

IN THE SUPREME COURT OF THE UNITED STATES

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No. 21-806

HEALTH AND HOSPITAL CORPORATION OF MARION COUNTY, ET AL.,  
PETITIONERS  
v.

IVANKA TALEVSKI, PERSONAL REPRESENTATIVE OF  
THE ESTATE OF GORGI TALEVSKI, DECEASED

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

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MOTION OF THE UNITED STATES FOR LEAVE TO  
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE,  
FOR ENLARGEMENT OF TIME FOR ORAL ARGUMENT,  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case, that the time for oral argument be enlarged to 65 minutes, and that the time be allotted as follows: 25 minutes for petitioners, 15 minutes for the United States, and 25 minutes for respondent. Petitioners and respondent have consented to this motion.

This case presents two questions. The first is whether this Court should overrule its numerous precedents holding that private parties may seek relief under 42 U.S.C. 1983 against persons acting under color of state law who violate certain rights that Congress has established in the Social Security Act, 42 U.S.C. 301 et seq., and other Spending Clause legislation. The second is whether the particular provisions of the Social Security Act at issue here, see 42 U.S.C. 1395i-3(c)(1)(A)(ii) and (2); 42 U.S.C. 1396r(c)(1)(A)(ii) and (2), are enforceable against municipally owned nursing homes under Section 1983.

Both of those questions implicate the United States' interest in ensuring that the rights established by Congress are effectively and appropriately enforced. The United States has filed a brief as amicus curiae supporting neither party, arguing that some rights established in the Social Security Act or other Spending Clause legislation are privately enforceable under Section 1983, but that allowing such enforcement with respect to the specific rights respondent invokes here would be inconsistent with the reticulated system of administrative oversight and enforcement that Congress established and that the U.S. Department of Health and Human Services superintends in connection with those rights.

The United States has previously presented oral argument as amicus curiae in cases concerning the enforceability under Section 1983 of provisions of the Social Security Act and other Spending Clause legislation. See, e.g., Gonzaga University v. Doe, 536

U.S. 273 (2002); Blessing v. Freestone, 520 U.S. 329 (1997); Suter v. Artist M., 503 U.S. 347 (1992). In light of the substantial federal interest in the questions presented, the United States' participation at oral argument would materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record

SEPTEMBER 2022