

Court of Appeals of the State of Georgia

ATLANTA, July 02, 2014

The Court of Appeals hereby passes the following order:

A14A0014. CHAN v. ELLIS.

After this appeal was docketed, but before the parties filed their briefs, appellant Matthew Chan filed a motion to transfer the appeal to the Supreme Court of Georgia, asserting that the appeal raised constitutional issues under that court's exclusive jurisdiction. This court denied that motion on the ground that the appeal did "not challenge the constitutionality of a law, ordinance, or constitutional provision. Accordingly, it does not appear *at this juncture* that subject-matter jurisdiction is proper in the Supreme Court." (Emphasis supplied.)

The entire record and the briefs of the parties and of amicus curiae, however, have raised significant and novel constitutional issues addressing the interplay of the First Amendment and the wide dissemination of information made possible by the internet, particularly with respect to the issuance of a permanent protective order and the trial court's broad discretion to bring about the cessation of conduct constituting stalking. As the briefs also make clear, the appeal raises issues of first impression in Georgia, and there is very little if any directly applicable law in other jurisdictions. Therefore, while the appeal does not "draw in question" the constitutionality of any statute within the meaning of Ga. Const. of 1983, Art VI, Sec. VI, Para. II (1), it is a case "involving the construction of . . . the Constitution of the State of Georgia or of the United States" within the meaning of that provision.

Accordingly, this appeal is hereby TRANSFERRED to the Supreme Court.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta, 07/02/2014

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Stephen E. Castle

, Clerk.