



No. 26-287

In the Supreme Court of the United States

BENZO ELIAS RUDNIKAS,

Petitioner,

v.

STATE OF FLORIDA, ET AL.

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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APRIL MMXXVI

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QUESTIONS PRESENTED

1. Whether the Eleventh's Circuit's application of the fugitive disentitlement doctrine was unjustified and unconstitutional? Whether the Eleventh Circuit's application of the fugitive disentitlement doctrine departed from this Court's precedent in *Degen v. United States*, 517 U.S. 820 (1996) and *Hovey v. Elliott*, 167 U.S. 409 (1897)? Whether the Eleventh Circuit abused its discretion in not issuing a written opinion when issuing the severe sanction of fugitive disentitlement in a civil case?

2. In *Tex. Dept. of Cmty. Affairs v. Burdine*, 450 U.S. 248, 254 (1981), this Court held that a Defendant's failure to rebut the prima facie case of discrimination entitles the Plaintiff to judgment as a matter of law. In the instant case, the State Respondents admitted on appeal that they did not rebut Plaintiff's prima facie case of ADA retaliation. Nonetheless, the Eleventh Circuit dismissed his appeal under the fugitive disentitlement doctrine. The question presented is: Whether Petitioner's entitlement to injunction under 42 U.S.C. § 12203(a)-(c), as established by the admission to liability by the State Respondents in their answer brief, outweighs the policy objectives of the fugitive disentitlement doctrine? Whether the doctrine of vindictive prosecution outweighs the application of the fugitive disentitlement doctrine in a civil case?

3. Like the statute at issue in *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023), Section 1447(d) of Title 28 creates a rare statutory exception to the usual rule that parties may not appeal before final judgment. Section 1447(d) permits the immediate appeal of a

remand order in a case removed under the federal officer removal statute, 28 U.S.C. § 1442(a) and civil rights statute 28 U.S.C. § 1443. The question presented is: Whether a remand order appealed under 28 U.S.C. § 1447(d), like the orders at issue in *Coinbase*, is subject to an automatic stay pending appeal. If so, whether the Writ of Bodily Attachment issued by the State Respondents in the related case, that the Eleventh Circuit used as the basis for its application of the fugitive disentitlement doctrine in the instant case, is void ab initio for lack of jurisdiction?

PARTIES TO THE PROCEEDINGS

Petitioner, and plaintiff-appellant below is Benzo Elias Rudnikas.

Respondents, and defendants-appellees below are State of Florida, Governor of Florida, Eleventh Judicial Circuit of Florida, Jorge E. Cueto, Nushin G. Sayfie, (collectively "the State Respondents") as well as Elena Z. George, Alex Cuello, and Law Office of Alex Cuello, P.A.

Additional defendants-appellees below are Mercedes Gisela Gonzalez Artiles; George Bartram Billbrough; The Billbrough Firm, P.A.; Luis E. Barreto; Luisa Linares, Stokes & Gonzalez, P.A.; Jacinto Jose Gonzalez; Mark Lee Stokes; Teresa Galindo; NAI Global of New York City, Inc.; Alexander Waddey; WLS, L.C.; Edward Schmidt; Craig Merlin; Gina Nguyen; Maria Mercedes Rudnikas; Max Lopez; Fausto A. Rosales; The Law Office of Fausto A. Rosales, P.A.; BankUnited, N.A.; Fidelity Brokerage Services, LLC.; U.S Century Bank. These parties reached a settlement with Petition on appeal, and therefore are not respondents on this petition.

RELATED PROCEEDINGS

United States District Court (SDFL):

Rudnikas v. Fidelity Brokerage Services, LLC. et. al., No. 1:24-cv-24547-JEM
(Jan. 31, 2025) (motion for preliminary injunction denied)

Rudnikas v. Fidelity Brokerage Services, LLC. et. al., No. 1:24-cv-24547-JEM
(Feb. 25, 2025) (dismissed)

United States Court of Appeals (CA11):

Rudnikas v. Fidelity Brokerage Services, LLC. et. al., No. 25-10671 (Dec. 18, 2025)
(appeal dismissed)

Rudnikas v. Fidelity Brokerage Services, LLC. et. al., No. 25-10671 (Mar. 10, 2026)
(motion for reconsideration and published writte opinion denied)

Supreme Court of the United States:

Benzo Elias Rudnikas, Applicant v. Fidelity Brokerage Services, LLC., et. al., No. 25A1001; (Mar. 12, 2026) (time to petition for certiorari extended until April 17, 2026)

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JURISDICTION

The Eleventh Circuit dismissed the appeal on December 18, 2025.

Justice Thomas extended the time to petition for writ of certiorari until April 17, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

I. Facts Material for Consideration of Question Presented

On November 18, 2024, Plaintiff filed suit in the United States District Court for the Southern District of Florida against various Defendants asserting federal question jurisdiction, 28 U.S.C. § 1331 and supplemental jurisdiction, 28 U.S.C. § 1367. Plaintiff pled a variety of federal statutory claims pursuant to 42 U.S.C. § 12203; 42 U.S.C. § 12132; 29 U.S.C. § 794; 18 U.S.C. § 1836; 18 U.S.C. § 1030; 15 U.S.C. § 1121; 18 U.S.C. §§ 2510-2523; §§ 2701-2722 as well state law claims related to: the administration of his father's probate estate, the guardianship of his grandmother, the disposition of his late father's federal maritime law practice that was never made part of the probate estate as well as other non-probate assets such as his father and grandmother's fidelity retirement accounts and life insurance policies that have never been

accounted for. On January 21, 2025, Plaintiff moved for a preliminary injunction against the State Respondents, seeking to enjoin them from pursuing an indirect criminal contempt proceeding in state court. The Order to Show Cause for indirect criminal contempt that was issued by the State Respondents stated that Plaintiff needed to show cause why he should not be held indirect criminal contempt for recording a federal lis pendens on a commercial property previously owned by his father, which Appellant had beneficial title to as an intestate heir of his grandmother's estate (Petitioner's grandmother passed away on May 29, 2024.)

Plaintiff alleged that the indirect criminal contempt proceeding was retaliation for a separate ADA discrimination federal lawsuit Plaintiff filed against the State Respondents on May 28, 2024. See *Rudnikas v. State of Florida, et. al.*; Case # 24-CV-22031-JEM. Plaintiff argued that he was entitled to an injunction under 42 U.S.C. §12203.

On January 31, 2025, the District Court denied the injunction. On February 2, 2025, Plaintiff appealed the denial of the injunction pursuant to 28 U.S.C. § 1292. On February 25, 2025, the District Court *sua sponte* dismissed his amended complaint, notwithstanding the ongoing appeal. On March 2, 2025, Plaintiff filed an amended notice of appeal to also include the District's Order of Dismissal.¹

¹ The Appellees initially challenged via motions in the Eleventh Circuit whether Plaintiff could file an amended notice of appeal to include the order of dismissal without prejudice and with leave to amend under the doctrine of pendent appellate jurisdiction. The Eleventh Circuit ultimately ruled that Appellant could appeal the Order of Dismissal without Prejudice and with leave to

On July 8, 2025, while his appeal of the Order of Remand was still pending in the Eleventh Circuit, the State Respondents initiated successive indirect criminal contempt proceedings against Petitioner. This time they wanted to Petitioner to show cause why he should not be held in indirect criminal contempt for filing federal lawsuits (including this lawsuit). Specifically, the federal lawsuits of *Rudnikas v. State of Florida, et. al.*; D.C. No. 24-CV-22031-JEM and *Rudnikas v. Fidelity Brokerage Services, LLC., et. al.*; D.C. No. 24-CV-24547-JEM.

In September 2025, while the case was on appeal, Appellant reached a settlement with 15 defendants. Shortly after, Plaintiff filed his initial brief. As to the state defendants, Appellant argued in his initial brief that he was entitled to an injunction under this Court's precedent because the State Respondents failed to rebut Appellant's prima facie case of retaliation when opposing the injunction at the district court.

Thereafter, in October 2025, several of the remaining defendants, Elena Z. George, Alex Cuello, and Law Office of Alex Cuello, P.A. filed a motion to dismiss the appeal under the fugitive disentitlement doctrine.² The motions were based on a Writ of Bodily Attachment issued by the State Respondents for an indirect criminal contempt proceeding that arose out of his father's related probate case. Petitioner removed the

amend under 28 U.S.C. § 1291 as Appellant's amended notice of appeal rendered the District Court's Order "final".

² Defendant Maria Mercedes Rudnikas also filed a motion to dismiss under the fugitive disentitlement doctrine, but a settlement was reached with her as well as Defendants Max Lopez, Fausto A. Rosales, and The Law Office of Fausto A. Rosales, P.A. on February 10, 2026.

related contempt proceeding to the Southern District of Florida on July 17, 2024, asserting federal removal jurisdiction pursuant to 28 U.S.C. § 1442 and 28 U.S.C. § 1443. See *State of Florida v. Rudnikas*; Case # 24-CV-22733-JEM. In that related case, the district court entered its Order of Remand on November 27, 2024. On the same day, Petitioner filed his Notice of Appeal of the Order of Remand pursuant to 28 U.S.C. § 1447(d). See *State of Florida v. Rudnikas*; CA11 No. 24-13914. While his appeal of the Order of Remand was pending in the Eleventh Circuit, the State Respondents, which includes the State Court and the State Court Probate Judge, Jorge E. Cueto, issued a subsequent Order to Show Cause for Indirect Criminal Contempt based on the same grounds that Appellant was already appealing in the Eleventh Circuit. On March 21, 2025, when Plaintiff did not show up to the state court hearing because of his pending appeal with the Eleventh Circuit, the State Respondents issued a Writ of Bodily Attachment.

That said, Elena Z. George, Alex Cuello, and Law Office of Alex Cuello, P.A. argued in their motions to dismiss that Plaintiff was a fugitive from the state court contempt proceedings because he never obtained a stay pending appeal of the order of remand and that he was therefore barred from raising his civil claims in this case that were related to the probate case under the fugitive disentitlement doctrine as long as the Writ of Bodily Attachment remained outstanding.

In November 2025, Plaintiff filed his response in opposition to the motions to dismiss. On December 3, 2025, Plaintiff requested that the Eleventh Circuit stay adjudication of the motions to dismiss pending

this Court's adjudication of the Writ of Certiorari filed in the matter of *Express Scripts Inc, et. al. v. State of California*, No. 25-327. In that case this Court was considering whether an appeal of remand order pursuant to 28 U.S.C. 1447(d) was subject to an automatic stay pending appeal.

Plaintiff argued to the Eleventh Circuit that if certiorari was granted, it would mean the Writ of Bodily Attachment issued by the State Respondents while his appeal of the Order of Remand was pending was void ab initio for lack of jurisdiction because of the divestiture of jurisdiction imposed by the automatic stay pending appeal. Plaintiff argued if the Writ of Bodily Attachment was issued without jurisdiction and therefore void, then he could not be a fugitive and application of the fugitive disentitlement doctrine would be inappropriate. On December 11, 2025, Alex Cuello and Law Office of Alex Cuello, P.A. filed a response in opposition to the motion arguing that it was unlikely this Court would grant certiorari and arguing in favor of the arguments made in the State of California's brief in opposition. On December 12, 2025, Appellee Elena Z. George filed a Notice of Joinder in the Response filed by Alex Cuello and Law Office of Alex Cuello, P.A. On December 17, 2025, the State Respondents filed their answer brief where they did not dispute that they failed to provide a non-discriminatory reason to rebut Plaintiff's prima facie case of retaliation. Instead, they argued that that State Respondent Jorge E. Cueto should not have to explain himself to a federal court because he is a state court judge. Specifically, the answer brief stated:

"The Appellant suggests that Judge Cueto should have to explain any difference in the orders issued in

the probate case. (IB 25) The United States Supreme Court has highlighted the importance of preventing judges from testifying regarding their thought processes in entering an order because such an examination “would be destructive of judicial responsibility.” See *United States v. Morgan*, 313 U.S. 409, 422 (1941) (a judge’s thought process relevant to judicial decisions is not within the purview of an examination).”

The State Respondents made this argument despite this Court holding in *Tennessee v. Lane*, 541 U.S. 509 (2004) that their Eleventh Amendment immunity is abrogated under the ADA. The next day, instead of granting Plaintiff the injunction as required given the admission in the answer brief by the State Respondents, the Eleventh Circuit granted the motions to dismiss the appeal under the fugitive disentitlement doctrine including as to the State Defendants, without a written opinion and without the State Defendants ever having filed a motion to dismiss.

II. Procedural History

On November 18, 2024, Appellant filed his initial complaint in the district court [ECF 1]. On January 13, 2025, Appellant filed his verified amended complaint [ECF 30]. On January 21, 2025, Appellant filed his Emergency Motion for Preliminary, Permanent Injunction against the State Defendants under Fed. R. Civ. P. 65 and ADA retaliation clause of Title V of the Americans With Disabilities Act, 42 U.S.C. § 12203(a)-(c) [ECF 35]. On January 24, 2025, Appellant filed his verified emergency motion for an evidentiary hearing on Appellant’s Emergency Motion for Preliminary, Permanent Injunction Against the State

Defendants [ECF 43]. On January 24, 2025, the Court entered a paperless Order requiring an expedited response from the State Defendants to Appellant's preliminary injunction motions on or before January 28, 2025 and permitting Appellant to file a reply by January 30, 2025 [ECF 44]. On January 28, 2025, the State Defendants filed their response in opposition to Appellant's Emergency Motion for Preliminary, Permanent Injunction [ECF 50]. On January 30, 2025, Appellant filed his Reply [ECF 55] to the Response [ECF 50] filed by the State Defendants. On January 31, 2025, the district court entered its Omnibus Order denying Appellant's Emergency Motion for Preliminary Permanent Injunction against the State Defendants and denying the motion for an evidentiary hearing [ECF 58]. On February 2, 2025, Appellant filed his Notice of Interlocutory Appeal of the district court's Order denying his Emergency Motion for Preliminary, Permanent Injunction against the State Defendants and denying the motion for an evidentiary hearing [ECF 67]. On February 25, 2025, the district court sua sponte dismissed Appellant's entire amended complaint without prejudice with leave to amend. On March 2, 2025, Appellant timely filed his Amended Notice of Appeal to also include the district court's Sua Sponte Order of Dismissal without prejudice [ECF 106]. In October 2025, Respondents Elena Z. George, Alex Cuello, and Law Office of Alex Cuello, P.A. filed motions to dismiss the appeal under the fugitive disentitlement doctrine. In November 2025, Appellant timely filed his responses in opposition to the motions.

On November 18, 2025, Appellant filed his corrected initial brief in the Eleventh Circuit arguing, *inter alia*, that the State Respondents failed to rebut

Appellant's prima facie case of retaliation when opposing the injunction at the district court. On December 17, 2025, the State Respondents filed their answer brief admitting that they did not rebut Appellant's prima facie case of retaliation, but arguing, nonetheless, in essence, that a rebuttal should not have to be provided because respondent Jorge E. Cueto is a state court judge. On December 18, 2025, the Eleventh Circuit granted the motions to dismiss appeal under the fugitive disentitlement doctrine, including as to the State Defendants, whom never filed any motion to dismiss. On January 8, 2026, Appellant moved for reconsideration and for a published written opinion. On March 10, 2026, the Eleventh Circuit denied the motion for reconsideration and for a published written opinion. On March 12, 2026, Justice Thomas extended the time to petition for writ of certiorari to and through April 17, 2026.

REASONS FOR GRANTING THE PETITION

In *Degen v. United States*, Degen, 517 U.S. at 825–28, this Court enumerated five factors for Federal Courts to consider when issuing the sanction of fugitive disentitlement in a civil case: 1) the risk of delay or frustration in determining the merits of the claim; 2) the unenforceability of the judgment; 3) the compromising of a criminal case by the use of civil discovery mechanisms; 4) the indignity visited on the court; and 5) deterrence. As explained below, none of these concerns are present in the instant case.

**I. No Risk of Delay or Frustration In
Determining the Merits of Petitioner's
Claims**

First, there is no risk of delay or frustration in determining the merits of the Petitioner's claims against either of the remaining respondents. As to the State Respondents, Petitioner sued them under 42 U.S.C. § 12132; 29 U.S.C. § 794; and 42 U.S.C. § 12203(a)-(c), seeking injunctive relief and damages. The adjudication of the claims by the district court and the Eleventh Circuit are independent of Petitioner's absence from the state court contempt proceedings. Petitioner's absence from the state court does not in any way impede the Eleventh Circuit's merits adjudication of these federal claims and there is nothing in the record from the Eleventh Circuit nor any objection from the State Respondents to suggest otherwise. In fact, the State Respondents never filed any fugitive disentitlement motion at all.

The remaining respondents, Alex Cuello, Elena Z. George, and Law Office of Alex Cuello, P.A., were brought into the case under supplemental jurisdiction and were sued under Florida state common law for breach of fiduciary duty, aiding and abetting breach of fiduciary duty, intentional infliction of emotional distress, and tortious interference with an inheritance. The adjudication of the claims by the district court and the Eleventh Circuit are independent of Petitioner's absence from the state court contempt proceedings. Specifically, Petitioner's absence from the state court contempt proceedings does not impede the Eleventh Circuit's adjudication of these claims and there is nothing in the record from the Eleventh

Circuit nor any objection from Respondents Elena Z. George, Alex Cuello, and Law Office of Alex Cuello, P.A. to suggest otherwise. *Ortega-Rodriguez v. U.S.*, 507 U.S. 234, 246 (1993) ("We cannot accept an expansion of this reasoning that would allow an appellate court to sanction by dismissal any conduct that exhibited disrespect for any aspect of the judicial system, even where such conduct has no connection to the course of appellate proceedings.")

In fact, the motions to dismiss filed by Elena Z. George, Alex Cuello, Law Office of Alex Cuello, P.A., that were granted by the Eleventh Circuit, failed to explain at all how they are prejudiced in any way in defending any of the claims brought by Petitioner. Further, any concern that these respondents had regarding delay or frustration in the litigation later down the line was already addressed by this Court in *Degen*. Specifically, this Court explained that Degen's absence entitles him to no advantage, if an Order of the district court compels his physical appearance and he fails to appear, the district court would be free to issue the sanction of dismissal. *Degen v. U.S.*, 517 U.S. 820, 827 (1996) ("Degen's absence entitles him to no advantage. If his unwillingness to appear in person results in non-compliance with a legitimate order of the court respecting pleading, discovery, the presentation of evidence, or other matters, he will be exposed to the same sanctions as any other uncooperative party. A federal court has at its disposal an array of means to enforce its orders, including dismissal in an appropriate case.") Moreover, any concern regarding the enforceability of an award of attorney's fees or costs that could accompany an adverse judgment is made obsolete by the fact that the state respondents

have Appellant's property in their custody. Any adverse judgment against Petitioner for attorney's fees and costs can be satisfied via Petitioner's share of the probate and non-probate assets the State Respondents have in their custody via the probate cases. Or the Eleventh Circuit can simply require Appellant to post a bond. Posed otherwise, there many other ways to address any potential concerns, without resorting to the draconian sanction of disentitlement.

II. There is No Risk of Unenforceability of the Judgment

As to the second *Degen* factor, in the instant case, there is no risk of unenforceability of any judgment issued by the Eleventh Circuit based on the claims Plaintiff brought in the district court. Petitioner sought injunctive relief and damages claims as to the State Respondents and common law state claims for damages as to the other remaining respondents: Elena Z. George, Alex Cuello, and Law Office of Alex Cuello, P.A.

Petitioner's absence from the state court contempt proceeding brought by the State Respondents that Petitioner sought to enjoin in the United States district court has no bearing on the enforceability of a judgment on a merits in the case pending before the district court. Specifically, as to the State Respondents, the appellate court will either affirm or reverse the district court's denial of the preliminary injunction against the State Respondents that Appellant sought under the ADA retaliation statute, 42 U.S.C. § 12203(a)-(b). It is not a criminal case where an Appellate Court would need to enforce a judgment affirming a defendant's conviction issued by the

underlying district court. Likewise, the adjudication of Petitioner's claims for damages against the State Respondents for discrimination based on his ADHD disability under 42 U.S.C. § 12132 and 29 U.S.C. § 794 are not dependent upon Petitioner's physical presence in the state court. The Eleventh Circuit will either rule that Petitioner established disability discrimination under the ADA/Section 504 to warrant a trial on damages or it will rule that Petitioner failed to establish federal disability discrimination. Either way, the judgment is not affected by Petitioner's absence from the state court contempt proceeding.

As to respondents Elena Z. George, Law Office of Alex Cuello, PA., and Alex Cuello, the claims asserted against them for damages: breach of fiduciary duty, tortious interference with an inheritance, aiding and abetting breach of fiduciary duty, and intentional infliction of emotional distress, relate to the guardianship of Marta Santander Rudnikas. Elena Z. George was the court appointed Guardian for Plaintiff's incompetent grandmother (now deceased), the Ward. Mr. Cuello was Ms. George's attorney in her capacity as the Court Appointed Guardian of Plaintiff's grandmother. Both Mr. Cuello and Ms. George had a fiduciary duty to act in his grandmother's best interest and protect her assets. Unfortunately, they failed to marshal the Ward's social security income, the Ward's life insurance policies she was the beneficiary of as well as fidelity retirement accounts that she was the beneficiary of. This in addition to failing to marshal a commercial real property that his grandmother inherited from Plaintiff's father located at 3670 NW 6th Street, Miami, FL 33125. The property had a market value of over \$1,000,000.00. Instead of marshalling the asset

and having same transferred to his grandmother, they allowed the attorneys for the Personal Representative of the Estate of Elias B. Rudnikas to consume the entire sale proceeds of the building via inflated claims for attorneys fees that were not objected to at all by Mr. Cuello nor Ms. George. As a result, his grandmother did not receive any portion of the commercial real property she inherited from her son that was worth over \$1,000,000.00.

These claims related to breach of fiduciary duty are unequivocally and completely independent from the state court contempt proceeding in the probate case of Plaintiff's father. There is no viable connection. In fact, the claims for damages being asserted against Elena Z. George, Alex Cuello, and Law Office of Alex Cuello P.A. relate back to November 18, 2024, many months before any Writ of Bodily Attachment was issued by the State Respondents.

Relatedly, both the estate of Elias B. Rudnikas and guardianship of Marta Santander Rudnikas that Appellant was collaterally attacking are *in rem* proceedings under Florida Law. Because the claims are over property in the custody of a Court, the risk of enforcing the judgment is practically nonexistent and application of fugitive disentitlement is unjustified.

III. There is No Compromising of a Criminal Case by the Use of Civil Discovery Mechanisms

The third *Degen* factor is inapplicable. The potential for discovery in Plaintiff's civil case in no way compromises an indirect criminal contempt proceeding by a probate judge.

IV. There is No Indignity Visited Upon the Eleventh Circuit

As to the fourth *Degen* Factor, there was no indignity visited upon the Eleventh Circuit by Appellant's absence from the state court contempt proceedings being pursued by the State Respondents. The Eleventh Circuit, a federal appellate court, and the state probate court are completely independent of one another and in the instant federal case, the state probate court and probate judge are defendants/appellees. This Court addressed a similar scenario in *Ortega-Rodriguez*. Specifically, the Court held that a fugitive disentitlement was inappropriate when disrespect was directed at the district court, not the Court of Appeals. *Ortega-Rodriguez v. U.S.*, 507 U.S. 234, 246 (1993) ("The problem in this case, of course, is that petitioner, who fled before sentencing and was recaptured before appeal, flouted the authority of the district court, not the Court of Appeals. The contemptuous disrespect manifested by his flight was directed at the district court, before which his case was pending during the entirety of his fugitive period. Therefore, under the reasoning of the cases cited above, it is the district court that has the authority to defend its own dignity, by sanctioning an act of defiance that occurred solely within its domain")

Here, there is even less connection than there was in *Ortega-Rodriguez* because there was no disrespect directed to neither the district court nor the Eleventh Circuit Court of Appeals. The absence was directed to the State Respondents, defendants/appellees in these proceedings. Posed otherwise, the U.S. Court of Appeals for the Eleventh Circuit, in its application of the

fugitive disentitlement doctrine, aligned their interests as being the same as that of the State Respondents whom are Defendants/Appellees to the lawsuit and whom Appellant is asking the Eleventh Circuit to enjoin.

V. There is No Deterrence Consideration Involved

Fifth, there is no deterrence consideration involved. The United States Court of Appeals for the Eleventh Circuit, a federal appellate court, has no interest in assisting the State Respondents in enforcing a state court indirect criminal contempt proceeding that is being challenged as a retaliatory, vindictive prosecution. They are not acting as an appellate court in a criminal appeal of a judgment of conviction issued by the district court. To the contrary, the Eleventh Circuit is being tasked in a civil case with answering whether they should issue a prohibitory injunction to enjoin a state court proceeding under the ADA retaliation clause, 42 U.S.C. § 12203.

VI. The Eleventh Circuit Application of the Fugitive Disentitlement Doctrine is Unconstitutional

Lastly, this Court has already found that the sanction of fugitive disentitlement in a civil case for contempt of court in another case is unconstitutional because the right of a citizen to defend his property in a Court is corollary to the right to sue there and is guaranteed by the Due Process Clause of the United States Constitution. *Degen v. U.S.*, 517 U.S. 820, 828 (1996) ("The right of a citizen to defend his property against attack in a court is corollary to the plaintiff's right to

sue there. *McVeigh v. United States*, 11 Wall., at 267. For this reason we have held it unconstitutional to use disentitlement similar to this as punishment for rebellion against the United States, *ibid.*, or, in at least one instance, for contempt of court, *Hovey v. Elliott*, 167 U.S. 409, 413-414 (1897).

Here, the Eleventh Circuit's application of the fugitive disentitlement doctrine in this civil case is clearly unconstitutional and unjustified. The Eleventh Circuit is, in essence, stating that Plaintiff has no right to defend any of his property via the claims he is bringing in this lawsuit because the probate judge that Plaintiff is suing has a writ of bodily attachment for a contempt proceeding that Plaintiff is asking the Eleventh Circuit to enjoin. Posed otherwise, in the eyes of the Eleventh Circuit, respondents Elena Z. George, Alex Cuello, and Law Office of Cuello, P.A. are free to breach their fiduciary duties and misappropriate all of Plaintiff's assets he inherited including retirement accounts and life insurance policies with no consequences because of the Writ of Bodily Attachment issued by the State Respondents. This logic is obviously absurd, unconstitutional, and exactly the kind of arbitrary application of the fugitive disentitlement doctrine that makes the public lose respect for the federal judiciary as this Court noted in *Degen v. U.S.*, 517 U.S. 820, 828 (1996) ("It remains the case, however, that the sanction of disentitlement is most severe and so could disserve the dignitary purposes for which it is invoked. The dignity of a court derives from the respect accorded its judgments. That respect is eroded, not enhanced, by too free a recourse to rules foreclosing consideration of claims on the merits.")

VII. The Eleventh Circuit Abused Its Discretion in Not Issuing a Written Opinion Justifying Severe Sanction of Disentitlement

Given the severity of the sanction imposed via fugitive disentitlement, this Court should also take the opportunity to require federal appellate courts to issue written opinions justifying their application of the fugitive disentitlement doctrine in civil cases. Here, the Eleventh Circuit issued a one sentence order and declined to issue a written opinion justifying their application of the fugitive disentitlement doctrine, even after one was requested. Requiring written opinions on this issue would be in the public interest and deter arbitrary applications of the fugitive disentitlement doctrine by federal appellate courts as was done to Appellant in this case.

VIII. PLAINTIFF'S ENTITLEMENT TO INJUNCTION AS WELL AS THE DOCTRINE OF VINDICTIVE PROSECUTION OUTWEIGH THE POLICY OBJECTIVES OF THE FUGITIVE DISENTITLEMENT DOCTRINE

Second, the Court should grant certiorari to answer whether Plaintiff's entitlement to injunction under 42 U.S.C. § 12203(a)-(c) outweighs the policy objectives of the fugitive disentitlement doctrine. As explained *supra*, the State Respondents admitted in their answer brief filed December 17, 2025 that they did not rebut Appellant's prima facie case of retaliation when opposing the injunction at the district court. Specifically, they stated:

"The Appellant suggests that Judge Cueto should have to explain any difference in the orders issued in the probate case. (IB 25) The United States Supreme Court has highlighted the importance of preventing judges from testifying regarding their thought processes in entering an order because such an examination "would be destructive of judicial responsibility." See *United States v. Morgan*, 313 U.S. 409, 422 (1941) (a judge's thought process relevant to judicial decisions is not within the purview of an examination)."

The State Respondents made this argument despite this Court holding in *Tennessee v. Lane*, 541 U.S. 509 (2004) that their Eleventh Amendment immunity is abrogated under the ADA. Considering the admission in the answer brief, Plaintiff was entitled to a judgment of injunction as a matter of law under this Court's precedent. *Tex. Dept. of Cmty. Affairs v. Burdine*, 450 U.S. 248, 254 (1981) ("Establishment of the prima facie case in effect creates a presumption that the employer unlawfully discriminated against the employee. If the trier of fact believes the plaintiff's evidence, and if the employer is silent in the face of the presumption, the court must enter judgment for the plaintiff because no issue of fact remains in the case"). Accordingly, this Court should grant certiorari to answer whether Plaintiff's entitlement to injunction under 42 U.S.C. § 12203(a)-(c) outweighs the policy objectives of the fugitive disentitlement doctrine.

Further, the Court should grant certiorari to decide whether the doctrine of vindictive prosecution outweighs the policy objectives of the fugitive disentitlement doctrine in civil cases. Here, the State Respondents want Plaintiff to show cause why he should not be held in indirect criminal contempt for recording a

lis pendens on a property he has beneficial title to and for filing two federal lawsuits (including this one): *Rudnikas v. State of Florida, et. al.*; Case # 24-CV-22031-JEM and *Rudnikas v. Fidelity Brokerage Services, LLC., et. al.*; Case # 24-CV-24547-JEM. The law allows Plaintiff to both record federal lis pendens on a property he has beneficial title to and to file federal lawsuits. Because the State Respondents want to punish Appellant for doing what the law clearly entitles him to do, the indirect criminal contempt proceedings are a vindictive prosecution in violation of the Due Process Clause of the United States Constitution. "[V]indictive prosecution has no place in our system of justice." *United States v. Ball*, 18 F.4th 445, 454 (CA4 2021). It is thus "well established that a prosecutor violates the Due Process Clause of the Fifth Amendment by exacting a price for a defendant's exercise of a clearly established right or by punishing the defendant for doing what the law plainly entitles him to do." *United States v. Wilson*, 262 F.3d 305, 314 (CA4 2001). Indeed, "for an agent of the State to pursue a course of action whose objective is to penalize a person's reliance on his legal rights is 'patently unconstitutional'" and "a due process violation of the most basic sort." *Bordenkircher v. Hayes*, 434 U.S. 357, 363 (1978) (citations omitted). "[W]hile an individual certainly may be penalized for violating the law, he just as certainly may not be punished for exercising a protected statutory or constitutional right." *United States v. Goodwin*, 457 U.S. 368, 372 (1982); *Hartman v. Moore*, 547 U.S. 250, 256 (2006) ("[T]he First Amendment prohibits government officials from subjecting an individual to retaliatory actions, including criminal prosecutions, for speaking out."); More broadly, the Due Process

Clause forbids vindictive prosecutions motivated by the government's "genuine animus toward the defendant," regardless of whether that animus is connected to the defendant's exercise of his constitutional rights. *Wilson*, 262 F.3d at 314. That is because "the Due Process Clause was intended to prevent government officials 'from abusing [their] power, or employing it as an instrument of oppression.'" *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998) (quoting *Collins v. Harker Heights*, 503 U.S. 115, 126 (1992)) (alterations in original).)

Unfortunately, the Eleventh Circuit did not take into consideration whether the state respondents were engaged in a vindictive prosecution. Instead, by issuing the sanction of disentitlement, the Eleventh Circuit blindly put its approval on what is an objectively obvious vindictive prosecution. Accordingly, the Court should grant certiorari and decide whether it should require federal courts to analyze whether a prosecution is a vindictive one before imposing the sanction of disentitlement in a related civil case. Same would be in the public interest.

IX. The Court Should Grant Certiorari to Resolve Whether Appeals of Remand Orders under 28 U.S.C. § 1447(d) are Subject to an Automatic Stay Pending Appeal

Lastly, this Court should grant certiorari to resolve the circuit conflict between the Fourth and Ninth Circuits on whether appeals of remand orders pursuant to 28 U.S.C. § 1447(d) are subject to an automatic stay pending appeal. The Fourth Circuit holds that an automatic stay is required. *City of Martinsville, Virginia*

v. *Express Scripts, Inc.*, 128 F.4th 265 (CA4 2025). The Ninth Circuit holds that automatic stay is not required. *California by and through Harrison v. Express Scripts, Inc.*, 139 F.4th 763 (CA9 2025), cert. denied sub nom. *Express Scripts, Inc. v. California*, No. 25-327, 2026 WL 79931 (U.S. Jan. 12, 2026).

This case presents a great vehicle to consider the question because the issue was dispositive of Plaintiff's appeal. Plaintiff argued to the Eleventh Circuit that the fugitive disentitlement doctrine was inappropriate because Appellant's Notice of Appeal to the Eleventh Circuit of the Order of Remand on November 27, 2024 in the matter of *State of Florida v. Benzo Elias Rudnikas*; CA11 No. 24-13914, divested both the district court and the State Court of Subject Matter Jurisdiction. *Coinbase, Inc. v. Bielski*, 143 S. Ct. 1915, 1919-20 (2023) ("An appeal including an interlocutory appeal, 'divests the district court of its control over those aspects of the case involved in the appeal.'" *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). That Griggs principle reflects a longstanding tenet of American procedure. See *Hovey v. McDonald*, 109 U.S. 150, 157, (1883); see also *Price v. Dunn*, 139 S.Ct. 1533, 1537 (2019) (THOMAS, J., joined by ALITO and GORSUCH, JJ., concurring in denial of certiorari) (describing Griggs principle as "well settled"); *Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985) ("In general, filing of a notice of appeal confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal"). The Griggs principle resolves this case. Because the question on appeal is whether the case belongs in arbitration or instead in the district court, the

entire case is essentially "involved in the appeal.".....As Judge Easterbrook cogently explained, when a party appeals the denial of a motion to compel arbitration, whether "the litigation may go forward in the district court is precisely what the court of appeals must decide." *Bradford-Scott Data Corp. v. Physician Computer Network, Inc.*, 128 F.3d 504, 506 (CA7 1997). Stated otherwise, the question of whether "the case should be litigated in the district court ... is the mirror image of the question presented on appeal." *Id.*, at 505. Here, as elsewhere, it "makes no sense for trial to go forward while the court of appeals cogitates on whether there should be one." *Apostol v. Gallion*, 870 F.2d 1335, 1338 (CA7 1989). In short, Griggs dictates that the district court must stay its proceedings while the interlocutory appeal on arbitrability is ongoing") Similar to this Court's application of the *Griggs* test in *Coinbase*, a case involving an interlocutory appeal regarding arbitration, the notice of appeal of the District Court's Order of Remand, in the related appeal, involved the issue of whether the State of Florida's retaliatory ex post facto indirect criminal contempt prosecution case belonged in federal court or state court. Posed otherwise, the entire case was on appeal. As such, any writ of bodily attachment issued on March 21, 2025 by the State of Florida after Appellant had already perfected his Notice of Appeal of the Order Of Remand on November 27, 2024 in the same case is void ab initio for lack of jurisdiction.

As such, this Court should grant certiorari to resolve the circuit conflict.

CONCLUSION

This Court should grant certiorari and reverse the judgment below.

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