

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JESSE REGALADO, PETITIONER,

v.

TRION ET AL., RESPONDENT.

ON PETITION FOR WRIT TO CERTIORARI FROM THE UNITED STATES

COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

NO. 23-12258

WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The following questions are presented.

1. Does FR 60(b)1 and FR 60(d)(3) protect petitioners from judgments that are fraudulent and filled with mistakes?
2. Does “copyright inhere in authorship exists whether or not it is ever registered, with the United States Copyright Office?”
3. Can the Government deny citizens contracts and then use eminent domain to commandeer submitted work proposals with trademark inscriptions affixed in the course of business, indicating ownership, control, and origin of a work submitted, without compensating that citizen then use O.C.G.A §36-10-1 as their protective shield?
4. Did the Court apply old laws when stating that the Petitioner needed to establish that Chattooga County was subject to suit when Georgia Law HB 1023 – allows the people of Georgia to petition the court for relief from governmental acts done outside the scope of lawful authority or which violate the laws of Georgia, the Constitution of Georgia, or the Constitution of the United States (acts committed after January 2021)?
5. Can the Court ignore Georgia law, if Georgia law is determinative to the case?
6. Does Justice Robert’s protection against eminent domain go beyond tangible items (home, car, crops) to respective writings and discoveries?

List of Parties

1. Trion et al.
2. Town of Trion
3. City of Summerville
4. Chattooga County

Related Cases

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I. PETITION FOR WRIT OF CERTIORARI

Jesse Regalado petitions the Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

II. OPINIONS BELOW

The Eleventh Circuit's unpublished opinion affirming the district court's judgment and legal standard, *Regalado v. Trion et al.*, No. 23-12258 (11th Cir. 2024) is attached as Appendix A. The district court's order granting the Respondent's motion to dismiss for failure to state a claim, *Regalado v. Trion et al.*, No. 4:22-CV-00277 (N.D. Ga. 2023) is unpublished and attached as Appendix B. A timely petition for rehearing was denied by the United States Court of Appeals on May 9th, 2024, *Regalado v. Trion et al.*, No. 23-12258 (11th Cir. 2024) is unpublished and attached as Appendix C. A timely petition for Motion for Reconsideration was denied by the United States District Court, *Regalado v. Trion et al.*, No. 4:22-CV-00277 (N.D. Ga. 2023) is unpublished and attached as Appendix D.

III. JURISDICTION

The Eleventh Circuit entered judgment on March 14, 2024. *See* Appendix A. The Petitioner filed a timely Petition for Panel Rehearing, in the Eleventh Circuit which was denied on May 09, 2024. *See* Appendix C. This petition is timely filed pursuant to Supreme Court Rule 13.1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVEMENT

This case involves the relationship between Georgia Law HB 1023 –allowing the people of Georgia to petition the court for relief from governmental acts done outside the scope of lawful authority which violate the laws of Georgia, the Constitution of Georgia, or the Constitution of the United States (acts committed after January 2021). In this case, the Petitioner asks the Court to review governmental acts done outside the scope of the Constitution of the United States (5th, 4th, and 14th Amendments) and 28 U.S.C. § 1343(a)(3).

STATEMENT OF THE CASE

A. Introduction

This petition arises from an effort by the Petitioner to ask the 11th Circuit to review de novo the district court's order, granting a motion to dismiss for failure to state a claim, and the 11th Circuit judgment affirmed on appeal.

On October 29th, 2021, the Petitioner submitted a work proposal containing his respective writings and discoveries (environmental engineering intervention) protected by 17 U.S. Code §102, *See, Code Revision Commission, for the Benefit of and on behalf of General Assembly of Georgia, State of Georgia v. Public.Resource.Org, Inc.*, 906 F.3d 1229 (11th Cir. 2018), to the former Mayor of the Town of Trion (Larry Stensell), the current Mayor of the Town of Trion (Lanny Thomas), and the Commissioner of Chattooga County (Blake Elsberry), seeking employment. The work proposal was an attempt to convince the stakeholders that it was worth the time, money, and effort, to build a medical facility in Trion, Georgia.

The work proposal described the issues and opportunities, the proposed solution, benefits, and costs. The Petitioner asked to get paid for his respective writings and discoveries found in slide 28 of the Petitioner's work proposal. (*Id.* at *Regalado v. Trion et al.*, No. 23-12258 (11th Cir. 2024), AOB, ARB p. 25, AA [*Id.* at Vol III, Doc. 45 p. 24] and the *Regalado v. Trion et al.*, No. 4:22-CV-00277 (N.D. Ga. 2023) initial complaint).

This engineering intervention began as a project for the Petitioner's PhD Human Performance Technology course, under Dr. Baer's supervision (EDUC 732). The environmental engineering intervention assisted Chattooga County in getting its first medical facility in 28 years. The Petitioner sought compensation for his respective writings and discoveries, found in slide 28 of the Clientele Report. (*Id.*, at 23-12258G AOB; ARB, AA Vol III, Doc. 45 p. 24, Motion for rehearing (MRH) p. 25, and 4:22-CV-00277 (N.D. Ga. 2023) initial complaint).

B. 4th, 5th Amendment, 14th Amendment & FR 60 (b)(1)

The Respondents seized the Petitioner's intellectual property, *See, "Serpentfoot v. Rome city Comm.*, 322 F. App'x 801, 805 (11th Cir. 2009); *Lingle v. Chevron U.S.A Inc.*, 544 U.S. 528, 537 (2005), by monopolizing government lockdowns and social distancing during the pandemic to deny the Petitioner the ability to either make, perform, and enforce, modify, or terminate a contract under Georgia code O.C.G.A §36-10-1 causing the Petitioner's contractual rights to be somewhat thwarted. The lower Courts refused to acknowledge that "All persons within the jurisdiction of the United States shall have the same

right in every State and Territory to make and enforce contracts”. *See*, 42 U.S.C. § 1981 (2020) - Equal rights under the law. *See also*, *Arguello v. Conoco, Inc.*, 330 F.3d 355, (5th Cir. 2003); *Lopez v. Target Corp.*, 676 F. 3d. 1230 (11th Cir. 2012); and *Kinnon v. Arcoub, Gopman & Assoc.*, 490 F3d. 886, 891, (11th Cir. 2007). (*Id.* at 23-12258G AOB, ARB).

The Respondents used eminent domain to partner with Atrium Health Floyd to build their medical facility and refused to pay the Petitioner. When Chief Justice John Roberts, said the government has a categorical duty to pay compensation when it takes your car, just as when it takes your home. *See*, *Horne v. Department of Agriculture*, 569 U.S. 513 (2013); 576 U.S. 350, 135 S. Ct. 2419 (2015). The Respondents admit that the Petitioner submitted the action research as a work proposal but the Petitioner did not ask for compensation, therefore, giving them full rights and ownership to the Petitioner’s action research, and the right to pass it to Atrium Health (*Id.* at 23-12258G Appellee OB). “In Georgia, a written agreement is not required to indicate an assignment has occurred; instead, “an assignment can be inferred from the totality of the circumstances[.]” *Id.* at 247. *Forest Commodity Corp. v. Lone Star Indus., Inc.*, 255 Ga. App. 244, 245 (2002). (*Id.* at *Regalado v. Trion et al*, 23-12258G AOB, ARB).

C. D.T.S.A., G.T.S.A., Copyright & FR 60 (d)(3)

The United States District Court for the Northern District of Georgia failed to write an opinion rendering an official interpretation of the law and instead made an argument found in a law journal “that copyright notice on unpublished works is an

admission that the work is published and no longer a trade secret, citing I.N.T.E.L.L. P.O.R.P. L. B.U.S. L.A.W. § 7:20 (2023 ed.)". Research does not reveal any published case, rule, or statute supporting that a copyright symbol is an admission that the work is no longer a secret, therefor making the opinion of the court inadmissible. *See, Vient v. Highland News*, No. 22-1214 (11th Cir., Jan. 05, 2023); *Kimble v. Marvel Enterprises LLC*, 576 U.S. 446 (2015). Further, argued that the Petitioner voluntarily shared the trade secrets with the Respondents and therefore failed to make an effort to keep the action research a secret (O.C.G.A. § 10-1-761). Although, the Petitioner made great efforts to keep the plans a secret. No one could see the plans for the medical facility or the certificate of need without access to the Google link or the printed papers submitted as a work proposal to the Mayor of Trion and the Commissioner of Chattooga County. Further, the Respondents cannot prove written conveyance under 17 U.S. Code § 106 of the Copyright Act, stating that the Petitioner transferred the exclusive rights to his writings and discoveries to them. *See, Original Appalachian Artworks, Inc., v. Schlaifer Nance & Co.*, 679 F. Supp. 1564 (N.D. Ga. 1987); O.C.G.A. 10-1-761. Therefore, this cannot be characterized as part of a voluntary exchange for a valuable government benefit because the Petitioner never waived his rights to his constitutional protections, nor did he receive a valuable Government benefit in return for his action discoveries). *Ruckelshaus v. Monsanto Co.*, 467 U. S. 986, (1984) distinguished. *Leonard & Leonard v. Earle*, 279 U. S. 392, (1929) distinguished. Pp. 12–14. Also, to establish copyright infringement, a plaintiff must prove (1) [its] Ownership of the copyright

and (2) copying by the defendant". Petitioner has proved that the action research was his original work, that his unpublished work had a copyright symbol on each slide, and that each slide had his name on it (*Id.* at 23-12258G AOB, ARB, and MRH p.25). The Respondents admit that the Petitioner submitted the action research as a work proposal (*Id.* at, 23-12258G Appellee OB). But despite the Respondent submitting all these cases and laws in support for his case the Eleventh Circuit Affirmed the USDC NGa decision.

D. Lack of Injury & FR 60 (b)(1)

The Eleventh Circuit claims that there was no injury to the Petitioner. This is further from the truth. There was a significant financial injury. The Petitioner's work proposal submitted as a form of a contract seeking employment was misappropriated through eminent domain, the government used the Petitioner's respective writings and discoveries failing to compensate the Petitioner, when he specifically asked to meet with them and discuss compensation in Slide 28 of the submitted work proposal [*Id.* at MR p.25. This was the sole reason why the Petitioner sued the Respondents.

E. Georgia Law HB 1023 & FR 60 (b)(1)

Regalado had not alleged any facts to establish that Chattooga County was subject to suit. The Eleventh Circuit claimed that the Petitioner needed to establish that Chattooga County was subject to suit when Georgia Law HB 1023 – allows the people of Georgia to petition the court for relief from governmental acts done outside the scope of lawful authority or which violates the laws of Georgia, the Constitution of Georgia, or the Constitution of the United States (acts committed

after January 2021). (*Id.* at 23-12258G AOB; ARB; and MRH, p. 21-22 and 4:22-CV-00277 (N.D. Ga. 2023) initial complaint).

F. Authorship & FR 60 (b)(1)

[The Petitioner's work proposal had a copyright symbol and the Petitioner's name on every page]. Indeed, authorship allows a person to claim copyright protection regardless of whether the work has been registered with the United States Copyright Office. As we have explained, "[c]opyright inheres in authorship and exists whether or not it is ever registered." *Arthur Rutenberg Homes, Inc. v. Drew Homes, Inc.*, 29 F.3d 1529, 1531 (11th Cir. 1994). "In consequence, to ascertain who holds a copyright in a work, we ordinarily must ascertain the identity of the author" *Code Revision Commission, for the Benefit of and on behalf of General Assembly of Georgia, State of Georgia v. Public.Resource.Org, Inc.*, 906 F.3d 1229 (11th Cir. 2018).

Respondents in *Regalado* No.23-12258G admitted that the Petitioner is the author of the action research used by Atrium Health to build an emergency room which will generate billions in revenue. "The Constitution grants Congress the power "[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." Art. I, Sec. 8, cl. 8. Congress has exercised this power by passing the Copyright Act. 17 U.S.C. §101 et seq. Under the Copyright Act: Copyright protection subsists... in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of

a machine or device". *Code Revision Commission, for the Benefit of and on behalf of General Assembly of Georgia, State of Georgia v. Public.Resource.Org, Inc.*, 906 F.3d 1229 (11th Cir. 2018). *Id.* at 23-12258 AOB, ARB, and Petition for rehearing).

G. FR 60 (d)(3) Fraud

The USDC of NGa failed to read the Petitioner's complaint prior to the 03/09/2023 case. This is considered fraud since the Petitioner paid \$405 to the Federal Court to have his case read and heard by the Judge. The District courts have the power to control their own docket. *See, Clinton v. Jones*, 520 U.S. 681, 706 (1997). Therefore, the case was chosen by the Court and placed on the docket to be heard based on its importance by the Court. Yet the Court was unaware of any of the motions filed or why they were filed. (*Id.* at et al, 23-12258 AOB p. 58; ARB).

Trial Transcript 03/09/2023 (Tr. 60) AOB p.58

MR. REGALADO: You said that we were going to talk about all the motions. And one of the motions is to seal protective documents.

THE COURT: Documents that you've already filed on the record?

MR. REGALADO: Yeah.

They're medical records –

THE COURT: Whose medical records? MR. REGALADO: Mine.

THE COURT: You want your medical records sealed?

MR. REGALADO: Not just my medical records MR. REGALADO:

Not just my medical records compilation of student records.

Although they're straight A's, they also have my student number ID on it. And I don't want anyone to have that.

THE COURT: Who filed those records?

MR. REGALADO: I did.

THE COURT: Why did you file them?

Trial Transcript 03/09/2023 TR. 61 AOB p.59

MR. REGALADO: Because the -- to show that this plan started at -- as homework for Liberty University.

All this started at Liberty. My whole thing to help the City of Trion

and the county in general started at Liberty University.

In my EDOC 732 Human Performance Improvement course was when I decided to use that course to assist the city. So the medical records were submitted because I got sick. I got real sick. And they told me my appendix was about to burst. And so I thought that I -- I didn't know how far away the hospital was. I was in Atlanta. I live five minutes away from the hospital. Even in Porterdale, the hospital is right there in Covington. So when I drove myself to the hospital, that's when I found out just how far away it was. And then at varying speeds, 65 miles, 55 miles, and having to do those corners -- when I got to hospital, they did the sonograms and all of that.

But that - - when I came back, that's when I got in contact with my professor. And I said, these people are in dire need of a hospital.

The Court did not read the Petitioner's initial complaint, motions, or response to motions before the court hearing. The Court was not familiar with the case before the ruling. The Petitioner couldn't possibly go over every submitted argument during the trial and therefore relied on the Judge being familiar with the submitted motions and arguments. The entire case surrounded the Petitioner's Liberty University capstone coursework submitted to Chattooga County as a work proposal when he believed he was employed by them. Because, in Georgia, a written agreement is not required to indicate an assignment has occurred; instead, "an assignment can be inferred from the totality of the circumstances[.]" *Id.* at 247. *Forest Commodity Corp. v. Lone Star Indus., Inc.*, 255 Ga. App. 244, 245 (2002). Also, Georgia Law HB 1023 --allows the people of Georgia to petition the court for relief from governmental acts done outside

the scope of lawful authority or which violate the laws of Georgia, the Constitution of Georgia, or the Constitution of the United States (acts committed after January 2021) (*Id.* at 23-12258 MRH, p. 21-22 and 4:22-CV-00277 (N.D. Ga. 2023) initial complaint).).

V. REASONS FOR GRANTING THE WRIT

A. This Court's intervention is necessary to resolve a conflict between State Georgia Law HB 1023 which allows the people of Georgia to petition the court for relief from governmental acts done outside the scope of lawful authority or which violates the laws of this state, the Constitution of Georgia, or the Constitution of the United States (HB 1023 covers any act committed after January 2021) and an antiquated 1978 Federal law case stating that the Petitioner needed to establish that Chattooga County was subject to suit *Monell v. Dep't of Soc. Serv.*, 436 U.S. 658, 695 (1978). The lower Courts refused to certify the question to the Georgia Supreme Court to clarify the new Georgia Law. Therefore, the Petitioner asks this Court to resolve whether the Federal Courts can ignore Georgia law if Georgia law is determinative to the case. The Petitioner filed his case in the USDC of the NDGa on 12/29/2022, therefore the new Georgia law, HB 1023, applies.

B. The Court's intervention is necessary to resolve whether copyright inheres in authorship and exists whether or not it is ever registered. According to *Arthur Rutenberg Homes, Inc. v. Drew Homes, Inc.*, 29 F.3d 1529, 1531 (11th Cir. 1994) "[c]opyright inheres in authorship and exists whether or not it is ever registered." And to ascertain who holds a copyright in a work, we ordinarily must ascertain the

identity of the author” *Code Revision Commission, for the Benefit of and on behalf of General Assembly of Georgia, State of Georgia v. Public.Resource.Org, Inc.*, 906 F.3d 1229 (11th Cir. 2018). The Petitioner had his name and a copyright symbol in each page of the PowerPoint submitted as a work proposal to the Town of Trion and Chattooga County.

C. This Court’s intervention is necessary to resolve whether the Government can use O.C.G.A §36-10-1 as a shield to deny citizens contracts and then use eminent domain to commandeer submitted work proposals with trademark inscriptions. The Petitioner submitted a work proposal to the Town of Trion and Chattooga County, the city and the county rejected the bid then used the content in the proposal and hid behind O.C.G.A §36-10-1 stating that because they rejected the bid and didn’t put it in writing or offer him a contract or put it in minutes, it gave the Government the right to use the Petitioner’s respective writings and discoveries and refuse to pay him. When Chief Justice John Roberts, said the government has a categorical duty to pay compensation when it takes your car, just as when it takes your home, therefore it should apply to submitted work proposals.

D. Finally, the Court’s intervention is necessary to resolve whether FR60(b)1 and FR 60(d)(3) protect petitioners from judgments that are fraudulent and filled with mistakes.

1. There were several mistakes made by the court from ignoring Georgia law HB 1023 and applying a 1978 antiquated federal case as stare decisis.

2. The Lower Court refused to identify the author or apply stare decisis. “[c]opyright inheres in authorship and exists whether or not it is ever registered” *Arthur Rutenberg Homes, Inc. v. Drew Homes, Inc.*, 29 F.3d 1529, 1531 (11th Cir. 1994).
3. Finally, the USDC NGa Judge failed to read the case or motions before scheduling the hearing.

VI. CONCLUSION AND PRAYER FOR RELIEF

The Eleventh Circuit needs guidance about how to apply and incorporate the New Georgia Law HB 1023 into Federal cases in circumstances where Georgia law is determinative to the case. At present, Georgia Law HB 1023 – states Sovereign immunity is hereby waived and allows the people of Georgia to petition the court for relief from governmental acts done outside the scope of lawful authority or which violate the laws of Georgia, the Constitution of Georgia, or the Constitution of the United States (acts committed after January 2021).

This “procedural defect” is a conflict that deserves resolution by this Court. Absent this Court’s intervention, the Eleventh Circuit’s misapplication of Georgia law HB 1023 “waiving immunity” means that no court will review whether the lower courts constituted a defect and unfairly deprived Petitioner of his sole opportunity to certify a question of Georgia law to the Georgia Supreme Court to examine whether the Petitioner needed to establish that Chattooga County was subject to suit. The Eleventh Circuit’s continued misapplication of all other issues presented in this pleading including FR 60(b)1 and FR 60(d)(3) protecting Petitioners from judgments

that are fraudulent and filled with mistakes, whether copyright inheres in authorship exists whether or not it is ever registered with the United States Copyright Office, and whether O.C.G.A §36-10-1 allows for the Government to utilize eminent domain and refuse to pay citizens for their respective writings and discoveries by simply stating they didn't give their citizens a contract or enter it in minutes, therefore, giving them absolute power to seize any respective writings and discoveries submitted to them if they simply choose not to offer a contract or enter it in minutes. Without the Supreme Court's intervention, for a review of substantial legal and factual disputes, the Citizens in the State of Georgia will never get an appropriate chance to dispute whether the government can seize submitted work proposals, use their respective writings and discoveries and refuse them a contract and compensation.

This Court should grant certiorari to review the Eleventh Circuit's judgment affirming the United States District Court of the Northern District of Georgia's ruling on the issues raised in Petitioner's motion, summarily reverse the decision below, hold this case as it considers the scope of Regalado in another case, or grant such other relief as justice requires.

Respectfully submitted,

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