

No. 21-600

In the
Supreme Court of the United States

WADE STEVEN GARDNER, ET AL.,
Petitioners,

v.

WILLIAM MUTZ, IN HIS CAPACITY AS MAYOR OF THE
CITY OF LAKELAND, FL., ET AL.,
Respondents.

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

**BRIEF FOR THE RESPONDENTS
IN OPPOSITION**

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BRIEF IN OPPOSITION

Respondents, William Mutz, in his official capacity as Mayor of the City of Lakeland, Anthony Delgado, in his official capacity as City Manager of the City of Lakeland, Don Selvage, individually and in his official capacity as City of Lakeland Commissioner, Justin Troller, individually and in his official capacity as a City of Lakeland Commissioner, Phillip Walker, individually and in his official capacity as a City of Lakeland Commissioner, and Antonio Padilla, individually and in his capacity as President of Energy Services & Products Corp. (“Respondents”), respectfully request that the Petition for Writ of Certiorari be denied.

INTRODUCTION

Petitioners, a group of individuals and associations with an expressed interest in promoting and preserving the history of the Confederacy, have challenged the Lakeland City Commission’s decision to relocate a Confederate Monument from City-owned Munn Park to City-owned Veterans Park, both of which are situated within the corporate limits of the City of Lakeland. Petitioners sued the current Mayor and former and current City Commissioners who voted to relocate the Monument (as opposed to the entire City Commission), the City Manager who directed the relocation, and the contractor the City hired to move the Monument to Veterans Park.

Petitioners claim free speech rights in the Monument itself, including decisions regarding where it should be placed. In their brief, Petitioners

claim that because the Confederate Monument has been situated in Munn Park since 1909, it is a “legacy” monument and cannot be removed—or in this case, even relocated to another park—and must remain in Petitioners’ preferred park in perpetuity. But this contention is entirely inconsistent with the government speech doctrine as set forth in *Pleasant Grove City v. Summum*, 555 U.S. 460 (2009).

This Court “sparingly exercise[s]” its power to grant certiorari, and this case does not present any basis for departing from the consistent application of this principle. *Camreta v. Greene*, 563 U.S. 692, 709 (2011). For the reasons discussed below, this Court should deny certiorari review. There is no conflict among the lower courts with respect to the application of the government speech doctrine in a case presenting these facts. And both the Middle District of Florida and the Eleventh Circuit appropriately applied this doctrine when they found further amendment would be futile because a permanent monument placed in a public park is not subject to the Free Speech Clause of the First Amendment to the United States Constitution.

STATEMENT OF THE CASE

The subject of this dispute is a Confederate Monument originally installed in 1909 in Munn Park. Munn Park is centrally located in downtown Lakeland and situated within a nationally-registered historic district. (App. 24-25). The Lakeland City Commission voted to move the Confederate Monument from Munn Park to another city park, Veterans Park. Petitioners sued Respondents in

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