

18-1071

No. 18-

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In the  
Supreme Court of the United States

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BRANDI K STOKES,

TIMOTHY MARTIN SULAK,

—v—

<i>Petitioner</i>	FILED
FEB 11 2019	
OFFICE OF THE CLERK	
SUPREME COURT, U.S.	
<i>Respondent</i>	

On Petition for Writ of Certiorari to the  
United States Court of Appeals for the Fifth Circuit

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PETITION FOR WRIT OF CERTIORARI

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**QUESTION PRESENTED**

Whether rights secured by the Geneva  
Conventions can be waived by inadequate briefing or  
late notice.

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## **PETITION FOR WRIT OF CERTIORARI**

Brandi K Stokes petitions for a writ of certiorari for review of the opinions, orders, and judgements of the Lower and Trial Courts.



## **OPINIONS BELOW**

The unpublished opinion and judgment of the United States Court of Appeals for the Fifth Circuit are provided in the Appendix. App.1a-2a. The opinion of the United States Court of Appeals for the Fifth Circuit may be cited as *Stokes v. Sulak*, No. 18-50676, EFC No. 00514822725 (5<sup>th</sup> Cir. Feb. 5, 2019).

The unpublished order and judgment of the Western District of Texas Austin Division are provided in the Appendix. App. 3a-11a. The order of the Western District of Texas Austin Division may be cited as *Stokes v. Sulak*, No. 1:17-CV-1044-RP, EFC No. 15 (W.D. Tex. Jul. 13, 2018).



## **JURISDICTION**

The opinion and judgment of the United States Court of Appeals for the Fifth Circuit were filed on February 5, 2019. App. 1a-2a. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).



## CONSTITUTIONS, TREATIES, AND STATUTES

**Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, art. 7, Aug. 12, 1949, 6 U.S.T. 3114 [hereinafter Geneva Convention I, art. 7]**

Wounded and sick, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

**Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, art. 7, Aug. 12, 1949, 6 U.S.T. 3217 [hereinafter Geneva Convention II, art. 7]**

Wounded, sick and shipwrecked persons, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

**Geneva Convention (III) Relative to the Treatment of Prisoners of War, art. 7, Aug. 12, 1949, 6 U.S.T. 3316 [hereinafter Geneva Convention III, art. 7]**

Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

**Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, art. 8, Aug. 12, 1949, 6 U.S.T. 3516 [hereinafter Geneva Convention IV, art. 8]**

Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.



## STATEMENT OF THE CASE

The history of this case is complex and involves a significant amount of criminal misconduct that remains unmediated at the time of the filing of this Petition. While such complexities have the potential to serve as a distraction, the instant appeal concerns one narrow point of error to which the following factual and procedural history are relevant.

### A. Trial Court Proceedings in the Western District of Texas Austin Division

Petitioner initially reported grave breaches of the Geneva Conventions to the Western District of Texas Austin Division through Case Nos. 1:17-CV-115-RP and 1:17-CV-116-RP on February 17, 2017.<sup>1</sup> Through amended pleadings in Case Nos. 1:17-CV-115-RP and 1:17-CV-116-RP, she further notified the Western District of Texas Austin Division that the claims at issue specifically allege grave breaches of art. 3 of the Geneva Convention Relative to the Treatment of Prisoners of War and pled facts sufficient to put the court on notice that significant human rights violations initiated by employees of the United States had escalated to included Non-State Actor ("NSA")

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<sup>1</sup> Notice of Entitlement to Geneva Conventions Protection; Notice of Removal for Travis Cty Cause No. D-1-FM-10-003078; Notice of Removal for Travis Cty Cause No. D-1-FM-16- 005347; and Motion to Seal Pursuant to National Security Case Management, 1:17-CV-115- RP/1:17-CV-116-RP, EFC No. 2, at 3-5 and 11-17 ("Plaintiff...has been systematically and pervasively harassed with fabricated mental health information and false allegations... Plaintiff...has been systematically and maliciously tortured both physically and psychologically... Plaintiff has been maliciously subjected to cruel treatment, torture, outrages upon dignity, and humiliating and degrading treatment.").

participation.<sup>2</sup> On November 3, 2017, she additionally filed an original complaint against state judge Timothy Martin Sulak that pled facts sufficient to put the court on notice that a pattern of significant

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<sup>2</sup> Plaintiff's Amended Complaint, 1:17-CV-115-RP/1:17-CV-116-RP, EFC No. 7, at 3-5 ("In January of 2006, Plaintiff was wrongfully diagnosed with a mental health problem and placed under the care of an Egyptian born, Cairo educated psychiatrist over Plaintiff's objection. Under the care of this psychiatrist and in less than six months, Plaintiff went from being a respected and productive member of society to having her life, childhood, family history, and mental health status trashed out by several VA employees working in concert under the direction of this foreign-born psychiatrist. Plaintiff further suffered physical and psychological torture as a result of the conduct of these employees through unnecessary psychotropic doping and untreated gallbladder disease... In January of 2009, Plaintiff was approached and befriended by Defendant Christopher Lance Corsbie, a US Citizen with significant and material connections to foreign nationals... Plaintiff has been mercilessly harassed, put down, bullied, and psychologically tortured in the aftermath of her relationship with Defendant... Defendant...relied upon a false mental health diagnosis based upon fabricated mental health records to justify his actions. Defendant...also appears to have recruited a significant number of third parties to assist him in his efforts. Plaintiff...has avidly defended herself against the actions of Defendant...and that ordeal is well documented in the record from the state proceedings... At this juncture, Plaintiff has been systematically and maliciously tortured both physically and psychologically to such an extent that it is reasonable to conclude that ongoing efforts to compromise Plaintiff are intentional. While the depth of what appears to be an organized effort to compromise Plaintiff is unclear at this juncture, it does appear that foreign nationals and citizens with significant and material foreign national connections have been substantially involved with dishonest maneuvering that has enabled the torture.").

human rights violations had escalated to include Local Authority (“LA”) participation.<sup>3</sup>

Proffering a myriad of excuses and misleading characterizations of the allegations, the trial court dismissed the case for lack of subject-matter jurisdiction on July 13, 2018.<sup>4</sup>

#### **B. Lower Court Proceedings in the Court of Appeals for the Fifth Circuit**

On appeal in the Court of the Appeals for the Fifth Circuit, Petitioner urged the lower court to acknowledge that the trial court had erred by dismissing her complaint without investigating and remediating allegations of grave breaches of the Geneva Conventions.<sup>5</sup> Respondent argued, in part, that Petitioner’s arguments for Geneva Conventions

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<sup>3</sup> Plaintiff’s Original Complaint, EFC No. 1, at 2-3 (“Brandi was in the military... Brandi had a security clearance...’ were the magic buzzwords that prompted Judge Sulak to suspend Complainant’s due process rights and order Complainant to release detailed summaries of her VA medical records going all the way back to 1997 to a private law firm... [a]cross multiple cases, there exists evidence of kickback arrangements between court appointed professionals, *ex parte* communication between attorneys and judges, *ex parte* communication between attorneys and court-appointed experts, under the table payments, witness intimidation, aggravated perjury and dishonesty with the tribunal by witnesses and officers of the court alike, abusive use of medical and mental health records, extortion, blackmail, unreported child abuse, false allegations of child abuse against protective parents, retaliation against whistleblowers, and other similar illegal and unethical activities.”).

<sup>4</sup> App. at 3a-10a.

<sup>5</sup> Brief for Appellant, EFC No. 00514695770, at 11-15.

protection had been waived by inadequate briefing and late notice or presentation of the arguments.<sup>6</sup>

Without acknowledging that this case is dominated by claims involving grave breaches of the Geneva Conventions, the lower court affirmed the judgment of the trial court with a blanket adoption of the "reasons given by the District Judge, Magistrate Judge, and Appellees."<sup>7</sup>



### **REASONS FOR GRANTING THE PETITION**

#### **DECISIONS OF THE LOWER AND TRIAL COURTS CONFLICT WITH CLEAR AND ENFORCABLE PROVISIONS OF THE GENEVA CONVENTIONS.**

*The Geneva Conventions is enforceable.*

The Senate Report accompanying ratification of the Geneva Conventions demonstrates that treaty enforcement was clearly contemplated during the negotiation and ratification process and that the binding nature of the enforcement provisions at issue was well understood at the time that the Geneva Conventions were ratified by the United States.<sup>8</sup> For example, the report stated that "[e]ach of the four conventions contains certain general provisions which deal with its application and the mechanics of its enforcement."<sup>9</sup> The report went on to emphasize 1) that language preserving sovereign immunity was "roundly

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<sup>6</sup> Brief for Appellee, EFC No. 00514733176, at 6-10.

<sup>7</sup> App. at 1.

<sup>8</sup> S. Exec. Rep. No. 84-9, at 5-7 (1955).

<sup>9</sup> *Id.* at 5.

rejected” during the negotiation proceedings, 2) that future agreements cannot diminish or prejudice the rights established in the conventions, and 3) that persons protected by the conventions may not renounce any of the rights secured to them.<sup>10</sup> To further emphasize the binding and enforceable nature of the treaties, the report included information pertaining to provisions that bind the United States 1) to enact legislation necessary to provide effective penal sanctions for persons committing violations of the convention enumerated as grave breaches, 2) to accept an obligation to search for persons alleged to be responsible for the commission of breaches of the convention, and 3) to accept an obligation to try persons committing violations before United States courts regardless of their nationality.<sup>11</sup> At one point during its analysis of enforceability of a particular provision, the report went so far as to bluntly state that “once the treaty is ratified, the United States will have assumed an international obligation...to give effect to its injunctions.”<sup>12</sup> As such, the United States ratified the Geneva Conventions with full awareness of the binding nature of the agreements and the enforceability of the injunctions contained therein, including the duties and rights at issue in this case.

*Rights secured by the Geneva Conventions cannot be waived.*

All four of the Geneva Conventions as ratified by the United States expressly provide that a protected

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<sup>10</sup> *Id.* at 6.

<sup>11</sup> *Id.* at 6–7.

<sup>12</sup> *Id.* at 25.

person “may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention...”<sup>13</sup> The non-renunciation language of the Geneva Conventions could not be any clearer – Geneva Conventions rights cannot be renounced. Rights that cannot be expressly renounced certainly cannot be passively waived either, because a waiver mechanism, such as a briefing or notice requirement, would invariable circumvent the non-renunciation provision of the Geneva Conventions by providing a prohibited circumstance whereby rights could be renounced through inaction.



## CONCLUSION

For the foregoing reasons, this petition should be GRANTED.

Respectfully submitted,

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<sup>13</sup> Geneva Convention I, art. 7; Geneva Convention II, art. 7; Geneva Convention III, art. 7; Geneva Convention IV, art. 8.