

APPEAL NO. 22-12038 and 22-12411

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

WILLIAM M. WINDSOR,
Plaintiff – Appellant,

versus

JAMES N. HATTEN, et al,
Defendants

**Appeal from the United States District Court
for the Northern District of Georgia, Atlanta Division
D.C. Docket No. 1:11-CV-01923-TWT
Judge Thomas Woodrow Thrash**

**APPELLANT’S PETITION FOR REHEARING
AND EN BANC DETERMINATION**

APPENDIX 144

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PRO SE FOR PLAINTIFF/ APPELLANT, WILLIAM M. WINDSOR

APPEAL NO. 22-12411 ¹

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

**In re: WILLIAM M. WINDSOR,
Plaintiff and Appellant**

James N. Hatten, Anniva Sanders, J. White, B. Gutting, Margaret Callier, B. Grutby,
Douglas J. Mincher, Jessica Birnbaum, Judge William S. Duffey, Judge Orinda D.
Evans, Judge Julie E. Carnes, John Ley, Judge Joel F. Dubina, Judge Ed Carnes,
Judge Rosemary Barkett, Judge Frank M. Hull,

Defendants and Appellees

APPELLANT'S REPLY BRIEF

**Appeal from the United States District Court
for the Northern District of Georgia, Atlanta Division
Civil Action No. 1:11-CV-01923-TWT
Judge Thomas Woodrow Thrash**

¹ This case has also been identified as 22-12038

APPELLANT’S REPLY BRIEF

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APPELLANT’S REPLY BRIEF

ARGUMENTS IN REPLY

1. This Court must base its analysis on the 2011 and 2018 orders – EXHIBITS 11-006 and 11-020.
2. EXHIBIT-11-006 is the Permanent Injunction Order in 1:11-CV-01923-TWT (“01923”), Docket-74 dated 07/15/2011.
3. EXHIBIT-11-020 is the Modification of Injunction Order filed 02/12/2018 in 01923 (01923-Docket-226).
4. EXHIBIT-11-049 is the 03/03/2022 Request for Leave for Marcie Schreck and/or Windsor to file a Complaint (01923-Docket-261). It sought to allow Marci Schreck, an acquaintance, to file a legal action in federal court in Texas and to allow WINDSOR to file any cation for elder abuse in Texas.
5. EXHIBIT-11-026 is the Order entered 03/09/2022 in response to EXHIBIT-11-049. (01923-Docket-262.) “Given Mr. Windsor's abuse of the courts as a pro se litigant, the request for him to be allowed to file lawsuits as a next friend or attorney-in-fact is DENIED.”
6. EXHIBIT-11-050 is the 06/08/2022 Request for Leave by Wanda Dutschmann to File Motions for Judicial Review of Documentation or Instrument Purporting to Create a Lien or Claim by William M. Windsor (01923-Docket-269).

7. EXHIBIT-11-051 is the 06/08/2022 Request for Leave to file by WINDSOR Acquaintances (01923-Docket-270).

8. EXHIBIT-11-052 is the 06/08/2022 Request for Leave for WINDSOR to File a Civil Rights Complaint in federal court in Texas (01923-Docket-271).

9. EXHIBIT-11-048 is the Order entered 06/30/2022 in 01923 (“06/30/2022 INJUNCTION”). “Motion for Leave to File Motions [Doc. 269], Motion for Leave to file [Doc. 270] and Motion for Leave to File Civil Rights Complaint [Doc. 271] which are DENIED based upon the well-documented history of frivolous filings by William Windsor and his abuse of the federal judicial system.” [EXHIBITS-11-050—11-051—11-052.]

THERE WAS NO FACTUAL BASIS FOR THE ORDERS EXHIBIT-11-026 AND EXHIBIT-11-048 (“APPEALED ORDERS”).

10. The basis for the APPEALED ORDERS was alleged “the well-documented history of frivolous filings by William Windsor and his abuse of the federal judicial system.” But there was no evidence presented in this matter to support such a statement in the APPEALED ORDERS, or previously.

THE APPELLEE’S BRIEF MUST BE DISREGARDED AS TO ANYTHING THAT APPEARS TO BE CLAIMS OF FACT

**AS THE BRIEF IS UNSWORN, AND THERE IS NO FACTUAL SUPPORT
FOR ANY CLAIMS OF FACT.**

11. The basis for the ORDERS was alleged “the well-documented history of frivolous filings by William Windsor and his abuse of the federal judicial system.” But there were no facts and no evidence presented in this matter to support such a statement in the ORDERS, or previously.

12. *Trinsey v Pagliaro*, D.C.Pa. 1964, 229 F.Supp. 647; *Leon Shaffer Golnick Advertising, Inc. v. Cedar*, 423 So. 2d 1015 (Fla. 4th DCA 1982); *Levine v. U.S.*, 48 F.3d 1221 (7th Cir. 1995); *INS v. Phhinpathya*, 464 U.S. 83, 48 F.3D 1221 (2ND CIR. 2019)

13. Here's a 2022 case:

"As this court explained long ago in *Leon Shaffer Golnick Advertising, Inc. v. Cedar*, if an “advocate wishes to establish a fact, he [or she] must provide sworn testimony through witnesses other than himself [or herself] or a stipulation to which his [or her] opponent agrees.” 423 So. 2d 1015, 1017 (Fla. 4th DCA 1982).” [DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT, STATE OF FLORIDA, Appellant, v. DENISE FUNG TILLMAN, Appellee. Nos. 4D21-2348 and 4D21-2423 [August 17, 2022].]

**EXHIBITS TO THE APPELLEE’S BRIEF MUST BE DISREGARDED AS
THEY ARE UNAUTHENTICATED.**

14. A court may not consider an unauthenticated document. [*Bowers v.*

Norfolk Southern Corporation, No. 08-12087 (11th Cir. 11/18/2008) (11th Cir. 2008).]

THIS COURT INCORRECTLY HELD
THAT IT LACKS JURISDICTION OVER WINDSOR’S CHALLENGES
TO DISTRICT COURT’S 2011 AND 2018 ORDERS

15. See APPELLEE’S BRIEF, PP.6-7.

16. This is a closed case, and the Appeals are for so-called “Permanent Injunctions.” This Court did not address this factual reality.

17. The APPELLEES cite *Heathcoat v. Potts*, 905 USCA11 Case: 22-12411 Document: 39 Date Filed: 07/10/2023 7 F.2d 367, 370 (11th Cir. 1990) APPELLEES’ BRIEF, P.6.]

“Under the ‘law of the case’ doctrine, the findings of fact and conclusions of law by an appellate court are **generally binding** in all subsequent proceedings in the same case in the trial court or on a later appeal.”
[emphasis added.]

18. The APPELLEES’ attorney ignored “generally binding” and the citations in his cited case that establish the “law of the case” does not apply in this matter.

19. The APPELLEES’ attorney also ignored: “The doctrine does not extend to every issue that could be ever raised in a given litigation but rather is limited to those issues previously decided;

20. The “law of the case” may not be used to amend the U.S. Constitution or apply to guardianship and other litigants not involved or addressed in the injunction.

21. In this case, “the prior decision was clearly erroneous and would work manifest injustice.” *Wheeler*, 746 F.2d at 1440 (quoting *United States v. Robinson*, 690 F.2d 869, 872 (11th Cir. 1982) (citations omitted)); *Westbrook*, 743 F.2d at 768. [*Heathcoat v. Potts*, supra, P.371.] So it is a recognized exception to the “law of the case.”

22. The United States Supreme Court is expected to clarify the illegality of what JUDGE THRASH has done on September 26, 2023. [EXHIBIT-11-053.]

23. There is no “necessary implication” that an injunction to protect the federal judicial system applies to a person seeking to become a guardian or any of as many as 1,000,000 acquaintances of WINDSOR.

24. There is simply no legal authority for a federal judge to assert jurisdiction over a state court matter. The decisions of JUDGE THOMAS W. THRASH (“JUDGE THRASH”) were clearly intentionally erroneous.

25. In *United States v. Robinson*, 690 F.2d 869 (11th Cir. 1982), this Court stated:

“Under the law of the case doctrine, both the district court and the court of appeals generally are bound by findings of fact and conclusions of law made

by the court of appeals in a prior appeal of the same case. . . . However, the law of the case doctrine does not apply to bar reconsideration of an issue when (1) a subsequent trial produces substantially different evidence, (2) controlling authority has since made a contrary decision of law applicable to that issue, or (3) the prior decision was clearly erroneous and would work manifest injustice.”

APPELLEE’S BRIEF ISSUE #1:

THIS COURT DOES NOT LACK JURISDICTION OVER
WINDSOR’S APPEAL OF THE 2022 ORDERS
AS THE APPELEES HAVE FALSELY CLAIMED.

26. See APPELLEES’ BRIEF, PP.7-11.

27. This Court incorrectly indicated it lacks jurisdiction over

WINDSOR’s challenges to district court’s 2011 and 2018 orders.

28. The 07/15/2011, 02/12/2018, and 02/27/2018 orders are incorporated in the 2022 Orders and cannot be disregarded in considering the APPEALED ORDERS.

29. If this Court prefers, it may consider WINDSOR’s notices of appeal in June and July 2022 as actions to reconsider the dismissal of these claims.

30. Contrary to the claim of the APPELLEES, WINDSOR never abandoned anything. For 12 years, he has maintained that the 2011 and 2018 orders are void. See EXHIBITS 11-049, 11-050, and 11-051 as examples.

31. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), is a landmark U.S. Supreme Court case that established the principle of judicial review in the United States, meaning that American courts have the power to strike down laws and statutes that they find to violate the Constitution of the United States.

32. *Marbury v. Madison* gives this Court the jurisdiction to now address the Constitutional violations in this matter.

33. If the attorney for the APPELLEES had said this under oath, he would have committed perjury [APPELLEE'S BRIEF (P.9)].

“Here, the May 26, 2022 order denied Plaintiff’s motion to file guardianship actions and appeals in Texas state court, acts that were barred by the injunction.”

34. There is no such claim in EXHIBIT-11-006 or EXHIBIT 11-020. The injunction has absolutely nothing to do with guardianship or probate issues.

35. The APPELLEE’s attorney would have this court believe that “Each of these orders constitutes an interpretation, not a modification, of the existing injunction.”

36. So, according to him, it is an interpretation that an application for guardianship of an elderly woman who was never a judge in an existing Texas probate court case is either a complaint, a new lawsuit, an administrative proceeding, frivolous, malicious, vexatious, and/or is against judges.

37. West's Encyclopedia of American Law, edition 2. Defines “interpretation” as “The art or process of determining the intended meaning of a written document. ”

38. The written documents are clear. [EXHIBITS 11-006 and 11-020.]

39. Each of these APPEALED ORDERS constitutes a modification of the existing injunction. JUDGE THRASH changed the nature and scope of the judicially imposed prohibition, so it is an unlawful modification.

40. APPELLEES’ attorney has actually written that “Because the district court's interpretation in the May 26, 2022 and June 30, 2022 orders was “certainly not so implausible as to amount to a blatant misinterpretation,” it was not an appealable modification. You gotta be kidding.

41. On 03/03/2022, WINDSOR’S REQUEST TO FILE A COMPLAINT [EXHIBIT-11-049] is a 5-page document that produces substantially different evidence. WINDSOR’S REQUEST was to:

“...allow Windsor to file any action in Texas for elder abuse as next friend or as an attorney-in-fact pursuant to Texas law as long as there are no federal judges or federal court employees involved....”

42. The 03/09/2022 Order [EXHIBIT-11-026] says in its entirety:

“This is a pro se civil action. It is before the Court on the pro se Plaintiffs Motion for Leave for Marcie Schreck and/or William M. Windsor to File a Complaint [Doc. 261] which is GRANTED in part and DENIED in part. The

Request for permission for Marcie Schreck to file a Complaint on behalf of her mother Wanda Jean Dutschmann is GRANTED. Given Mr. Windsor's abuse of the courts as a pro se litigant, the request for him to be allowed to file lawsuits as a next friend or attorney-in-fact is DENIED.”

43. The 06/30/2022 Order [EXHIBIT-11-048] says in its entirety:

“This is a pro se civil action. It is before the Court on the Motion for Leave to File Motions [Doc. 269], Motion for Leave to File [Doc. 270] and Motion for Leave to File Civil Rights Complaint [Doc. 271] which are DENIED based upon the well documented history of frivolous filings by William Windsor and his abuse of the federal judicial system. SO ORDERED, this 30th day of June, 2022.”

44. The 06/08/2022 REQUEST FOR LEAVE TO FILE [EXHIBIT-11-052] is a 100-page document that produces substantially different evidence. There is no “documented history of frivolous filings by William Windsor” or “abuse of the federal judicial system.” There is nothing in EXHIBITS-11-006 or 11-020 that addresses elder abuse or civil rights complaints in Texas.

APPELLEE’S BRIEF ISSUE #2:

THIS COURT HAS JURISDICTION

OVER WINDSOR’S APPEAL OF THE 2022 ORDERS.

45. The APPELLEE’s Attorney claims this Court lacks jurisdiction. That would be funny if this was not such a serious issue.

46. WINDSOR appealed pursuant to 28 U.S.C. § 1291(a)(1), which permits interlocutory review of orders “granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions.”

APPELLEE’S BRIEF ISSUE #3:

WINDSOR DID NOT ABANDON A CHALLENGE TO THE 2022 ORDERS BY FAILING TO IDENTIFY ANY LEGAL ERRORS SPECIFIC TO THOSE ORDERS AS THE APPELLEES HAVE FALSELY STATED.

47. See APPELLEE’S BRIEF, PP.11-12.

48. WINDSOR identified all the legal errors that applied to the 2022 orders.

49. The terms are very clear “...**filing any complaint or initiating any proceeding, including any new lawsuit or administrative proceeding....**”

[APPELLANT’S-BRIEF--P.13-¶99.]

50. The APPEALED ORDERS have nothing to do with filing a complaint, filing a new lawsuit, or filing an administrative proceeding. A Texas application for guardianship in an existing probate court matter is not the filing of a lawsuit and is not an administrative proceeding. And it is a matter over which JUDGE THRASH has no jurisdiction.

51. Contrary to the outlandish claim of the APPELLEES, this clearly explains why the 2022 Orders are void. WINDSOR explained that the so-called

permanent injunctions do not restrict a Texas application for guardianship in an existing probate court matter is not the filing of a lawsuit and is not an administrative proceeding.

52. See APPELLANT'S BRIEF, P.xxvii, P.1-¶¶25-26. See P.3-¶38: Neither the motion to deny removal nor jurisdiction were ever addressed by JUDGE THRASH in 01923.

53. WINDSOR has never filed anything frivolous, and he has not abused the federal judicial system.

54. The U.S. Attorney continues to violated the Constitution and the law by claiming a federal judge has jurisdiction over state court matters.

THE DISTRICT COURT'S ORDERS ARE VOID AND INVALID.

55. +JUDGE THRASH's ORDERS are void. The U.S. Supreme Court has stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them." (*Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).)

56. It is well-established law that a judge must first determine whether the judge has jurisdiction before hearing and ruling in any case. JUDGE THRASH

failed to do so when he issued a purported injunction on 7/15/2011 and failed to address the 6/14/11 MOTION TO DENY REMOVAL. [01923-DOCKET-7.]

57. The ORDERS of JUDGE THRASH are void. (*Adams v. State*, No. 1:07-cv-2924-WSDCCH (N.D.Ga. 03/05/2008).) (*See Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998); see also *University of S. Ala. v. The Am. Tobacco Co.*, 168 F.3d 405,410 (11th Cir. 1999) (“[O]nce a federal court determines that it is without subject matter jurisdiction, the court is powerless to continue.”). (*Jean Dean v. Wells Fargo Home Mortgage*, No. 2:10-cv-564-FtM-29SPC (M.D.Fla. 04/21/2011).) (*Taylor v. Appleton*, 30 F.3d 1365, 1366 (11th Cir. 1994).)

58. The ORDERS issued by JUDGE THRASH are invalid and not issued under seal or signed by the Clerk of the Court in violation of 28 U.S.C. 1691.

The word “process” at 28 U.S.C. 1691 means a court order. See *Middleton Paper Co. v. Rock River Paper Co.*, 19 F. 252 (C.C. W.D. Wisconsin 1884); *Taylor v. U.S.*, 45 F. 531 (C.C. E.D. Tennessee 1891); *U.S. v. Murphy*, 82 F. 893 (DCUS Delaware 1897); *Leas & Mc Vitty v. Merriman*, 132 F. 510 (C.C. W.D. Virginia 1904); *U.S. v. Sharrock*, 276 F. 30 (DCUS Montana 1921); *In re Simon*, 297 F. 942, 34 ALR 1404 (2nd Cir. 1924); *Scanbe Mfg. Co. v. Tryon*, 400 F.2d 598 (9th Cir. 1968); and *Miles v. Gussin*, 104 B.R. 553 (Bankruptcy D.C. 1989).

WINDSOR AND HIS ACQUAINTANCES WERE DENIED
PROCEDURAL DUE PROCESS.

59. JUDGE THRASH has no authority to deny acquaintances of

WINDSOR the right to file their own legal actions. These nice people have their own legal issues, and they are doing nothing in consort with WINDSOR to file things for him. These people are being unlawfully enjoined. There is no legal basis for what JUDGE THRASH is doing.

60. There was no basis for issuing INJUNCTIONS because the only evidence and the only facts before JUDGE THRASH were from WINDSOR. There wasn't a single affidavit or word of testimony from the DEFENDANTS. The INJUNCTION fails to set forth any valid reasons (as there are none). There was no notice or an opportunity to be heard. There is no legal basis for a federal judge to interfere with a state guardianship effort. Statutes and case law firmly establish that federal judges have no jurisdiction over state court matters and may not deny a party the right to appeal.

The requirements for a valid injunction are found in Rule 65(d) of the Federal Rules of Civil Procedure, which provides, so far as pertinent here, that "every order granting an injunction ... shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained." (*International Longshoremen's Ass 'n v. Philadelphia Marine Trade Ass'n*, 389 U.S. 64, 74-76 (1967); *Schmidt v. Lessard*, 414 U.S. 473 (1974) (per curiam); *PMC, Inc. v. Sherwin-Williams Co.*, 151 F.3d 610, 619-20 (7th Cir. 1998); *Project B.A.S.J.C. v. Kemp*, 947 F.2d 11, 16 (1st Cir.1991); *Imageware, Inc. v. US. West Communications*, 219 F.3d 793 (8th Cir. 07/25/2000); *Sanders v. Air Line Pilots Ass 'n, Int'l*, 473 F.2d 244,247 (2d Cir. 1972); *EFS Marketing, Inc. v. Russ Berrie & Co.*, 76 F.3d 487,493 (2d Cir. 1996) (internal quotation marks omitted).)

Amendment V of the U.S. Constitution provides: “No person shall be ... deprived of life, liberty, or property, without due process of law ... “Article I of the Georgia Constitution provides: “No person shall be deprived of life, liberty, or property except by due process of law.”

61. JUDGE THRASH improperly foreclosed WINDSOR’s access to courts and the access of people with whom he is acquainted. JUDGE THRASH issued an injunction without giving WINDSOR the opportunity to be heard at a hearing. Procedural due process requires notice and an opportunity to be heard before any governmental deprivation of a property or liberty interest. (*Zipperer v. City of Fort Myers*, 41 F.3d 619,623 (11th Cir. 1995).)

62. Meaningful access to the courts is a Constitutional right that has been denied by JUDGE THRASH, and his ORDERS deny significant rights.

(See *Procup v. Strickland*, 792 F.2d 1069, 1072 (11th Cir. 1986) (per curiam) (en bane); *Christopher v. Harbury*, 536 U.S. 403,415 & n.12, 122 S.Ct. 2179, 2187 & n.12, 153 L.Ed.2d 413 (2002).)

63. There was no Show Cause order issued to WINDSOR or his acquaintances as required by Eleventh Circuit law. Neither WINDSOR nor his acquaintances had proper notice.

Upon these findings and **consistent with Eleventh Circuit law, this Court required Plaintiff to show cause within ten days ... why a Martin Trigona injunction should not be entered.** (See *Procup v. Strickland*, 792 F.2d 1069 (11th Cir. 1986); *Torres v. McCoun*, No. 8:08-cv-1605-T-33MSS (M.D.Fla. 09/10/2008); *Western Water Management, Inc. v. Brown*, 40 F.3d 105, 109 (5th Cir. 1994).) **[emphasis added.]**

64. WINDSOR will suffer irreparable harm if the ORDERS [EXHIBITS-11-026 and 11-048] are allowed to stand and WINDSOR and his acquaintances lose legal rights.

65. The courthouse doors have been closed to WINDSOR and his acquaintances in violation of extensive case law. WINDSOR and his acquaintances have been denied the right to petition the government for redress of grievances. WINDSOR and his acquaintances have been denied rights pursuant to the Constitution and Bill of Rights.

66. JUDGE THRASH issued an ORDER that had immediate and irreparable impact on WINDSOR and his acquaintances.

CONCLUSION

67. The APPELLEE'S BRIEF must be disregarded, and WINDSOR's APPEAL must be granted.

This 21st day of August, 2023,



William M. Windsor
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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Fed. R. App. P. 32(a)(7)(B)(i) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 14 pages.

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5)(A) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared by a proportionally spaced typeface using Microsoft Word software in Times New Roman 14-point font, one of the font and point selections approved by this Court.

This 21st day of August, 2023,



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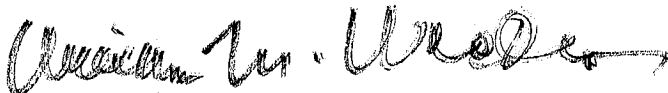
CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing APPELLANT'S REPLY BRIEF by email and addressed as follows:

RYAN K. BUCHANAN – GABRIEL A. MENDEL
UNITED STATES ATTORNEY -- ASSISTANT U.S. ATTORNEY

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404-581-6000 -- Fax: 404-581-6181 -- gabriel.mendel@usdoj.gov

This 21st day of August, 2023,



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