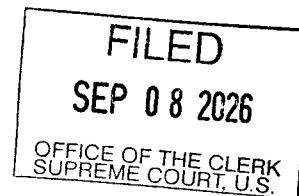


26-5878

No. ____

ORIGINAL

In the Supreme Court of the United States



NICOLAS A. MANZINI,

Petitioner,

v.

TALBERT CYPRESS and LUCAS K. OSCEOLA,

Respondents.

*On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit*

PETITION FOR WRIT OF CERTIORARI
(corrected)

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QUESTION PRESENTED

The following question is presented:

In enacting the Indian Gaming Regulatory Act of 1988, 29 U.S.C. §§ 2701, et seq. (IGRA), did Congress intend to foreclose courts from granting prospective equitable relief to stop tribal casino operators from violating the letter and spirit of the Act?

LIST OF PARTIES

A list of the parties to the proceeding below in the court whose judgment is the subject of this petition is provided below.

Nicolas A. Manzini, *Appellant*

Talbert Cypress, *Appellee*

Lucas K. Osceola, *Appellee*

RELATED CASES

None.

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I. PETITION FOR WRIT OF CERTIORARI

Nicolas A. Manzini 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The Eleventh Circuit's unpublished opinion affirming the district court's dismissal order is reported at 2026 U.S. App. LEXIS 12685* (11th Cir. 2026) and attached as Appendix 1. The Eleventh Circuit's order denying the petition for panel rehearing is attached as Appendix 2. The district court's published order dismissing Petitioner's amended complaint with prejudice is reported at 796 F. Supp. 3d 1146* (U.S.D.C., S.D. Fla. 2025) and attached as appendix 3. The district court's order denying petitioner's post-dismissal motion to alter or amend judgment is attached as Appendix 4.

III, JURISDICTION

The Court has jurisdiction pursuant to 28 U.S.C. § 1254(1). The judgment or order sought to be reviewed was entered on May 1, 2026 by the United States Court of Appeals for the Eleventh Circuit in case No. 25-12912 for which a timely petition for rehearing was denied on May 27, 2026.

IV. STATUTORY PROVISION INVOLVED

The Indian Gaming Regulatory Act of 1988, 29 U.S.C. §§ 2701, et seq. (IGRA).

V. STATEMENT OF THE CASE

On June 22, 2026, Justice Thomas extended the time up to and including September 24, 2026 for Petitioner to file this petition, to-wit, Application No. 25A1425, based upon Petitioner's health conditions and concomitant treatments.

A panel of the Eleventh Circuit comprised of Judges Jill A. Pryor, Kevin C. Newsom, and Elizabeth L. Branch issued its opinion on May 1, 2026 and then issued an order denying the petition for panel rehearing on May 26, 2026. True copies of the Court of Appeals' opinion and order are included in Appendices 1 and 2, respectively, to this petition.

This was principally an action for prospective equitable relief that was filed by Petitioner, a 75-year old disabled, retired lawyer formerly licensed in Florida and New York and a past member of the Bar of this Court,¹ in the United States District Court for the Southern District of Florida against respondents Talbert Cypress and Lucas K. Osceola as Chairman and Vice-Chairman, respectively, of the Miccosukee Tribe of Indians of Florida, for actions that exceed the scope of their authority as tribal officials and violate the letter and spirit of the Indian Gaming Regulatory Act of 1988, 29 U.S.C. §§ 2701, et seq. (IGRA).

¹ In the interest of disclosure, Petitioner knew Justice Alito when both were undergraduates at Princeton during 1969-1972 and participated together in intercollegiate debating activities. Petitioner has had no contact with Justice Alito since exchanging congratulatory correspondence with him upon his appointment to the Court in 2006.

In his district court amended complaint, Petitioner alleged that Respondents' operation of the Tribe's sole casino located in Miami-Dade County, Florida, and certain gaming practices detailed therein are contrary to the precepts of IGRA, specifically the Act's section 2702(b) which assures the public that Indian gaming will be conducted "fairly and honestly" by its operators. A true copy of Petitioner's district court amended complaint is included in Appendix 5 to this petition.

Before Petitioner complained to Respondents, the ubiquitous kiosks inside their casino deceitfully short-changed patrons of coin currency due to their abject lack of notice.

After Petitioner's pre-suit complaint, Respondents permanently barred him from their casino and threatened to have him arrested for trespass. They also modified the signage on their kiosks' monitors to inform patrons that the kiosks do not dispense coins, but only *after* patrons have already inserted their casino cashout vouchers into the kiosk to avoid a trip to, and long lines at, the casino cashier.

Thus, it remains a subterfuge for larceny: Respondents effectively continue to steal millions from their patrons a few pennies at a time.

Petitioner's district court action primarily sought to enjoin prospectively Respondents from continuing to violate IGRA's explicit precept that tribal casinos will be operated in a "fair and honest" manner.

The district court dismissed Petitioner's complaint with prejudice finding that no right of action exists against the Respondents under IGRA and that permitting Petitioner to amend his complaint would be futile. A true copy of the district court's dismissal order is included in Appendix 3 to this petition.

Petitioner then sought post-dismissal relief based expressly upon an intervening order from a sister district court (released *after* briefing had concluded in the district court below) which found that even if IGRA does not provide a right of action per se, Congress in enacting the Act did not intend to foreclose courts from granting equitable relief to halt a continuing violation of the Act.² That order cited and was expressly based upon stout precedents from this Court. The district court denied Petitioner's post-dismissal motion. A true copy of the district court's order denying Petitioner's post-dismissal motion is included in Appendix 4 to this petition.

On what was supposed to be de novo review, a panel of the Court of Appeals affirmed both district court orders, agreeing with the district court that no right of action exists under IGRA and that the case decided by the sister district court was inapposite, with nary a word being said in the panel's opinion about this Court's precedents that amply support the sister district court's rationale that IGRA does

² Cayuga Nation v. New York State Gaming Commission, 5:24-cv 537-BKS/TWD (N.D.N.Y., March 31, 2025) [ECF. No. 61] reaffirmed [ECF No. 83] (Congress did not intend to foreclose equitable relief "*even absent a private right of action in IGRA itself*") (our emphasis).

not foreclose courts from granting prospective equitable relief to halt tribal gaming operators from violating the Act.

VI. REASONS FOR GRANTING THE WRIT

While this appears to be a case of first impression, the Court of Appeals' panel failed to consider or address the following persuasive precedents from this Court which amply support Petitioner's right to seek purely *prospective* equitable relief to prevent Respondents' continuing violations of IGRA:

- Verizon Md. Inc. v. Pub. Serv. Comm'n of Md., 535 U.S. 635, 645 (2002) (quoting Idaho v. Coeur d'Alene Tribe of Idaho, 521 U.S. 261, 296 (1997) (O'Connor, J., concurring in part and concurring in the judgment)(requiring a district court faced with an alleged on-going violation of a federal statute to make a "straightforward inquiry into whether [the] complaint alleges an on-going violation of federal law and seeks relief properly characterized as prospective"). The district court below made *no* such inquiry.
- Armstrong v. Exceptional Child Center, Inc., 575 U.S. 320 (2015) where the Court made clear that although the Supremacy Clause of the Constitution did not confer a "private right of action" (in that case, to enjoin implementation of the Medicaid statute): "[t]he ability to sue to enjoin [unlawful] actions by [officers cloaked with sovereign immunity] is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action ..." (our emphasis) Id at 327.

- Va. Office for Protection & Advocacy v. Stewart, 563 U.S. 247, 254-55 (2011),
aff'd sub nom., Unkechaug Indian Nation v. Seggos, 126 F. 4th 822 (2nd Cir.
2025) (The Court held that an exception to Eleventh Amendment immunity
is where a suit is against an official for *prospective relief*, otherwise known
as the Ex parte Young doctrine);

- Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996) (The Court held that
Ex parte Young may not be used to bring an action under IGRA to enforce a
violation of that Act or in any other instances "*where Congress has
prescribed a detailed remedial scheme for the enforcement ... of a statutorily
created right*") (our emphasis) 517 U.S. at 74. However, IGRA itself does *not*
prescribe a detailed remedial scheme for the enforcement of the statutorily
created right at issue in this case which is why courts are not foreclosed
from granting equitable relief to prevent violations of the Act's precepts.

- Carpenter v. Wabash Railway Co., 308 U.S. 23 (1940) (The Court has long
held that, if subsequent to the trial court's judgment but before the decision
of the appellate court, a law intervenes and positively changes the rule that
governs, the law must be obeyed). The Cayuga Nation opinion cited at
footnote 2 of this petition is intervening controlling authority as there is a
complete absence of any contrary authority from any District Court within
the Eleventh Circuit or the Court of Appeals itself.

- Harper v. Virginia Department of Taxation, 509 U.S. 86 (1993)(In civil cases, judicial decisions bearing upon the issue in question are given full retroactive effect).
- Dupree v. Younger, 598 U.S. 759 (2023)(The Court unanimously held that the preservation requirement yields when the question for the appellate court is a “purely legal issue” as it is in this case). Thus, even if petitioner’s post-dismissal motion were deemed flawed, no post-judgment motion for rehearing or reconsideration was necessary to guarantee review by the Court of Appeals of the District Court’s dismissal order.

VII. ADDITIONAL REASONS FOR GRANTING THE WRIT

“Power tends to corrupt, and absolute power corrupts absolutely”

-- Lord John Emerich Edward Dalberg-Acton, 1887

Most who grew up in South Florida as did Petitioner are aware of the sordid legal history of the Miccosukee Tribe of which Respondents are the chief officials. Because the Tribe has no express compact with the State of Florida as does the Seminole Tribe that would result in the limited waiver of its sovereign immunity status, the Miccosukees have aggressively used their status to fend off the even most tragic third-party injury claims against the Tribe and its members while conversely invoking its privileged status to redress its constitutional and related rights vis-à-vis government.

Recent examples abound:

- Alligator Alcatraz. In July of 2025, while Petitioner's action was pending before the district court, the Tribe intervened in the civil action titled Friends of the Everglades, et al. vs. Kristi Noem, et al., Case No. 25-cv-22896-JEM, USDC, SD Fl., which successfully demanded closure of an ICE detention facility near tribal lands.
- Miami-Dade County, Florida Department of Corrections. Also, while Petitioner's action was pending before the district court, the Tribe successfully stopped erection of a detention facility near tribal lands, to-wit, Miccosukee Tribe of Indians of Florida v. Miami-Dade County, 2026 Fla. App. LEXIS 5373* (Fla. 3d DCA July 15, 2026).

In those legal actions, Respondents as tribal officials sought *prospective* equitable relief by way of declaratory judgment and injunction to stop federal and local governments from treading on the Tribe's rights and privileged status.

Here, Respondents' overtly punitive actions toward Petitioner and their continuing violation of IGRA's precept that tribal casinos must be operated in a truly "fair and honest" manner and not driven by unbridled lucre may sound de minimis because they mostly involve the theft of patrons' coin change. However, the guiding principle is no less significant than actions where Respondents have regularly sought redress of the Tribe's rights.

As the Court has often stressed,

"The ability to sue to enjoin actions by [officers cloaked with sovereign immunity] is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action ..."

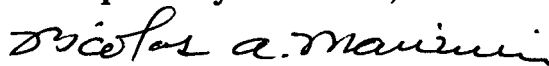
Armstrong v. Exceptional Child Center, Inc., 575 U.S. 320, 327 (2015) (our emphasis and added material).

As affirmed by the Court of Appeals, the district court misapprehended its function as a court of equity and thus justice failed Petitioner.

VIII. CONCLUSION AND PRAYER FOR RELIEF

For these reasons, a petition for a writ of certiorari to the United States Court of Appeals for the Eleventh Circuit should be granted to review its May 1, 2026 unpublished opinion in USCA11 Case Number 25-12912.

Respectfully submitted,



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