



Supreme Court Should Stop Georgia From Charging Citizens \$404 Per Year To Read Their Own Laws

Molly Davis

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In most states, a quick Google search will lead a researcher to a wealth of information about his state laws, posted by none other than the government itself. This is how it should be — conducting research about state laws should be simple in terms of accessibility.

But this isn't the case for residents in Georgia. Georgia's state government has erected a barrier between its people and the information about the laws that govern them by contracting the exclusive publishing rights of the Official Code of Georgia Annotated (OCGA) with a private company, LexisNexis Group, which charges hefty fees for users to view its content.

Basic legal information about codified laws should never be shielded from the public through copyright. The U.S. Supreme Court should affirm this, and it will soon have a chance to do so. On Dec. 2, the court will begin to hear oral arguments in *Georgia v. Public.Resource.Org Inc.* to establish a ruling that will affect Americans' ability to freely access relevant legal information concerning their state laws.

Georgia Is Pulling the Copyright Card

The case focuses on the OCGA, which differs from the plain text of Georgia's code because it includes additional details such as coinciding court cases and legal analysis from the Attorney General's Office. Georgia has never restricted access to the plain text of its code, which is posted free online. But the OCGA is locked behind the paywalls of LexisNexis, which charges \$404 to gain entry — even though taxpayers subsidized the creation of the annotated version. Georgia's Code Revision Commission has full editorial oversight over the annotations and supervises all editing and publication.

Using copyright law to restrict individuals' access to this vitally important, government-subsidized legal text is unfair to taxpayers and contradictory to the principles of an open government.

The public watchdog group Public.Resource.Org (PRO) took issue with a government charging its own people to access the full details of their state code and decided to do something about it. It bought a subscription to LexisNexis and, in 2013, copied the entirety of OCGA and uploaded that to a website for all to see, free of charge.

On numerous occasions, the state of Georgia demanded PRO take the content down, citing the clear copyright infringement. But PRO refused and waited for the inevitable lawsuit, which followed in 2015. In 2018, the 11th Circuit ruled in favor of PRO.

PRO Wants the Supreme Court to Rule

Despite its win in appeals court, PRO surprisingly supports trying the case at the Supreme Court. About 20 other states copyright their annotated laws, so PRO's goal is to establish, once and for all, the scope of copyright protections with regard to state laws. R Street Institute, which filed an amicus brief in support of PRO, concludes there is substantial uncertainty about accessing government documents among the circuits, and the court "should resolve that uncertainty and uniformly define the ambit of the state's ability to assert copyright in its works."

Georgia takes the position that the OCGA differs from the state's simple code text because it is merely commentary about the law. According to Georgia, OCGA is not subject to the same transparency requirement that the actual text should be afforded. But that's wrong. According to the 11th Circuit, while the annotations of Georgia's state code do not carry the force of statute or judicial opinions, they "undeniably are authoritative sources on the meaning of Georgia's statutes."

This means the OCGA still holds power in the courts. Georgia has deemed it as the official annotated code, and because of this significance and the weight it carries as a legal document, it should be free for the public to examine and use.

Citizens Need Access to the Laws Governing Them

There are plenty of scenarios in which a person may choose to represent himself in court, and he'll need the right legal information to do so adequately. Especially because, as Trevor Burrus and Sam Spiegelman write for Cato Institute, ignorance to the law is not a defense for criminal conduct.

A person should be able to properly prepare to represent himself by knowing what the law requires of him, without major financial hurdles during research preparation. The taxpayer-funded prosecution has endless resources relative to the defense, who, in some cases, must fend for themselves. It's only fair that states open the door for the public to access the annotated text of the law.

Those who live under the control of a particular set of rules, rich and poor alike, should be able to freely view the text of those rules and the legal arguments and official commentary about them — especially when that commentary holds power in the court.

Access to legal information that rules over the lives of residents is a basic requirement for government transparency, which is essential for civic trust. Without transparency, accountability is impossible. Unless the information about the law is entirely available, people won't be able to fully understand the laws for personal knowledge or defense.

Also, to hold government officials accountable for the laws they have written, the public must know why the laws were written and what bureaucrats have to say about them in the first place. If a person takes issue with a particular bill in his legislative session, for example, he should be able to properly research the existing statute that bill will affect — without paying an absurd amount to do so.

The Supreme Court holds the vitally important burden of determining what legal information the public should have access to. It should remember that taxpayers fund the creation and interpretation of such laws and, more importantly, are bound by them. By barricading access to annotated codes that indeed hold legal power and that the government partially funds, states are

unjustly denying people the right to properly understand the extent of the law, and defend themselves in court.