RKB

No. 24-5839

In the Supreme Court of the United States

JBG SMITH PROPERTIES, LP FIRST RESIDENCES,
PLAINTIFF RESPONDENT

v.

JORDAN POWELL,
PETITIONER

v.

UNITED STATES SMALL BUSINESS ADMINISTRATION,
THIRD PARTY DEFENDANT RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR REHEARING

JORDAN POWELL
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TO THE HONORABLE JUSTICES OF THE UNITED STATES SUPREME COURT FOR REHEARING OF A PETITION FOR A WRIT OF CERTIORARI

Pursuant to Rule 44.2 of the Court, Petitioner respectfully petitions for rehearing of a petition for a writ of certiorari based on the following grounds:

1. Intervening Circumstances of a Substantial or Controlling Effect

Powell v. JBG, et al., 24-cv-3215, was removed from Superior Court on November 4, 2024, with a remand entered on December 9, 2024. It is currently pending appeal, with a notice filed on February 7, 2025. In it, the Petitioner asserts that the district court erred in determining that the Plaintiff did not demonstrate the denial or unenforceability of his civil rights in the Superior Court.

There, the D.C. Circuit will consider whether § 641 of the Revised Statutes of 1874 and its 28 U.S.C. §§ 1343 and 1443 progeny establish federal question jurisdiction in the District of Columbia where equal rights in judicial proceedings cannot be enforced particularly in this jurisdiction within the United States as the only predominantly African American jurisdiction therein where these rights were denied by the Superior Court through an order certain to declare victory for the Plaintiff and deny the Defendant of his equal rights to due process. "In *Rives* [...] the Court noted that the denial of which the removal provision speaks "is primarily, if not exclusively, a denial . . . resulting from the Constitution or laws of the State . . . ." 100 U. S., at 319. (Emphasis supplied.) This statement was reaffirmed in *Gibson v. Mississippi*, 162 U. S. 565, 581. The Court thereby gave some indication that removal might be justified, even in the absence of a discriminatory state enactment, if an equivalent basis could be shown for an equally firm prediction that the defendant would be "denied or cannot enforce" the specified federal rights in the state court. Such a basis for prediction exists in the present case." *Georgia v. Rachel*, 384 U.S. 780, 804 (1966).

Moreover, the nature of the suit would establish mootness in the D.C. Court of Appeals considering no effective remainder of a case or controversy below and the jurisdictional limit there as well where no jurisdiction is conferred to either local D.C. court under 15 U.S.C. § 634. See also D.C. Code § 11–946; 84 Stat. 487, Pub. L. 91-358, title I, § 111; D.C. Code § 11–921; D.C. Code § 1–204.31. "The Court in *Strauder* and *Rives* concluded that a state enactment, discriminatory on its face, so clearly authorized discrimination that it could be taken as a suitable indication that all courts in that State would disregard the federal right of equality with which the state enactment was precisely in conflict." *Georgia v. Rachel*, 384 U.S. 780, 800 (1966). Therefore state [local] law must allow discrimination here in the absence of removal to federal court.

The notice of removal in *Powell v. JBG*, et al., 24-cv-3215 evidences the predisposition of the former President as inclined towards racial segregationist character traits as established by historical public records and the formally stated public policy of Biden's U.S. Small Business Administration which separates the availability of public services by ethnicity. Furthermore, the notice asserts the use of electronic weapons systems was engaged to discourage the assertion of certain, U.S. persons and human, rights with further reference to United Nations Report A/175/179 concerning "torture and ill-treatment." For instance, the inputs by individuals and civic organizations there as cited in the notice of removal include further reference to non-lethal U.S. military weapons systems such as the "Active Denial" system designed to remotely inflict pain on individuals for a variety of purposes including crowd control alongside the concerns of civic organizations like Human Rights Watch that systems designed solely to inflict pain present the possibility of abuses that qualify as torture and therefore violations of international law. Petitioner's notice also alleges bodily injury with reference to personal medical records also held by GWU hospital

and the complaint cites earlier litigation where Petitioner alleges "excruciating pain."

Moreover, Petitioner's notice also refers to a 1995 Senate Report (Congressional Record Volume 141, Number 114) which notes that then-Senator Biden was consulted on a matter concerning a social gathering of federal law enforcement officers with the stated purpose of glorifying racial discrimination and hate crimes featuring crude displays such as "N***** CHECK POINT" and the availability of memorabilia for sale including t-shirts showing "Martin Luther King's face behind a target" and one designed to be perceived as an act of racial profiling below the words "Boyz on the Hood", in addition to other items such as "N***** hunting licenses." Petitioner asserts an identical nature of activity individually directed with an intent and purpose of harassment, discrimination, and violence made clear in no uncertain terms; and *audiograms* with specific reference to the involvement and direction of former President Biden also made clear in no uncertain terms.[1] Verifiable traceability, however, is described in Petitioner's notice as likely too unduly burdensome for this particular allegation and that the district court should follow the direction of Congress in 42 U.S.C. § 1988 such that "the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the

1 See *The McKinney Report [Microwave Harassment]: by Julianne McKinney, Director, Electronic Surveillance Project, Association of National Security*, at 4-5 ("The Walter Reed Army Institute of Research ... discovered that externally-induced auditory input could be achieved by means of pulsed microwave audiograms ... Executive Orders and regulations which currently limit U.S. Intelligence activities do not extend to non-intelligence government agencies or to their contractors. In fact, Executive Order 12333 specifies that government contractors do not need to know that their services support U.S. Intelligence objectives.") See also T*ransmissibility of Microwaves to ELF Waves Compatible to Brain Rhythms* by G.C. Sih, Theoretical and Applied Fracture Mechanics 65 (2013) 55–60 ("The GWEN transmitters placed 320 km apart across the US allow the magnetic field to be altered to specific frequencies ... The US is bathed in this magnetic field ... functions of GWEN may include ... synthetic-telepathy can send infrasound to victims."); See also *THE BEHAVIORAL TOXICOLOGY OF HIGH-PEAK, LOW AVERAGE POWER, PULSED MICROWAVE IRRADIATION*, Department of Microwave Research, Division of Neuropsychiatry, Walter Reed Army Institute of Research, U.S. Army Medical Research & Development Command at iii, 34 ("The pattern of results suggests at least two effects of high-power pulsed microwaves: memory impairment and decreased physical endurance. ... Either thermoelastic expansion of the brain, which is believed to be the cause of "microwave hearing" (Lin, 1980), or neurochemical changes in the brain could represent a sufficient insult to the brain to disrupt cognitive function...").

United States, so far as such laws are suitable to carry the same into effect."

The potential violation of the International Convention on the Elimination of All Forms of Racial Discrimination (EAFRD) set forth as foreseeable in Plaintiff's Cert. Petition at 18 is further exacerbated by these intervening circumstances with controlling effect. More specifically, outlined in Exhibit 8 (Communiqué to the Justice Liaison of the French Embassy in Washington, D.C.) as attached to the Motion for a Preliminary Injunction in 24-cv-3215 (DCD), international law (EARFD) presents a very strong likelihood of the following controlling effect upon exhaustion of all domestic remedies:

> "Article 14...: 6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention....
>
> (b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
>
> 7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged."

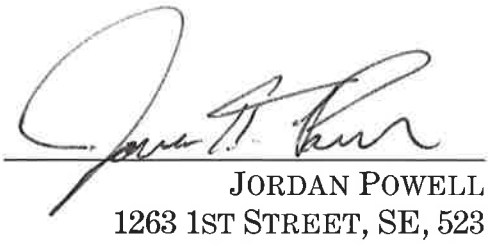
Provided Petitioner has continued to seek rights established in domestic law for now over four years, it may be determined that domestic remedies have been unreasonably prolonged and introduce international law with controlling effect. Accordingly, upon rehearing "it would be of material assistance to consult any [expedited] decision in [*Powell v. JBG*, et al., No. _____ (D.C. Cir. 2025)] currently pending in the United States Court of Appeals for the District of Columbia Circuit." See *Boumediene v. Bush*, 551 U.S. 1160 (2007) (Petition for Certiorari, Rehearing Granted, regarding a jurisdictional matter with underlying concerns of torture and ill-treatment).

2. Other Substantial Grounds Not Previously Presented

On October 29, 2024, regarding 28 U.S.C. § 1443 the Fourth Circuit held "Congress adopted the NVRA in part to "[prevent harm to] various groups, including racial minorities." 52 U.S.C. § 20501(a)" and that qualifies as an applicable law in terms of racial equality for purposes of civil rights removal. *Republican National Committee v. North Carolina State Board of Elections,* Nos. 24-2044, 24-2045 (4th Cir.) (PART B). Similarly, the Civil Rights Act of 1866 and 1871 as combined in § 641 of the Revised Statutes of 1874 and its 28 U.S.C. §§ 1343 and 1443 progeny include but are certainly not limited to removal protections from racial discrimination according to their unambiguous text. See Rev. Stat. §641; ch. 90, §4, 13 Stat. 508-509; ch. 373, §5, 24 Stat. 555; ch. 866, §5, 25 Stat. 436; and 28 U.S.C. § 1443. See also Cert. Petition at 13. Meanwhile, "the *Strauder-Rives* doctrine, as consistently applied in all these cases, required a removal petition to allege, not merely that rights of equality would be denied or could not be enforced, but that the denial would take place in the courts of the State. The doctrine also required that the denial be manifest in a formal expression of state law." *Rachel* at 803. Accordingly upon relying on "any law providing for equal rights" under 28 U.S.C. § 1443 instead of a formal expression of state law, the Fourth Circuit in *Republican National Committee v. North Carolina State Board of Elections* departs from the holding in *Rachel* to become consistent with the Court's holding in *Bostock* where "only the words on the page constitute the law adopted by Congress." *Bostock v. Clayton County, Georgia*, 590 U.S. 644, 654 (2020).

Regarding 28 U.S.C. § 1443, on December 13, 2024, the Third Circuit states that 28 U.S.C. § 1455 "requires the filer to include all grounds for the removal in the notice." *Pennsylvania v. Holloway*, 24-2209 (3rd Cir.) 2024. It may be worth noting that this provision concerns the removal of criminal cases where no similar provision exists for the removal of civil cases.

Respectfully submitted,



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PROOF OF SERVICE

I, Jordan Powell, do swear or declare that on this date, February 7, 2025, as required by Supreme Court Rule 29 I have served the enclosed Petition for Rehearing on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. The name or title and address of those served are as follows:

Solicitor General of the United States
Room 5614, Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530–0001

Melissa Polito
4200 Parliament Place
Suite 100
Lanham, MD 20706

I declare under penalty of perjury that the foregoing is true and correct.

Jordan Powell