

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-2081**

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CLARENCE PENNINGTON; SHERRI J. PENNINGTON,

Plaintiffs - Appellants,

versus

STEVEN C. TUEFEL; KAREN WOOD; ROBERT BUTLER;  
JIM WHITACRE; GARY POLING; LEE SAMSELL,  
individually; RAY BROSIUS, as Berkeley County  
Planning Commission President; BERKELEY COUNTY  
PLANNING COMMISSION,

Defendants - Appellees,

and

JIM STUCKEY; ANTHONY J. PETRUCCI,

Defendants.

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Appeal from the United States District Court for the Northern  
District of West Virginia, at Martinsburg. W. Craig Broadwater,  
District Judge. (CA-05-4)

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Submitted: February 6, 2006

Decided: February 27, 2006

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Before WILKINSON, KING, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Christopher P. Stroeck, ARNOLD, CESARE & BAILEY, PLLC, Shepherdstown, West Virginia, for Appellants. Michael D. Lorensen, BOWLES, RICE, MCDAVID, GRAFF & LOVE, LLP, Martinsburg, West Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Clarence and Sherri J. Pennington appeal the district court's order granting the Appellees' motion to dismiss and dismissing their civil rights complaint. The court found, among other findings, that the Penningtons failed to state a claim because they did not establish a cognizable property interest. We review de novo a dismissal pursuant to Fed. R. Civ. P. 12(b)(6), "accept[ing] as true the factual allegations of the challenged complaint and . . . view[ing] those allegations in the light most favorable to the plaintiff." Lambeth v. Board of Comm'rs, 407 F.3d 266, 268 (4th Cir.) (citations omitted) (alterations added), cert. denied, 126 S. Ct. 647 (2005). "[A] district court may dismiss a complaint for failure to state a claim only if it appears beyond doubt that the plaintiff can prove no set of facts that would entitle him to relief." Id.

We find, for the reasons cited by the district court, that the Penningtons did not have a cognizable property interest in receiving a permit. Accordingly, we affirm. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED