

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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**LAPIDES v. BOARD OF REGENTS OF UNIVERSITY
SYSTEM OF GEORGIA ET AL.****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT**

No. 01–298. Argued February 25, 2002—Decided May 13, 2002

Petitioner, a professor in the Georgia state university system, filed a state-court suit against respondents—the system’s board of regents (hereinafter Georgia or State) and university officials in their personal capacities and as state agents—alleging that the officials had violated state tort law and 42 U. S. C. §1983 when they placed sexual harassment allegations in his personnel files. The defendants removed the case to Federal District Court and then sought dismissal. Conceding that a state statute had waived Georgia’s sovereign immunity from state-law suits in state court, the State claimed Eleventh Amendment immunity from suit in the federal court. The District Court held that Georgia had waived such immunity when it removed the case to federal court. In reversing, the Eleventh Circuit found that, because state law was unclear as to whether the state attorney general had the legal authority to waive Georgia’s Eleventh Amendment immunity, the State retained the legal right to assert immunity, even after removal.

Held: A State waives its Eleventh Amendment immunity when it removes a case from state court to federal court. Pp. 2–10.

(a) Because this case does not present a valid federal claim against Georgia, see *Will v. Michigan Dept. of State Police*, 491 U. S. 58, 66, the answer to the question presented is limited to the context of state-law claims where the State has waived immunity from state-court proceedings. Although absent a federal claim, the Federal District Court might remand the state claims against the State to state court, those claims remain pending in the federal court, which has the discretion to decide the remand question in the first instance. Thus, the question presented is not moot. Pp. 2–3.

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sistency and unfairness that a contrary rule would create. A rule that finds waiver through a state attorney general's invocation of federal-court jurisdiction avoids inconsistency and unfairness, but a rule that, as in *Ford*, denies waiver despite the attorney general's state-authorized litigating decision does the opposite. For these reasons, *Clark*, *Gunter*, and *Gardner* represent the sounder line of authority, and *Ford*, which is inconsistent with the basic rationale of those cases, is overruled insofar as it would otherwise apply. Respondents' remaining arguments are unconvincing. Pp. 5–10.

251 F. 3d 1372, reversed.

BREYER, J., delivered the opinion for a unanimous Court.