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## U.S. Supreme Court denies certiorari for Walker DMA case

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Recently, the Supreme Court of the United States denied certiorari for Walker v. Shondrick-Nau (2016-Ohio-5793). The Ohio Supreme Court had previously held on September 15, 2016, that the 1989 version of the Ohio Dormant Minerals Act (DMA) was not self-executing. In the lead case, Corban v. Chesapeake Exploration L.L.C., 2016-Ohio-5796, the Ohio Supreme Court, in a 5-2 decision, [concluded](#) that the “1989 law was not self-executing and did not automatically transfer ownership of dormant mineral rights by operation of law.” Instead, surface owners were “required to bring a quiet title action” prior to 2006 in order to establish abandonment. After June 30, 2006 (the effective date of the 2006 version of the DMA), a surface owner is “required to follow the statutory notice and recording procedures enacted in 2006.”

Using its decision in Corban, the Ohio Supreme Court ruled in favor of the mineral owners in eleven other decisions pending before it, including Walker. In Walker, the Ohio Supreme Court reversed the Seventh District Court of Appeals [decision](#), which had been in favor of the surface owners under the 1989 DMA. The Ohio Supreme Court specifically held that there was no evidence of any legal action being taken by the surface owners prior to the effective date of the 2006 version of the DMA; and that the severed mineral holder’s “claim to preserve his mineral interest was sufficient under the 2006 version to prevent [abandonment].”

In response to the Walker decision, John Walker, Jr., petitioned the United States Supreme Court to review the case as a violation of the due process clause and the contracts clause of the United States Constitution. In his brief, Walker specifically asked the U.S. Supreme Court two questions: (1) When a property interest has vested pursuant to a lawful statutory enactment of a state legislature, does the due process clause of the U.S. Constitution preclude the retroactive application of a later-enacted, statutory amendment to divest the property right? and (2) When a property interest, vested pursuant to a lawful statutory enactment of a state legislature, has been conveyed by contract in the form of a deed of conveyance, does the contracts clause of the U.S. Constitution preclude the retroactive application of a later-enacted, statutory amendment which destroys such interest? The brief focused primarily on the assumption that the mineral interest had already vested under the 1989 version of the DMA, and that the Ohio Supreme Court's decision in Corban constituted a taking of that interest (under the 2006 version) in violation of the Constitution. The U.S. Supreme Court's decision, however, to deny certiorari ultimately means that the Corban decision is, therefore, the precedent moving forward.

In addition to Walker, *Farnsworth v. Burkhart* (2016-Ohio-5816) was the only case decided under Corban in which a motion for reconsideration was filed directly with the Ohio Supreme Court. That motion was subsequently denied by the Ohio Supreme Court in November 2016.