

SUPREME COURT OF PENNSYLVANIA

Clearfield County, Pennsylvania v. Transsystems Corporation,
Successor to L. Robert Kimball and Associates, Inc., Leonard S.
Fiore, Inc., and Showalter Masonry, Inc.

No. 10 WAP 2025 (Pa. 2026) · No. 10 WAP 2025 · Decided April 30, 2026

SUMMARY

The Supreme Court of Pennsylvania considered whether the common-law doctrine of nullum tempus occurrit regi prevents application of Pennsylvania's 12-year construction statute of repose, 42 Pa.C.S. § 5536, to Clearfield County's claims concerning alleged defects in the construction of a county jail. The Court held that nullum tempus cannot preclude application of the statute of repose and affirmed the Commonwealth Court's order dismissing the County's complaint, although on different grounds.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Mundy; Chief Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht; Justice Brobson; Justice McCaffery
JURISDICTION	Supreme Court of Pennsylvania, Western District
DECIDED	April 30, 2026
DOCKET	10 WAP 2025
DISPOSITION	affirmed
PROCEDURAL POSTURE	Clearfield County appealed the Commonwealth Court's order affirming the Court of Common Pleas's order sustaining Appellees' preliminary objections and dismissing the County's complaint under Pennsylvania's 12-year construction statute of repose. The Supreme Court of Pennsylvania granted allowance of appeal and affirmed on a different ground.
STANDARD OF REVIEW	De novo review with plenary scope because the applicability of the statute of repose presented a question of law without disputed jurisdictional facts.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Clearfield County, Pennsylvania v. Transsystems Corporation, successor to L. Robert Kimball and Associates, Inc., Leonard S. Fiore,

TOPICS

construction law

municipal law

statutory interpretation

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standard of review

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the common-law doctrine of nullum tempus occurrit regi permits a Pennsylvania county to avoid or toll the 12-year construction statute of repose in 42 Pa.C.S. § 5536.
2. Whether the Court should apply the Holmes requirements for political subdivisions invoking nullum tempus to the County's claims.
3. What standard and scope of review govern the legal applicability of Section 5536.

HOLDINGS

1. The common-law doctrine of nullum tempus occurrit regi does not permit a governmental entity to toll, avoid, or circumvent the 12-year statute of repose in 42 Pa.C.S. § 5536.
2. The Court did not reach whether the County satisfied the requirements for political subdivisions to invoke nullum tempus because the doctrine does not apply to Section 5536 in the first place.
3. The applicability of the statute of repose is reviewed de novo with a plenary scope of review when it presents only legal issues.

KEY QUOTATIONS

“Here, Section 5536, as a statute of repose, abolishes and eliminates causes of action against construction industry professionals 12 years after the construction project is completed and precludes the revival of those causes of action.” ([J-80-2025] - 27)

“Accordingly, we conclude nullum tempus cannot toll or avoid the Section 5536 statute of repose.” ([J-80-2025] - 28)

“For these reasons, we conclude County cannot utilize the common law doctrine of nullum tempus to circumvent the Section 5536 statute of repose.” ([J-80-2025] - 29)

FACTUAL BACKGROUND

Around 1977, Clearfield County contracted with Kimball, an architectural and engineering firm, for construction of a county jail; Kimball retained Fiore as general contractor and Showalter for masonry work. Construction was completed in 1981, and the jail received a certificate of occupancy and began housing prisoners that year. During a 2021 renovation project, ABM discovered that the original roof was not connected to the masonry walls and

was floating on top of the building. The County paid \$3,878,660 to install a bond beam and filed suit on January 6, 2023, more than 12 years after completion of construction.

PROCEDURAL HISTORY

Clearfield County filed a nine-count complaint alleging negligence, fraudulent misrepresentation or nondisclosure, and breach of contract arising from the allegedly defective construction of a county jail. The Court of Common Pleas sustained preliminary objections and dismissed the complaint under 42 Pa.C.S. § 5536. The Commonwealth Court affirmed, concluding that the County could not satisfy the requirements for invoking *nullum tempus*. The Supreme Court affirmed, holding that *nullum tempus* cannot toll or avoid the Section 5536 statute of repose, and relinquished jurisdiction.

DISPOSITION

affirmed

CASES CITED

- Noll v. Harrisburg Area YMCA, 643 A.2d 81, 84-86 (Pa. 1994)
- Gilbert v. Synagro Central, LLC, 131 A.3d 1, 15 (Pa. 2015)
- Mazur v. Trinity Area School District, 961 A.2d 96, 101 (Pa. 2008)
- In re Administrative Order No. 1-MD-2003, 936 A.2d 1, 5 (Pa. 2007)
- Crown Castle NG East LLC v. Pennsylvania Public Utility Commission, 234 A.3d 665, 674 (Pa. 2020)
- Matter of Private Sale of Property by Millcreek Township School District, 185 A.3d 282, 291 (Pa. 2018)
- Commonwealth v. Crosby, 329 A.3d 1141, 1148-49 (Pa. 2025)
- Vargo v. Koppers Co., Inc., Engineering & Construction Division, 715 A.2d 423, 426 n.3 (Pa. 1998)
- Misitis v. Steel City Piping Co., 272 A.2d 883, 885 (Pa. 1971)
- Dubose v. Quinlan, 173 A.3d 634, 643-45 (Pa. 2017)
- CTS Corp. v. Waldburger, 573 U.S. 1, 7-10 (2014)
- Graver v. Foster Wheeler Corp., 96 A.3d 383, 387 (Pa. Super. 2014)
- Allegheny Intermediate Unit v. East Allegheny School District, 203 A.3d 371, 378 (Pa. Cmwlth. 2019)
- Commonwealth, Department of Transportation v. J.W. Bishop & Co., Inc., 439 A.2d 101, 102-04 (Pa. 1981)
- City of Philadelphia v. Holmes Electric Power Co., 6 A.2d 884, 887 (Pa. 1939)
- General State Authority v. Lawrie & Green & John McShain, Inc., 439 A.2d 228, 229-30 (Pa. Cmwlth. 1982)
- Manheim Central School District v. Foreman Architects-Engineers, Inc., 2017 WL 10440562, at *3-4 (C.P. Lancaster 2017)
- Belle Vernon Area School District v. Tremco, Inc., 2023 WL 5337286, at *1-5 (W.D. Pa. Aug. 18, 2023)
- City of Rochester v. Marcel A. Payeur, Inc., 152 A.3d 878 (N.H. 2016)
- Shasta View Irrigation District v. Amoco Chemicals Corp., 986 P.2d 536 (Or. 1999)
- Commonwealth of Virginia v. Owens-Corning Fiberglass Corp., 385 S.E.2d 865 (Va. 1989)
- Shearer v. Naftzinger, 747 A.2d 859, 861 (Pa. 2000)

- *Heimeshoff v. Hartford Life & Accident Insurance Co.*, 571 U.S. 99, 105 (2013)
- *Bay Area Laundry & Dry Cleaning Pension Trust Fund v. Ferbar Corp. of California*, 522 U.S. 192, 201 (1997)
- *Railroad Telegraphs v. Railway Express Agency, Inc.*, 321 U.S. 342, 348-49 (1944)
- *Lampf, Pleva, Lipkind, Prupis & Petigrow v. Gilbertson*, 501 U.S. 350, 363 (1991)
- *Lozano v. Montoya Alvarez*, 572 U.S. 1, 10 (2014)
- *Jones v. Thomas*, 491 U.S. 376, 392 (1989) (Scalia, J., dissenting)

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