2013)). To determine whether Congress has "clearly stated" that the statute of limitations is jurisdictional, the Court employs "traditional tools of statutory construction," which "must plainly show that Congress imbued a procedural bar with jurisdictional consequences." In applying this "clear statement rule," the Court noted that "most time bars are nonjurisdictional."

Wilkins and Stanton argue that the Quiet Title Act's statute of limitations is not jurisdictional because Congress did not clearly state in the statute's text, context, or legislative history that the statute of limitations is jurisdictional as required by *Irwin* and its progeny. Indeed, the Supreme Court reaffirmed *Irwin*'s framework and analysis in *United States v. Wong*, where the Court explained, "[t]ime and again, we have described filing deadlines as quintessential claim-processing rules, which seek to promote the orderly progress of litigation, but do not deprive a court of authority to hear a case." 575 U.S. 402 (2015) (internal quotations omitted). In fact, the Court continued, most filing deadlines are nonjurisdictional "even when the time limit is important (most are) and even when it is framed in mandatory terms (again, most are)," regardless of how "emphatic[ally] expressed those terms may be" (internal quotations omitted).

Wilkins and Stanton further point to the Supreme Court's decision earlier this year in *Boechler v. Commissioner of Internal Revenue*, where the Court explained that "procedural requirements" within statutes conferring a cause of action against the government are not necessarily jurisdictional—many "simply instruct parties [to] take certain procedural steps at certain specified times without conditioning a court's authority to hear the case on compliance with those steps. 596 U.S. __ (2022) (internal quotations omitted). "These nonjurisdictional rules," the Court continued, "promote the orderly progress of litigation but do not bear on a court's power" (internal quotations omitted). As in *Irwin*, the Court repeated it is "[m]indful of the[] consequences" resulting from jurisdictional bars and explained it has "endeavored to bring some discipline to use of the jurisdictional label" (internal quotations omitted). "To that end," the Court reiterated, it "treat[s] a procedural requirement as jurisdictional only if Congress 'clearly states' that it is" (quoting *Arbaugh v. Y&H Corp.*, 546 U.S. 500 (2006)). In order to determine whether a statute of limitations is jurisdictional, the Court should examine the statute's text and structure, employing canons of statutory construction, as well as the "broader statutory context," in order to ascertain whether there is "a clear tie between the deadline and the jurisdictional grant."

1 The district court noted that the Forest Service's closure of the road on May 3, 2006, which "expressly exclude[ed] the public during" the temporary-closure period, provided notice of the government's adverse interest in the roadway.

Wilkins and Stanton assert that the Quiet Title Act's statute of limitations contains only "mundane statute-of-limitations language," as the Court characterized the Federal Tort Claims Act's statute of limitations in *Wong*, in that it says "only what every time bar, by definition, must: that after a certain time a claim is barred." Furthermore, similar to the statute at issue in *Wong*, the Quiet Title Act's jurisdiction provision was enacted in a completely different and separate statute, suggesting no tie between a jurisdictional requirement and the time limitation. Additionally, Wilkins and Stanton argue that the legislative history of the Quiet Title Act shows that Congress intended, and the Department of Justice interpreted, the Act's statute of limitations to be a waivable affirmative defense, instead of a jurisdictional bar.

The government asserts that the Supreme Court has already definitively decided that the Quiet Title Act's statute of limitations is jurisdictional in two decisions, *Block v. North Dakota*, 461 U.S. 273 (1983), and again in *United States v. Mottaz*, 476 U.S. 834 (1986). The Supreme Court held in *Block* that a claim brought by a state under the Quiet Title Act, just as any other plaintiff's claim, was subject to the Act's statute of limitations. The government highlights the Supreme Court's conclusion in *Block*, stating, "[i]f North Dakota's suit [under the Quiet Title Act] is barred by [the Act's statute of limitations], the courts below had no jurisdiction to inquire into the merits." The government bolsters its argument with the Court's explanation in *Block* that the "basic rule of federal sovereign immunity is that the United States cannot be sued at all without the consent of Congress[, and a] necessary corollary of this rule is that when Congress attaches conditions to legislation waiving the sovereign immunity of the United States, those conditions must be strictly observed, and exceptions thereto are not to be lightly implied." Thus, the government contends, the Court in *Block* held that the Quiet Title Act's statute of limitations is jurisdictional because the Quiet Title Act's "limitations provision constitutes a condition on the waiver of sovereign immunity."

The government further argues that the Supreme Court again held the Quiet Title Act's statute of limitations to be jurisdictional in *Mottaz*. As the government points out, the Court stated in *Mottaz* that "[w]hen the United States consents to be sued, the terms of its waiver of sovereign immunity define the extent of the court's jurisdiction." Citing *Block*, the Court further explained that the "limitations period is a central condition of the consent

given by the [Quiet Title] Act." The Court concluded, "Congress has consented to a suit challenging the Federal Government's title to real property only if the action is brought within the 12-year period set by the Quiet Title Act. The limitations provision of the Quiet Title Act reflects a clear congressional judgment that the national public interest requires barring stale challenges to the United States' claim to real property, whatever the merits of those challenges."

The government further contends that the Supreme Court "implicitly ratified" the holdings of *Block* and *Mottaz* when Congress amended the Quiet Title Act in 1986, and therefore, the Court should not overturn the jurisdictional holdings unless and until Congress acts to change the jurisdictional nature of the act's statute of limitations. As the government explains, in response to *Block*'s holding that states' claims were subject to the Quiet Title Act's statute of limitations, states like North Dakota asked Congress to amend the Quiet Title Act's state-claim provision. Congress did so, the government asserts, which overturned one aspect of *Block*, but Congress left *Block*'s "jurisdictional determination untouched." The way in which Congress amended the Quiet Title Act, the government argues, confirms that Congress "acquiesced" to *Block*'s jurisdictional holding. Because "Congress took no action...to alter this Court's determination in [*Block*]" (and again in *Mottaz*) that when the 12-year bar applies, it deprives the courts of jurisdiction to hear Quiet Title Act claims," the Court should continue to treat the Quiet Title Act's statute of limitations as jurisdictional unless and until Congress directs otherwise.

Wilkins and Stanton respond that, contrary to the government's argument, neither *Block* nor *Mottaz* held that the Quiet Title Act's statute of limitations is jurisdictional. While those cases may have used the word *jurisdiction* in describing the Quiet Title Act's statute of limitations, that word, as the Court observed in *Arbaugh*, "is a word of many, too many, meanings." Indeed, the Court continued, "this Court...has sometimes been profligate in its use of the term." In *Block* and *Mottaz*, Wilkins and Stanton argue, "whether the statute of limitations is jurisdictional was not at issue, the parties did not brief the issue, and the Court did not have to address the issue to resolve the case." In those cases, "the Court's and the parties' use of the word 'jurisdictional' merely conveyed that the statute of limitations was mandatory...which was a common but inexact use of 'jurisdiction' at the time."

Invoking *Eberhart v. United States*, 546 U.S. 12 (2005), plaintiffs assert that the Court’s use of the word *jurisdiction* in describing a statute of limitations alone is not dispositive. In *Eberhart*, the Court held that the Federal Rule of Criminal Procedure’s seven-day time limit for requesting a new trial was not “jurisdictional,” contrary to how the Court’s decades-old precedents had described the time limit. The Court explained in *Eberhart* that its “most recent decisions have attempted to brush away confusion” that their earlier opinions had introduced in their use of the “label” *jurisdictional*. Furthermore, as the plaintiffs point out, the Court in *United States v. Beggerly*, 524 U.S. 38 (1998), decided after *Block* and *Mottaz*, actually confirmed that the Quiet Title Act’s statute of limitations is not jurisdictional. In *Beggerly*, the Court quoted *Block*’s recitation of the Quiet Title Act’s provisions and explained, citing *Irwin*, that the Quiet Title Act, “by providing that the statute of limitations will not begin to run until the plaintiff knew or should have known of the claim of the United States, has already effectively allowed for equitable tolling.” And since the Supreme Court has never held that the Quiet Title Act’s statute of limitations is jurisdictional, Congress could not possibly have acquiesced to such a holding when it amended the Quiet Title Act’s irrelevant provision regarding claims raised by states. Accordingly, the Court’s pre-*Irwin* decisions’ confusing use of the word *jurisdiction* in describing the Quiet Title Act’s statute of limitations does not, by itself, satisfy the “clearly-stated” standard.

Significance

Should the Supreme Court rule in favor of Wilkins and Stanton, many more claims disputing the government’s title to land will be filed and adjudicated. In determining when Wilkins’s and Stanton’s claims accrued, the district court focused on the Forest Service’s publication of maps in 1964, 1972, and thereafter, as evidence that a reasonable person should have been aware of the scope of the United States’ interest in the roadway easement, which included the government’s permitted use of the

road by the general public. Allowing equitable tolling of the Quiet Title Act’s statute of limitations may prevent the government from successfully proffering decades-old and obscure government filings and publications as evidence of adequate notice of the government’s interest in the property. In addition, the Court’s decision in this case will influence disputes regarding other federal statutes of limitations, especially relating to the rebuttable presumption in favor of equitable tolling and the extent to which a prior decision of the Court describing a statute of limitations as “jurisdictional” but neglecting to examine the text and context of the statutory language should be afforded precedential value.

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