

## SCOTUS Opinion: States Immune from Copyright Claims

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When North Carolina published a photographer's copyrighted work recording operations to recover a shipwreck off of its coast, the photographer sued under the Copyright Remedy and Classification Act of 1990. The district court held that the Act abrogated State sovereign immunity from such claims, but the Fourth Circuit reversed, holding that the decision in *Florida Prepaid Postsecondary Ed. Expense Bd. v. College Savings Bank*, 527 U.S. 627 (1999) denied Congress the authority from depriving States of sovereign immunity.

The Court, in a unanimous opinion by Justice Kagan, affirmed, holding that *Florida Prepaid* controlled the outcome. The Court found that the circumstances that guided the result in *Florida Prepaid*, which addressed whether Congress could abrogate State sovereign immunity involving claims under the Patent Remedy Act, were present here. Justice Thomas, concurring in part and in the judgment, noted areas of the majority's opinion that he did not join, and an area of law still left unsettled. Justice Breyer, joined by Justice Ginsburg, concurred in the judgment, disagreeing with the precedent set by *Florida Prepaid*, but recognizing that his view still does not carry the day. A link to the opinion in *Allen v. Cooper* is [here](#).

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