

*State of Fla. v. State of Georgia*, 141 S. Ct. 1175 (2021).

**United States Supreme Court Holds that Florida Failed to Prove Harm Caused by Georgia's Alleged Overconsumption of Interstate Waters**

This case concerns the Apalachicola-Chattahoochee-Flint River Basin (the "Basin"), which contains three rivers: the Chattahoochee River, the Flint River, and the Apalachicola River. In 2013, the State of Florida ("Florida") brought the original action against the State of Georgia ("Georgia") seeking equitable apportionment of the basin waters. Florida alleged that Georgia, its upstream neighbor, "consumes more than its fair share of water from these interstate rivers." Florida claimed that Georgia's overconsumption harmed its economic and ecological interests and sought a decree requiring Georgia to reduce its consumption. The Supreme Court of the United States granted Florida leave to file its complaint and referred the case to a special master. After eighteen months, the special master recommended that Florida be denied relief, determining that it was unnecessary to make definitive findings on the issues because Florida failed to prove the redressability of their asserted injuries by clear and convincing evidence.

Florida filed several exceptions to the special master's report and concluded that the special master's clear and convincing evidence standard was "too strict." Following the special master's retirement, the Court appointed a new special master, who also recommended that the Court deny Florida relief. Florida, once again, filed exceptions, which were overruled and the special master's recommendation was adopted.

The Court explained that to obtain an equitable apportionment, Florida must prove a "threatened or actual injury" caused by Georgia's upstream water consumption and show that "the benefits of the [apportionment] substantially outweigh the harm that might result." Florida asserted that Georgia's overconsumption caused it "two distinct injuries: the collapse of its oyster fisheries and harm to its river ecosystem." For the first issue, Florida provided evidence that, at most, established that increased salinity and predation in the Basin contributed to the collapse of the oyster fisheries; the evidence did not establish that Georgia's overconsumption caused this increased salinity and predation. Therefore, the Court concluded that Florida failed to carry its burden of proving this first injury by clear and convincing evidence. For the second injury, the special master found "a complete lack of evidence" that any river species suffered serious injury from Georgia's alleged overconsumption, and the Court agreed. Without stronger evidence of actual past or threatened harm to Apalachicola River, the Court could not find it "highly probable" that these species suffered serious injury at all, let alone as a result of Georgia's alleged overconsumption. Furthermore, the Court overruled Florida's exceptions to the special master's report and dismissed the case, reasoning that Florida did not meet the necessary standard to warrant "the exercise of this Court's extraordinary authority to control the conduct of a coequal sovereign."