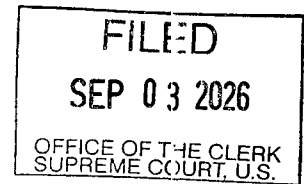


ORIGINAL

No. **26-340**
**Supreme Court of the United
States**



JOEL KENNAMER,
Petitioner

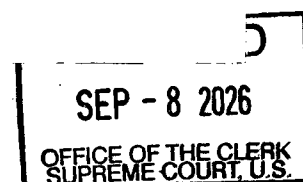
v.

**CITY OF GUNTERSVILLE, ALABAMA
LEIGH DOLLAR, MAYOR
PATRICK LAWLER
LAKESIDE INVESTMENTS, LLC
LAWLER HOTELS, LLC,**
Respondents

On Petition For Writ of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The public property in question was taken by eminent domain, designated as “public park and public pier” in the Order of Consent, for use by all the citizens, and was in use, undisputed, now in the hands of a private developer.

The U.S. Court of Appeals affirmed the transfer stating that the “city’s actions were lawful under §94.01 (App. p147a) Alabama Constitution and the city’s non-compliance with certain state laws was irrelevant.” The city defendants invoked §94.01 because it did not require a referendum, knowing it would not pass an election by the voters. The Authority for a lawful transfer is §94(a) (App. p146a) Alabama Constitution, the instructions for a transfer is §35-4-410 Alabama Code. (App. p144a)

The questions presented are:

1. Whether a municipality has authority to arbitrarily alienate public property, in use by the public.
2. Whether a constitutional right is violated when Alabama Constitution §94(a) requires a referendum to alienate parks, other recreational property, and no referendum or hearing was held in the transfer of the municipal public park, playground, or other recreational property to private developer, Patrick Lawler.
3. Whether this case presents new precedent for private development of public property.

PARTIES

Petitioner (plaintiff-appellant below) is Joel Kennamer. Respondents (defendant-appellee below) are City of Guntersville, Alabama, Leigh Dollar, mayor, Patrick Lawler, Lakeside Investments, LLC., and Lawler Hotels, LLC.

CORPORATE DISCLOSURE STATEMENT

Lakeside Investments, LLC., and Harbor Hotels, LLC., are wholly owned by Patrick Lawler and is not publicly traded.

RELATED PROCEEDINGS

- *Joel Kennamer v. City of Guntersville, et al.* 50-CV-2019-9008-900208.00, Circuit Court of Marshall County, Alabama, Judgement entered August 8, 2019. (App. p141a.)

- *Joel Kennamer v. The City of Guntersville et al.*, 315 So. 3d 1090 Alabama Supreme Court Judgement entered May 29, 2020. Case # 1180939 Rehearing Denied July 2, 2020 (App. 105a.)

- *Joel Kennamer v. City of Guntersville, et al.* No. 4:24-cv-00647-RDP U.S. District Court for the Northern District of Alabama, Judgement entered Oct. 28, 2024. (App.104a.)

- *Joel Kennamer v. City of Guntersville, et al.* No. 24-14146 U.S. Court of Appeals for the Eleventh Circuit, Judgement entered June 23, 2026 (Doc. 56) Petition for rehearing denied July 14, 2026 (App. p2a.)

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BRIEF FOR THE PETITIONER

PETITION FOR A WRIT OF CERTIORARI

Joel Kennamer respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINIONS BELOW

The Opinion of the U.S. Court of Appeals for the Eleventh Circuit Appears in Appendix page ...2a

The Opinion of the U.S. District Court N.D. Ala. Appears in Appendix page 27a

The Opinion of the Supreme Court of Alabama Appears in Appendix page 106a

The Opinion of the Trial Court of Marshall Co. Alabama Appears in the Appendix page 143a

JURISDICTION

The judgment of the court of appeals was entered on June 23, 2026. A petition for rehearing was entered July 1, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1). The Petition for rehearing was denied July 14, 2026

INTRODUCTION

The city of Guntersville, Alabama owns approximately 10 acres of waterfront property on the Tennessee river, taken by eminent domain from CSX railroad, and devoted to a **public park; other recreational** use, that was [in use] by the public for that purpose.

The mayor and a willing city council held a meeting June 8, 2018 and voted to lease part of the property to Patrick Lawler for \$100/year for a private development and without holding a referendum as required by §94(a) (App.p146a) of the Alabama Constitution, by invoking §94.01 (App.p147a) of the Alabama constitution instead, which does not apply.

Subsequently, May 19, 2019 Joel Kennamer filed an action in the Marshall County Alabama Circuit Court *Kennamer v. City of Guntersville* 50-CV-2019-9008-900208.00, (App.p143a,) seeking an Injunction and making a claim that a referendum is required by state statute 35-4-410 (App. p145a) and should be held before any property could be transferred to Lawler. The court ruled "Dismissed for failure to state a claim on which relief could be granted," and stated §94.01, (App.p147a) a constitutional amendment, overrides statute 35-4-410, (App. p145a) the requirement for a referendum. An egregious error caused by the city's defense attorney rigging 94.01 to read adverse to legislative intent. (App. p157a)

Alienate Public Recreational Facilities and Housing Projects. Statute 35-4-410 §94(a) (App.p145a) "The governing bodies of

counties, cities, towns, and other subdivisions of the state shall have full power and authority to alienate public parks and playgrounds, other public recreational facilities and public housing projects on such terms as may be agreeable to them, **provided such alienation is first approved by a majority of the qualified electors** of the county, city, town, or subdivision affected thereby voting in a referendum election held for such purpose.”

November 14, 2019, Kennamer appealed to the Alabama Supreme Court, *Kennamer v. The City of Guntersville et al.*, 315 So. 3d 1090 (App.p106a) explaining that the property was **in use by the public** and the city had not held a referendum as required by Alabama law. The court affirmed and agreed with the Trial Court that §94.01, (App.p147a) a constitutional amendment overrides statute 35-4-410(App. p145a) the requirement for a referendum. An error.

June 20, 2022 the city council met and made ordinance #1134 (App.p156a) to sell the remaining parcel to Lawler for \$10 dollars. The mayor had explained to the local newspaper that she was “staying the course with Patrick, and selling him the property for \$10.”

May 23, 2024 Petitioner Kennamer filed *Kennamer v. City of Guntersville*, et al. No. 4:24-CV-647-RDP, 2024 WL 4592362, at *16 (N.D. Ala.) (App. p27a), A Complaint for deprivation of rights under color of law without due process, (42 U.S.C. §1983) with Fraud, Ultra Vires, Procedural and Substantive Due Process violations,

Breach of Public Trust, fraud, §94.01(App.p147a) Alabama Constitution is unconstitutional as applied for having no requirement for a referendum or a hearing, Ordinances 1095,1098, and 1134 (App.p151,4,6a) City of Guntersville are unconstitutional for violation of due process, and invalid for fraud and vagueness claiming the property was abandoned and surplus while in use, and state actor for Lawler.

The District Court with an Order on October 28, 2024, Motions (App. 27a) are GRANTED and explained that Kennamer has standing but is Dismissed on the Merits and that §94.01 (App. p147a) overrides §35-4-410 (App. 145a) in error.

December 19, 2024, Kennamer filed an appeal with the United States Court of Appeals for the Eleventh Circuit, No. 24-14146, (App.p6a), claiming, that §94.01 (App. p147a) is unconstitutional as applied to transfer public recreational property, in use by the public, to a private developer for a retail development, without a referendum or a public hearing. A referendum being the Alabama legislatures' due process when transferring public recreational property, found in statute 35-4-410 (App. p145a)

The court appointed counsel for Kennamer, November 12, 2025. Counsel withdrew February 18, 2025 for the reason of not agreeing on certain issues.

A Judgement by the court was entered June 23, 2026 "for the reasons which follow, we Affirm." The reason given by the court for the judgement was "Kennamer is wrong in claiming

that the city's failure to hold a referendum constituted a due process violation."

The Appeals court erred, §94.01(App.p147a) states, "The powers granted by this amendment may be exercised as an alternative to, or cumulative with, and in **no way restrictive of, powers otherwise granted by law**"

A petition for rehearing was filed July 1, 2026 and denied Order filed on July 14, 2026.

ARGUMENT

The Supreme Court of Alabama, and the United States Court of Appeals for the Eleventh Circuit has decided an important public property issue in a way that conflicts with relevant decisions of this Court;

"The referendum is a means for direct political participation, allowing the people the final decision, amounting to a veto power, over enactments of representative bodies. The practice is designed to `give citizens a voice on questions of public policy.'" *Eastlake v. Forest City Enterprises, Inc.*, 426 US 668 - Supreme Court 1976

Public policy in Alabama is that property cannot be alienated until public use ceases. A.G, Opinion 2012-091

"**Procedural due process** imposes constraints on governmental decisions which deprive individuals of `liberty' or `property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge*, 424 US 319 - Supreme Court.

The City Ordinances state: "No longer needed for public or municipal use," while the property was in use, an arbitrary statement by the city that they intended to take the property from our use to lease to a private entity without holding the required **referendum**.

This case has prima facie makings of Ms. Dollar, the mayor and Mr. Lawler, the developer becoming very close friends and realizing that this valuable waterfront park has great potential as a commercial development, and to develop it privately instead of the city developing it by a commercial development authority where the citizens would be the beneficiaries of the project, not the private developers.

Kenamer and other citizens for over six years have been deprived of the use of this park, other recreational property by an unlawful act by the mayor/council, and Lawler. This property could have been further developed lawfully by a Development Authority and the citizens would have received the benefits, now a private developer keeps all the profits.

The mayor and council (the city) transferred the "public park; other recreational property" to the private developer without authority, statute 11-54-148 (App. p144a) "No projects on municipal land." Municipal land is held in trust for the public, *Ororke v. City of Homewood* 237 So. 2d - Ala: Supreme Court, 1970.

§94.01 (App.p147a) does not apply in this case, because it has no mention of public parks or other recreational property, or a referendum,

but §94(a) (App.p146a) does apply it states a referendum shall be held when alienating parks, playgrounds and other recreational property.

The city transferred the property to Patrick Lawler for a development project for a very nominal amount, when Alabama law forbids the transfer 11-54-148 (App. p144a) subsequently closing the park, razing the public structures and built restaurants, bars, and condos, and boat slips.

REASONS FOR A WRIT OF CERTIORARI

This case is of great public importance, a manifest injustice has occurred that will set new precedent if allowed to stand.

The Eleventh Circuit Court of Appeals is wrong to reject Kennamer's claim that the Alabama Supreme Court misinterpreted/misapplied §94.01(App.p147a) because "we are not at liberty to question it's pronouncements." And "we are not persuaded by Kennamer's assertion that §94.01 (App.p147a) does not apply because the land was in use by the public." A reversible error.

"A state-court decision is not reviewable by lower federal courts, but a statute or rule governing the decision may be challenged in a federal action." *Skinner v. Switzer*, 562 US 521 - Supreme Court 2011

The district court, and the Court of Appeals had discretion to review §94.01 (App.p147a) due

to the federal question imbedded, that the state legislature required a referendum to alienate parks; other recreational property, and §94.01(App.p147a) did not have that requirement. §94(a) (App.p146a) does.

The land was in use by the public and it is public policy in the state of Alabama that public property cannot be alienated until public use ceases, confirmed in *Anderson v. Adams* 283 So. 2d 416 - Ala: Supreme Court 1973

“The fact that the City adopted an ordinance or resolution that the subject property was no longer needed for public or municipal purposes is of no avail to the appellants, because there can be no authority to so act as long as the property is being used for public and municipal purposes.”

The defendants have not disputed the fact the property was in use by Kennamer and the general public for the purposes sought in the petition for eminent domain action, a “public park,” The Ordinances are void ab initio, made with fraudulent intent, declaring the property abandoned and surplus when the mayor knew it was in use, in violation of §108 (app.p151a) of the Alabama Constitution, “a general law shall not be suspended for the benefit of any individual, private corporation,” the general law suspended is statute 11-54-148 (App. p144a) no projects on municipal land. and statute 35-4-410 (App. p145a) requiring a referendum.

The case turns on the Court of Appeals statement that “the city was not required to hold a referendum given the language of §94.01.” (App.p147a) and the “failure to hold a referendum was not a due process violation.”

§94.01 (App.p147a) does not apply to municipal land. It applies to “**sites** for industry, and industrial park projects” stated in §94.01.

When city property, held in trust for the citizens, is arbitrarily transferred to a private user without a referendum, or a hearing, due process is violated. Without the due process claim, this was still an unlawful transfer of public property, and the trust of the citizens was violated.

CONCLUSION

“As a matter of state law, the city was not required to hold a referendum given the language of § 94.01, 315 So.3d at 1105,” (App.p5a) The Appeals Court is wrong, §94.01(App.p147a) does not apply. §94(a) (App.p146a) is the authority to alienate parks, playgrounds, other recreational property.

This transfer of public property to a private developer is simply an act of public corruption.

§94.01 (App. p147a) was doctored by the attorneys omitting sections, to state §94.01 overrides§35-4-410 (App. p145a) because a referendum would not pass because the multi-million dollar property was worth more than \$10.

Kenamer used the park and has been deprived of the aesthetic, recreational, and

environmental values the park provided, without due process of law.

The statute of limitations does not apply on an unconstitutional statute or one in which is unlawful for fraud, until the statute ceases being in effect, and the ordinances are still in effect, the violation continues.

A 12(b)(6) dismissal is by nature an un-litigated matter, and Kennamer did not get full and fair opportunity to litigate, no discovery, interrogatories, trial, therefore res judicata, and collateral estoppel does not apply.

“An invalid statute cannot be insulated by the statute of limitations. *Khunle Brothers*, 103 F.3d 516, 522 (6th Cir 1997)

This court should grant this petition for a writ of certiorari to correct a manifest injustice and restore the rule of law in public property transfers to the governing body of the city, and restore the rights of the petitioner et al.

Respectfully Submitted

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