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A Brief Legal History of RICO Charges and Artistic Freedom & Their Unconstitutional Applications in *State of Georgia v. Kahlieff Adams, et al.*

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**A BRIEF LEGAL HISTORY OF RICO CHARGES AND ARTISTIC FREEDOM &
THEIR UNCONSTITUTIONAL APPLICATIONS IN *STATE OF GEORGIA V.
KAHLIEFF ADAMS, ET AL.***

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Abstract: This paper seeks to analyze how the history and precedent of racketeer-influenced and corrupt organizations (RICO) charges and the admission of rap lyrics into a courtroom both play into the case of State of Georgia v. Kahlieff Adams et al. This case, better known as the Young Slime Life (YSL) Case, features the likes of famous rappers Young Thug and Gunna and initially charged twenty- eight individuals. This case garnered national attention and has since made both legal and lay observers question the ways in which the strategies employed by the State of Georgia have followed the precedent of other RICO cases in the subversion of the constitutional rights of all defendants as citizens of the United States. Beyond analysis, this paper will also argue that the melding of the unjust concepts of RICO charges and restrictions on artistic freedom combine forces in the YSL case to restrict the civil liberties of all the defendants involved.

Basic Tenets of Artistic Freedom:

An excerpt from “Rap on Trial,” by Charis Kubrin and Erik Neilson:

Rap is a form of artistic expression entitled to First Amendment protections, [therefore] it is critical for courtroom players to be cognizant of rap as a complex, highly sophisticated form of poetry with lyrics that, by convention, rely heavily upon hyperbole and metaphor. As a result, these players must likewise be careful not to assume that the lyrics are autobiographical or inculpatory, thereby conflating fact with fiction.²

Beyond the practical rationale that the above excerpt provides on understanding the ways in which rap as an art form should not be admitted into court as fact, this excerpt encourages all

¹ Brendan Mahoney is a junior history major at Boston College. His research revolves around issues and legacies of the New Left and other radical social movement groups of the “long 1960s,” specifically the Students for a Democratic Society (SDS). His work seeks to fill in gaps in scholarship that exist surrounding student radicalism at smaller colleges in New England. Additionally, Brendan is interested in the historical legal theories of movement lawyering, and the strategies lawyers employ to represent large groups of defendants charged with various types of conspiracy charges.

² Charis E. Kubrin and Erik Nielson, “Rap on Trial,” *Race and Justice* 4, no. 3 (2014): 185–211, 204.

readers to consider the question of the boundary between fact and fiction within art. There is no clear answer to this question, and different people will have varying responses.

One method of consideration is to evaluate whether there is a defined ‘genre’ that rap fits into. Within literature, there are a plethora of genres that artistic works can fit into (i.e., fiction, non-fiction, historical fiction, etc). However, before pondering whether rap fits into any of these genres, one must evaluate the extent to which each genre is defined and, at times, erased in certain literary works.

Take, for example, *The Things They Carried* by Tim O’Brien. This collection of short stories allows O’Brien to analyze the Vietnam War reflectively through a series of personal anecdotes.³ While this book is labeled as a “work of fiction” on the title page, considering the fact that O’Brien served in Vietnam, as well as the accompanying vivid details provided in the collection, it is hard for one to think that this book exists in a vacuum separate from O’Brien’s experiences. If we assume for theoretical purposes that this novel considers his personal experiences within history but also exaggerates certain aspects of the stories, this work fulfills all the aforementioned genres. As one analysis of the novel puts it, a work such as this illuminates “the relationship between fiction and the discourse of history,” which inevitably leads a reader to conclude that history is innately structured in a fantastical way.⁴ Does this imply that Tim O’Brien’s work is genreless? Or does this mean that this work is something that many genres can define? Regardless of which approach the reader favors, they will agree that there is no singular genre that this novel fits into.

The Things They Carried can be useful in an examination of law, artistic freedom, and RICO charges because we can analyze such legal issues with the same multifaceted lens as we do with novels. To assume that there is even a small element of fiction within a body of work is to assume that *all* of it is fiction, or at the very least, exaggerated reality, which makes it nearly impossible to admit anything from a body of literary work into a court of law.

The history of artistic freedom in rap began in the 1990s with the rise of Tupac Shakur. There were various lawsuits from victims’ families over crimes committed by Tupac and associates, claiming Tupac should assume some level of liability, accounting for how he talks

³ Tim O’Brien, *The Things They Carried: A Work of Fiction*, First Mariner books edition (Boston: Mariner Books/Houghton Mifflin Harcourt, 2009), <http://catdir.loc.gov/catdir/enhancements/fy1108/2009029928-b.html>.

⁴ Michael Travel Clarke, “‘I Feel Close to Myself’: Solipsism and Us Imperialism in Tim O’Brien’s ‘the Things They Carried,’” *College Literature* 40, no. 2 (2013): 130–54, 132.

about “blast[ing] his punk ass,” in reference to a murdered police officer.⁵ However, there is a strong precedent that exists in the US legal system that allows for a “loophole” in a case such as Tupac’s: the First Amendment.⁶ The First Amendment essentially acts as a documented gray area in which defendants who use artistic media as a vehicle to express acts of violence or crimes can claim “freedom of speech.”⁷

The most notable of these precedent cases comes from a 1991 US District Court of Georgia case against the metal artist Ozzy Osborne. The case, *Waller v. Osborne*, was brought against Osborne by the parents of the deceased Michael Waller, alleging that the “subliminal messaging” present in Osborne’s music incited their son to commit suicide.⁸ The court decided that there were “no issues of material fact” that would lead to any sort of causation between the music of Osborne and the suicide of Waller.⁹ This decision upholds the right of the musical artist (Osborne, in this case) to express any and all thoughts through art as a medium, no matter how harmful to the public they may be.

Other related cases deal with other individual freedoms, such as the ability of video performers to dance nude in a “non-obscene way” or the ability of protestors to wear jackets that read “Fuck the Draft.”¹⁰ The first of these two, *Schad v. Borough of Mount Ephraim*, was a case that sought to overturn the convictions of the owners of an adult film store in New Jersey who were charged for their demonstration of nude, live entertainment on coin-operated video devices.¹¹ The court ruled to overturn the convictions due to the First and Fourteenth Amendment rights of the store owners as these acts are acts of expression and do not interfere with the “immediate needs” of the borough.¹² The second of these cases, *Cohen v. California*, deals with Paul Cohen, a young man who was charged for his wearing of a jacket that read “Fuck the Draft.” The case asserted that in accordance with the constitutional rights of the accused,

⁵ Jason Talerma, “The Death of Tupac: Will Gangsta Rap Kill the First Amendment Notes,” *Boston College Third World Law Journal* 14, no. 1 (1994): 117–44, pp. 117-119.

⁶ Talerma, pp. 119-120.

⁷ Talerma, 119.

⁸ FITZPATRICK, District Judge, *Waller v. Osbourne*, 763 F. Supp. 1144 (M.D. Ga. 1991), No. Civ. No. 88-111-ALB/AMER(DF). (United States District Court M.D. Georgia, Albany/Americus Division. May 6, 1991).

⁹ FITZPATRICK, District Judge.

¹⁰ Supreme Court Justice White, *Schad v. Borough of Mount Ephraim*, 452 U.S. 61, No. No. 79-1640 (US Supreme Court June 1, 1981); Justice Harlan, *Cohen v. California*, 403 U.S. 15 (1971), No. No. 299 (THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT June 7, 1971).

¹¹ Supreme Court Justice White, *Schad v. Borough of Mount Ephraim*, 452 U.S. 61.

¹² Supreme Court Justice White.

there can be no prohibition on the wearing of this jacket.¹³ The court stated that it “cannot indulge the facile assumption that one can forbid particular words without also running a substantial risk of suppressing ideas in the process.”¹⁴ This assertion bases itself not only on the precedent of the First Amendment but also on the precedent of the civil liberties that serve as foundational ground for what American law represents.

Overall, various courts have cited that there cannot be a limit on the freedom of expression clause of the First Amendment in terms of artistic media such as video, song, and style of dress. These precedent cases are of great importance in the Young Slime Life case, as the rap lyrics of members of the group, such as Young Thug (Jeffery Williams) and Gunna (Sergio Kitchens), are being brought into evidence by the State of Georgia under the RICO statute. Before the analysis of the YSL case, it is necessary to evaluate and understand RICO charges, how they operate, and how they are applied to ‘gang activity.’

Understanding RICO

RICO, or Racketeer Influenced and Corrupt Organizations statute was established in 1970.¹⁵ This statute was written by Cornell Law Professor G. Robert Blakey with the intention of taking down organized crime by targeting groups of people instead of individuals. Within section four of this act, “enterprise” is defined as something that “includes any individual, partnership, corporation, association, or other legal entity and any union or group of individuals associated in fact although not a legal entity.”¹⁶ Essentially, this definition allows the law to tie people together through criminal activities in the same way that the law defines associates in a legal business. RICO’s definition also includes specific crimes that can fall under this umbrella, such as robbery, extortion, and murder.¹⁷ However, the most pertinent section of RICO, in terms of the present YSL case and its being thrown out, is the commerce clause. This clause essentially states that RICO organizations are tied inherently to the infiltration of legitimate businesses,

¹³ Justice Harlan, *Cohen v. California*, 403 U.S. 15 (1971).

¹⁴ Justice Harlan.

¹⁵ G. Robert Blakey, “RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS,” 18 U.S. Code Chapter 96 § (1970), <https://www.law.cornell.edu/uscode/text/18/part-I/chapter-96>.

¹⁶ G. Robert Blakey, Section 4.

¹⁷ G. Robert Blakey, Section 1.

particularly businesses that are interstate commerce-based, which allows for a more economic angle on the prosecution of crimes under the RICO statute.¹⁸

The biggest application of the RICO statute came in 1985, in the famous “Mafia Commission Trial.”¹⁹ The Commission was a collection of the bosses of the five mafia families of New York in one conspiracy that met and decided the ‘jurisdiction’ of each family within the city.²⁰ This trial led to many convictions, especially within the Genovese family and its boss, Anthony “Fat Tony” Salerno, for loan sharking, murders, extortion, and even plots to kill government officials such as Rudy Giuliani, the lead prosecutor of the case.²¹ This was all possible because the RICO Act allowed people like Salerno to be tied to crimes that they did not actually commit with their own hands but crimes that they ordered to be committed within a larger conspiracy of their organization.

While taking down the mafia in NYC seems to be well-intentioned in decreasing crime in the city, it set a dangerous precedent that came to restrict the civil liberties of people everywhere. Perhaps the most dangerous of examples comes, once again, within the lines of the mob. However, this time, it is the association that the mob had between its own organizations and local unions.

The mob, in NYC and other places, was heavily involved in the structure of many local unions, the most famous of these cases being *United States v. Local 560, International Brotherhood of Teamsters*. This lawsuit from the US Government had the express purpose of purging all mob elements from this local union using RICO.²² This case introduced a new style of using RICO: a RICO trusteeship. In a trusteeship, the government, in an attempt to deter or remove all mob activity, denotes certain employees or former prosecutors who are familiar with RICO and racketeering, in general, to become associated with the union on a professional level.²³ This professional relationship is defined by an “all-powerful trusteeship” in which the

¹⁸ Jordan Woods, “Systemic Racial Bias and RICO’s Application to Criminal Street and Prison Gangs,” *Michigan Journal of Race and Law* 17, no. 2 (January 1, 2012): 303–57, 305.

¹⁹ Robert Marriaga, Sayd Hussain, and Leanet Gutierrez, “RICO: The Anti-Mafia Law,” *FAU Undergraduate Law Journal*, April 15, 2021, 8–15, 13.

²⁰ Marriaga, Hussain, and Gutierrez, 10.

²¹ Marriaga, Hussain, and Gutierrez, 13.

²² James B. Jacobs, Eileen M. Cunningham, and Kimberly Friday, “The RICO Trusteeships after Twenty Years: A Progress Report,” *The Labor Lawyer* 19, no. 3 (2004): 419–80, 419.

²³ Jacobs, Cunningham, and Friday, 425.

government employees have the ability to negotiate contracts, initiate strikes, and handle grievances.²⁴

Again, while this use of RICO seems well intentioned, it actually restricts the free speech rights of the majority of union members and leaders. Clyde Summers, a leading labor law expert who testified in the *Local 560* trial, believes that trusteeships “allow for absolutely no possibility of exercising [First Amendment] rights.”²⁵ The harm that something like the RICO trusteeship causes may outweigh the potential benefits for those within the unions who had been otherwise abused by the mob. In essence, this use of RICO allows for the government to assume that illegitimate racketeering exists within the union. Consequently, this line of thinking allows for a complete assumption of power and control over an organization that advocates for the rights of the average laborer.

RICO has also been abused when it comes to the organization of protestors, specifically those at abortion clinics. While scholars deem the majority of these protests to be “obnoxious and harassing” in nature, they are still protected under the First Amendment.²⁶ Although these actions should be protected under the First Amendment, prosecutors have used RICO statutes to tie protestors together through their organizers in cases such as *Northeast Women's Center Inc. v. McMonagle*, *Feminist Women's Health Center v. Roberts*, and *Town of West Hartford v. Operation Rescue*.²⁷ These cases all demonstrate various ways in which RICO has been used to unconstitutionally associate the individual crimes by members of these groups that occurred in contexts outside of the organized whole with the group in favor of taking away the right to assembly of these protestors.²⁸

While these examples abuse RICO in their own way, the most important exploitation of RICO in this case study would be the unjust application of the statute to street gangs, such as YSL. One aspect of the RICO statute that can be used to understand the unconstitutionality of the charges against street gangs is the previously mentioned commerce clause that creates an association with a legitimate business. Legal scholar Jordan Woods offers two reasons that the

²⁴ Jacobs, Cunningham, and Friday, 427.

²⁵ Kenneth R. Wallentine, “A Leash upon Labor: RICO Trusteeships on Labor Unions,” *Hofstra Labor Law Journal* 7, no. 2 (1990-1989): 341–68, pp. 354-355.

²⁶ Antonio J. Califa, “RICO Threatens Civil Liberties Symposium: Reforming RICO: If, Why, and How,” *Vanderbilt Law Review* 43, no. 3 (1990): 805–50, 823.

²⁷ Califa, 805.

²⁸ Califa, 823.

legal interpretation of RICO does not fit gangs such as YSL. The first of these reasons is that gangs such as YSL do not attempt to infiltrate existing legitimate businesses. The second is the fact that gangs do not significantly affect interstate commerce; therefore, under the precedent of *United States v. Lopez*, the government cannot attempt to regulate businesses that *do not* substantially affect interstate commerce.²⁹

Beyond statutory reasons, Woods cites the racial aspect of RICO charges to be the most unjust of all. Woods argues about the ways in which there is an overrepresentation of racial minority ‘gang’ prosecutions, while white ‘gang members’ seemingly avoid all associations with RICO charges.³⁰ The author even connects the enactment of RICO to race because of the ways in which it focused on protecting white crime victims (i.e., those who were victimized through mafia threats), but did not make any attempts to enact legislation against those who were victimizing groups of black people, such as the Ku Klux Klan.³¹ The final point that Woods makes, through the use of his extensive criminological study, is that there is a higher frequency of RICO prosecutions within local gangs when at least one minority group is associated with that gang.³² This information goes to show that although G. Robert Blakey in part wanted to use RICO to fight against “white extremist” gangs, it seems as though the only gangs that are actually being targeted on a large scale are those that feature minority groups.³³

Young Slime Life Case: Origins

This background information transitions into the way in which these two contested legal issues (artistic freedom and RICO charges) relate to the topic at hand: *State of Georgia v. Kahlieff Adams et al.* This case was brought against the organization known as “Young Slime Life,” in May of 2022. This case featured twenty-eight accused for fifty-six different charges, which included murder, aggravated assault, and theft, but the only charge that all the accused had in common was the first charge— “CONSPIRACY TO VIOLATE THE RACKETEER

²⁹ Woods, “Systemic Racial Bias and RICO’s Application to Criminal Street and Prison Gangs”; Justice Rehnquist, *United States v Lopez*, No. 93-1260 (US Supreme Court April 26, 1995).

³⁰ Woods, “Systemic Racial Bias and RICO’s Application to Criminal Street and Prison Gangs,” pp. 307-308.

³¹ Woods, 319.

³² Woods, 332.

³³ Cherie Deogracias, “Race, Reconstruction, and the RICO Act: Using the Racketeer Influenced and Corrupt Organizations (RICO) Act in Prosecutions Against White Supremacist Organizations in America,” *University of Maryland Law Journal of Race, Religion, Gender and Class* 20, no. 2 (January 1, 2020): 306, 334.

INFLUENCED AND CORRUPT ORGANIZATIONS ACT,” coded as O.C.G.A. §16-14-4, which is Georgia’s RICO statute.³⁴

O.C.G.A. §16-14-4 follows many of the precedents from the original RICO Act of 1970 and features the keywords “employed by or associated with,” in reference to those who can be charged with the RICO crime at hand.³⁵ This phrase paints an expressly broad picture of who and what can be associated with racketeering charges. Since the national statute states that there need not be any legal associations between those involved in an “enterprise,” it allows nearly anyone associated with those culpable by law to be culpable themselves. As Sidney Madden, a reporter on popular culture for *NPR*, puts it:

Basically, it allows prosecutors to hold anyone and everyone in an entire group responsible for the worst things someone in their circle has done. So if you're a rapper and you associate with people engaging in criminal activity — maybe y'all grew up on the same block, maybe you used to run the same streets before you switched into entertainment, maybe you brought them with you out of the streets into entertainment — prosecutors can use all that and use RICO laws to brand y'all as an organized crime syndicate.³⁶

Madden’s point is supported by the fact that the two famous rappers on trial, Young Thug and Gunna, face different charges. Gunna is only charged with Count 1 (which is the conspiracy to violate RICO), while Young Thug is being indicted on Counts 1 and 56 (count 56 being “participation in criminal street gang activity”).³⁷ Moreover, these rappers and their lyrics are being indicted and examined to be used as pieces for a large puzzle: the conviction of their associates at YSL.

Rap lyrics have faced substantial public scrutiny in recent years, in the courts and at a political level. One example is the case of Lawrence Montague. In early 2021, as part of an

³⁴ Cathlene Robinson, *State of Georgia v. KAHLIEFF ADAMS*, et. al., Courthouse News (Fulton Superior Court 2022).

³⁵ State of Georgia, “2020 Georgia Code, Title 16 - Crimes and Offenses, Chapter 14 - Racketeer Influenced and Corrupt Organizations, § 16-14-4. Prohibited Activities,” §16-14-4 O.C.G.A. § (2020), <https://law.justia.com/codes/georgia/2020/title-16/chapter-14/section-16-14-4/#:~:text=It%20shall%20be%20unlawful%20for,of%20any%20nature%2C%20including%20money.>

³⁶ Sidney Madden et al., “The Charges against Young Thug Build on a Growing Trend of Criminalizing Rap Crews,” *NPR*, May 15, 2022, sec. Music News, [https://www.npr.org/2022/05/15/1099004661/young-thug-is-the-latest-rapper-to-be-charged-under-historically-problematic-ric.](https://www.npr.org/2022/05/15/1099004661/young-thug-is-the-latest-rapper-to-be-charged-under-historically-problematic-ric)

³⁷ Cathlene Robinson, *State of Georgia v. KAHLIEFF ADAMS*, et. al., Courthouse News.

ongoing murder trial of Montague, a Maryland Court of Appeals Judge ruled that lyrics of a rap that Montague said over the prison pay-phone counted as a confession as they were ultimately probative despite warnings from across the country about the precedent that something like this could set.³⁸ The court argued that this did not set a precedent at all, rather it followed the precedent of *New Jersey v. Skinner* (2014), which convicted rapper Vonte Skinner of murder based on rap lyrics, and the case was eventually overturned by a higher court.³⁹ *Montague v. Maryland*, although appealed by Montague, set a dangerous precedent in its ruling by significantly limiting rappers' freedom of speech. To combat dangerous precedents like this, governing bodies such as the New York State Senate have introduced bills such as the "Rap Music on Trial Bill" (2021, passed 2023), which seek to decriminalize the use of rap music as a means of self-expression.⁴⁰ These bills draw on cases such as *Waller v. Osborne* as a means to cite other genres of music in which the musicians do not face the same resistance from the law that rap music does. The defense team for YSL has argued that these lyrics should be left out of the charge, as it is unconstitutional for them to be admitted under the free speech aspect of the First Amendment.

The Lyrics and Their Use in Count 1

Within the indictment, there are references to a plethora of rap lyrics from both Young Thug and Gunna, as well as other members of YSL, and references to social media posts. Some of these lyrics come from individual songs that Young Thug had released independent of YSL (which in this case is Young Stoner Life, as opposed to Young Slime Life) records, such as "Bad Boy" with Juice WRLD, and others were released on the larger collaborative album, "Slime Language 2."⁴¹ These lyrics are assumed to be truthful, as almost all of them are stated to be "an

³⁸ Brad Kutner, "Maryland Appeals Court Allows Rap Lyrics to Be Used in Murder Trial," January 2, 2021, <https://www.courthousenews.com/maryland-appeals-court-allows-rap-lyrics-to-be-used-in-murder-trial/>.

³⁹ Brad Kutner.

⁴⁰ BRAD HOYLMAN-SIGAL, "Senators Brad Hoylman & Jamaal Bailey Introduce 'Rap Music on Trial' Legislation to Prevent Song Lyrics From Being Used As Evidence In Criminal Cases," *NY State Senate*, November 17, 2021, <https://www.nysenate.gov/newsroom/press-releases/brad-hoylman/senators-brad-hoylman-jamaal-bailey-introduce-rap-music-trial>; Shannon Dawson, "What Does The 'Rap Music On Trial' Bill Mean For Hip-Hop?," *NewsOne* (blog), February 28, 2023, <https://newsone.com/4341704/rap-music-on-trial-bill/>.

⁴¹ Cathlene Robinson, *State of Georgia v. KAHLIEFF ADAMS, et. al.*, Courthouse News; Devin Lazerine, "Young Thug Drops 'Slime Language 2 (Deluxe)," *Rap-Up* (blog), 2021, <https://www.rap-up.com/2021/04/23/young-thug-ysl-slime-language-2-deluxe-stream/>.

overt act in furtherance of the conspiracy”⁴² within the indictment. An example of this can be seen below in is a piece of evidence under the charge of Count 1.

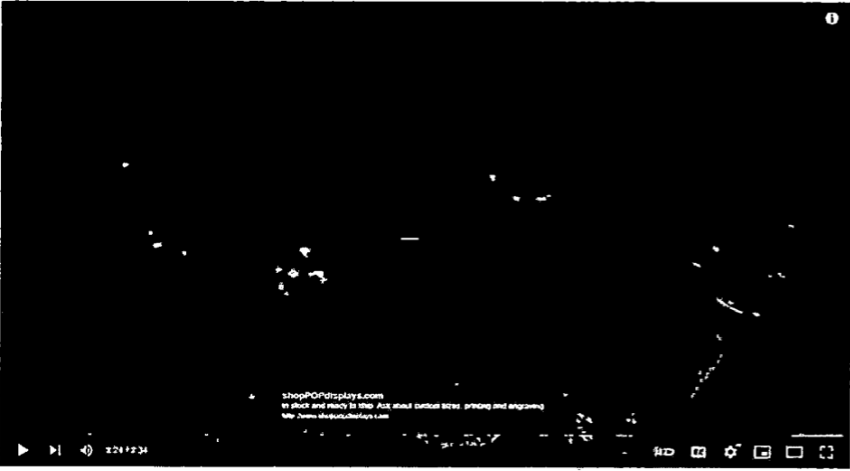
131	04/16/2021	<p>Defendants MARTINEZ ARNOLD, SERGIO KITCHENS and JEFFERY WILLIAMS, associates of YSL, appeared in a video released on social media titled “Ski,” with lyrics stating “I fuck with slatts and we come to eat rats and I came with some fuckin’ piranhas” “I tote an FN on me, call Neechie-Neech, it’s a Glock he keep” “Duke Rollin’ 60’s, he locked in C’s,” an overt act in furtherance of the conspiracy.</p>  <p>shopOPHtrpays.com it shoot and ready in the Aut street custom store printing and engraving New Items Made to Order</p> <p>Young Thug & Gunna - Ski [Official Video] Young Stoner Life 30,515,117 Views · Premiered Apr 16, 2021</p> <p>463K DISLIKE SHARE CLIP SAVE ...</p>
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Figure 1: Act 131 of the Indictment, featuring the lyrics of “Ski,” a song on “Slime Language 2”

Above, the prosecutors utilize language from a song that features YSL members Gunna, Young Thug, and Duke (Martinez Arnold), and the specific word choice of “slatts” combined with the use of the words “FN” and “Glock,” which both refer to guns.⁴³ Prosecutors have associated the word “SLATT” with the acronym used by YSL members that means “Slime Love All the Time.”⁴⁴ This word, as well as other symbols such as red and green emojis (the throwing-up emoji, for example), are seen as symbols of YSL and are inextricably linked to the gang and its activities.⁴⁵

⁴² Cathlene Robinson, State of Georgia v. KAHLIEFF ADAMS, et. al., Courthouse News.

⁴³ Cathlene Robinson, Courthouse News.

⁴⁴ Cathlene Robinson, Courthouse News.

⁴⁵ Cathlene Robinson, Courthouse News.

Cracks in the Glass of the Case

Three major cracks in the metaphorical glass of the case appear when examining the charges of RICO for YSL. These three cracks revolve around three central legal questions that are crucial to ask oneself when analyzing the case: (I). Are rap lyrics admissible? (II). Does mention of YSL symbols/crimes mean a RICO connection? (III). Are RICO charges applicable to street gangs? These questions are all to be answered both in a legitimate sense of answering the question asked but also in the sense of the constitutional rights of all the defendants, all citizens of the United States.

I. Are rap lyrics admissible?

The evidence cited above indicates that this question can be easily answered in the negative. The decision in *Waller v. Osborne* establishes the fact that there exists no direct causality between the lyrics of a song and the actions of a person in the real world.⁴⁶ While *Waller* and the YSL case are different, as they represent different levels of harm and different actions that the harm could be acted upon, *Waller* establishes the precedent that it is a “difficult task of attempting to impose liability on the defendants based on their dissemination of speech fully protected by the first amendment” within the lyrics of song.⁴⁷ Within the YSL case, the use of lyrics from Williams, Kitchens, and others as an “overt act in furtherance of the conspiracy”⁴⁸ attempts to impose liability. Therefore, drawing a causation between the song and the acts of conspiracy is a task that must be deemed difficult, if not impossible.

Beyond the argument of precedent, there exists the argument against the admissibility of rap lyrics under the First Amendment. The fantastical elements of these specific lyrics further the argument against these lyrics being admitted. For example, Act 78 of the indictment cites the song “Bad Boy,” which includes a line about “smok[ing] [an enemy] like a blunt,” which the prosecutors saw as an implication that he would kill someone for YSL.⁴⁹ Since the prosecutors would like to deduce the truth from the song, does that mean that they believe that Juice WRLD

⁴⁶ FITZPATRICK, District Judge, *Waller v. Osbourne*, 763 F. Supp. 1144 (M.D. Ga. 1991).

⁴⁷ FITZPATRICK, District Judge.

⁴⁸ Cathlene Robinson, *State of Georgia v. KAHLIEFF ADAMS*, et. al., Courthouse News.

⁴⁹ Cathlene Robinson, Courthouse News.

really had “futuristic rides imported from Mars?”⁵⁰ No—of course, it does not; these artists are just using their First Amendment Rights to express themselves artistically. The artists on this song (Young Thug and Juice WRLD) utilize fantastical elements in their songs to add artistic allure. The same is true with other songs that are mentioned in the indictment, such as “Take it to Trial” (Act 130), which also mentions fantastical elements such as Young Thug comparing himself to “Chef Boyardee,” who is an advertisement character for a canned product.⁵¹ Obviously, Young Thug employs metaphor here, which is not meant to be understood as Williams being an actual chef. Moreover, who is to say what is truthful and what is not, what lyrics are metaphors and what are not? It is not the prosecutors, and most likely not the audience, which leaves this truth to the artist and the artist alone. Therefore, admission of lyrics like this is not only against precedent, but it is against the freedom of expression afforded to all artists.

II. Does mention of YSL symbols/crimes mean a RICO connection?

The next question that casts a shadow of doubt on this RICO case is what is/can actually be defined as association with the “enterprise.” For Young Thug and Gunna, those associated with YSL who have the biggest public influence, their associations with YSL are based on their songs and social media posts.

One clear counterargument to this would be that every musical artist who has either collaborated with YSL or referenced YSL within their own work could fall under the definition of “enterprise.”⁵² The definition of enterprise that is laid out is vague at best and essentially allows anyone who is in a group or union of individuals to fall under the enterprise. One associated artist to look at is Drake (Aubrey Graham). Drake is featured on one of the songs from the “Slime Language 2” album, “Solid,” therefore putting him in a group or union with YSL.⁵³ This is the same album that is produced by Young Stoner Life and the same album that features YSL imagery and language. Additionally, within this song, Drake alludes to violent actions similar to YSL members, such as saying he will “hop in the tank, and move militant,”

⁵⁰ Juice WRLD & Young Thug, *Bad Boy* (Lyrical Lemonade, 2019), <https://genius.com/Juice-wrld-and-young-thug-bad-boy-lyrics>.

⁵¹ Young Stoner Life, Young Thug & Gunna (Ft. Yak Gotti) –, *Take It to Trial* (Young Stoner Life, 2020), <https://genius.com/Young-stoner-life-young-thug-and-gunna-take-it-to-trial-lyrics>.

⁵² See page 5 for the definition of enterprise per the RICO Act of 1970.

⁵³ Devin Lazerine, “Young Thug Drops ‘Slime Language 2 (Deluxe).’”

which is obviously taken to not be literal.⁵⁴ Drake, in a later song called “Sticky,” uses his platform as a global artist to call for the freeing of YSL in his music video for the song, which further ties him to YSL per the definition of enterprise.⁵⁵ With all of this evidence, Drake should, according to the logic the State of Georgia uses based on the criminal code §16-14-4, be tied to YSL.⁵⁶ However, he is not. For the same reason that Drake is not tied to the aforementioned mob family, the Genovese, even though he mentions them in another song: “crime family like the Genovese.”⁵⁷ This reason is proximity: Georgia is building their entire case upon the fact that YSL members all exist in the “locale” of Atlanta.⁵⁸

This idea ties back to the Woods article that expands on the racialized aspect of RICO, which attempts to group minority groups together as “gangs” regardless of their existent ties or lack thereof to crimes within that locale.⁵⁹ Not only is this classification unjust, but it is also unfounded in logic, as the mention of specific words or symbols cannot inherently tie people to a crime. Therefore, the inherent relation of Gunna and Young Thug to these RICO crimes, based solely on the fact that they mention YSL, SLATT, or use certain emojis, does not pass any sort of legal test to tie people together. The idea that these rappers are tied together based on their use of words or emojis adds an inherently racialized element to this RICO charge, especially in comparison to the extensive evidence that was needed through wiretaps and other means to connect mafia members together.⁶⁰ This represents the apparent bias that law enforcement and prosecutors have towards people of color as biases and correlations were drawn with very little evidence (i.e., the use of emojis) against people of color while heavy evidence was needed to tie white mobsters together. This minimal evidence needed restricts the access of artists to free speech, and more specifically, freedom of expression in an artistic sense, as now artists in the Atlanta area who may or may not have collaborated with YSL members may feel a restriction to

⁵⁴ Young Stoner Life, Young Thug & Gunna (Ft. Drake), *Solid* (Young Stoner Life, 2020), <https://genius.com/Young-stoner-life-young-thug-and-gunna-solid-lyrics>.

⁵⁵ Ellie Robinson, “Drake Shows Support for Young Thug and Gunna with ‘Free YSL’ Call in ‘Sticky’ Video,” *NME* (blog), August 3, 2022, <https://www.nme.com/news/music/drake-shows-support-for-young-thug-and-gunna-with-free-ysl-call-in-sticky-video-3282370>.

⁵⁶ State of Georgia, 2020 Georgia Code, Title 16 - Crimes and Offenses, Chapter 14 - Racketeer Influenced and Corrupt Organizations, § 16-14-4. Prohibited Activities.

⁵⁷ Drake, *Sandra’s Rose* (OVO, 2018), <https://genius.com/Drake-sandras-rose-lyrics>.

⁵⁸ Cathlene Robinson, *State of Georgia v. KAHLIEFF ADAMS, et. al.*, Courthouse News.

⁵⁹ Woods, “Systemic Racial Bias and RICO’s Application to Criminal Street and Prison Gangs,” 332.

⁶⁰ Marriaga, Hussain, and Gutierrez, “RICO,” 9.

use the word “SLATT” or talk about YSL. This essentially removes many free speech protections from artists that should be afforded to all citizens of the US.

III. Are RICO charges applicable to street gangs?

In terms of YSL, many of the charges in the indictment relate to different sections of “involvement in criminal street gang activity.”⁶¹ This means that the first charge of RICO conspiracy is not tied to any sort of mafia group (i.e., The Commission Trial) or a union (i.e., *Local 560*), rather it is tied to YSL, which is a street gang by the indictment’s definition. As mentioned in the Woods article, there needs to be an effect on interstate commerce for there to be regulation under the RICO statute, due to *Lopez*.⁶²

This idea is expanded upon legally by Matthew Blumenstein in the *Vanderbilt Law Review*, as he analyzes the Commerce Clause of the Constitution (Article 1, Section 8, Clause 3 of the US Constitution), as expanded by the famous case of *Gibbons v. Ogden*.⁶³ Blumenstein builds on *Lopez* by mentioning the original decision of the Supreme Court on interstate commerce, which was *Gibbons v. Ogden* (1824), which asserted that the federal government had the exclusive right over interstate commerce.⁶⁴ However, when understood with the likes of *Lopez*, it is unconstitutional for the government to legislate “noneconomic activity” on the federal level without conducting a “test” on the level of economic impact that this street gang can have.⁶⁵ This information, combined with the precedent of *United States v. Morrison*, a case that overturned parts of federal law (Violence Against Women Act of 1994), as it attempted to place federal jurisdiction over violence that occurred at an interstate level but simultaneously lacked a significant impact on interstate commerce, leads to a strong precedent against the use of RICO charges on street gangs.⁶⁶

In the case of YSL specifically, there is no mention of any effect of interstate commerce at any level. Additionally, there is only a mention of one city in particular, Atlanta.⁶⁷ Therefore,

⁶¹ Cathlene Robinson, *State of Georgia v. KAHLIEFF ADAMS*, et. al., Courthouse News.

⁶² Justice Rehnquist, *United States v Lopez*.

⁶³ Matthew Hardwick Blumenstein, “RICO Overreach: How the Federal Government’s Escalating Offensive against Gangs Has Run Afoul of the Constitution Note,” *Vanderbilt Law Review* 62, no. 1 (2009): 211–38, 225; Justice John Marshall, *Gibbons v. Ogden*, No. 22 US 1 (1824) (US Supreme Court 1824).

⁶⁴ Justice John Marshall, *Gibbons v. Ogden*.

⁶⁵ Blumenstein, “RICO Overreach,” 228.

⁶⁶ Clarence Thomas, *United States v. Morrison*, No. 99-5 (US Supreme Court 2000).

⁶⁷ Cathlene Robinson, *State of Georgia v. KAHLIEFF ADAMS*, et. al., Courthouse News.

there is no way that there was any test of effect on interstate commerce, as there is not even a mention of any other state besides Georgia, making this not fall under RICO due to *Lopez*.⁶⁸ Similarly, there is nothing proving any trans-state economic activity, meaning that there is an attempt to govern interstate violence, which goes against *Morrison*.⁶⁹ All in all, these precedents warrant a condemnation of the use of RICO in the YSL case, as it goes against the constitutional rights of what the government can/cannot regulate.

Conclusion

“If the Mafia replaced the government, we’d probably have half the corruption and twice the fun.” — Anthony “Fat Tony” Salerno.⁷⁰

Although this is a colloquial phrase that many people do not take seriously, as it comes from a mob boss of the Genovese family, it has a certain level of merit to it. While the corruption is not the same as in the mafia, corruption is illegal and takes the form of hierarchies based on nepotism. The government, in terms of RICO, takes the route of ‘legal’ corruption. This ‘legal’ corruption manifests itself through Supreme Court Precedents, statutory laws, and prosecution based on the former.

From the prosecution standpoint, there is no difference between the 1985 Commission Trial and the current YSL trial. However, as illustrated through this paper, from the standpoint of a defense attorney and in the grand scheme of the legal system of the United States, there are an immense number of complexities within the YSL case specifically, regarding everything from artistic freedom to the exception of gangs from RICO charges.

Even with the complexities put aside, there is still a different aura that exists when looking at the YSL case. This aura is at least partly because this case is the first famous RICO case that exists in the digital age. Social media can have both a hindering effect and a furthering effect on the facts of the case.⁷¹ It has served as both a place for evidence and a place for

⁶⁸ Justice Rehnquist, *United States v Lopez*.

⁶⁹ Clarence Thomas, *United States v. Morrison*.

⁷⁰ Lisa Babick, “Out of the Mouths of the Infamous - II,” *The New York Mafia* (blog), May 22, 2020, <https://thenewyorkmafia.com/more-famous-mobster-quotes/>.

⁷¹ Emily M. Janoski-Haehlen, “The Courts Are All a Twitter: The Implications of Social Media Use in the Courts,” *Valparaiso University Law Review* 46, no. 1 (2012 2011): 44.

resistance in the YSL case, further proving the previous statement. The biggest effect, however, is the fact that people are talking about the case. Every few days, there are new articles on *Yahoo News* about developments of the case, one of which read “Lawyer In YSL RICO Case Throws Out Slang Term ‘Cap’ In Court.”⁷² Cap, which is a term used to call something a lie or call out a falsehood, is a vernacular term that is used most prevalently in Generation Z (GenZ).⁷³ One of the lawyers for YSL used this term in response to a remark that they deemed to be false but that the court saw as offensive and dishonorable in a court of law.⁷⁴

As silly as a headline like this may seem, it is indicative of a greater shift in the courts of the United States. This trial has become that of a people’s trial, featuring the language of the general populace. Social media allows people to see this trial and sympathize with the defendants who make some of the music that they listen to frequently. It is also a trial for the people in the way that this trial represents an opportunity to uphold the rights of individual artists’ free speech rights. In a final way, this represents a trial for the people because it is an opportunity to establish the notion of equality for rap music under the law, to be afforded the same protections that all other genres of music are given. Given the wide access in the United States to social media, it is much easier for something such as the YSL trial to become a trial of the people and their values because of the way in which a wider audience can view and ‘judge’ the trial for themselves.

However, all these possible changes to create a new zeitgeist of the twenty-first-century courts in the United States are *impossible* if the court does not uphold the civil liberties of all the defendants in *State of Georgia v. Khaleiff Adams et al.* by acquitting them,⁷⁵ given all the legal precedent for not only free speech law but also that of RICO law and the impossibility of applying that to YSL’s case. This case is the opportunity to uphold rap as a form of art, just as metal was in the past.⁷⁶ This case is the opportunity for “enterprise” within the definition of

⁷² Armon Sadler, “Lawyer In YSL RICO Case Throws Out Slang Term ‘Cap’ In Court,” *VIBE.Com* (blog), April 18, 2023, <https://www.vibe.com/news/entertainment/lawyer-ysl-rico-case-says-cap-court-1234749641/>.

⁷³ Sadler.

⁷⁴ Sadler.

⁷⁵ As of the Summer of 2023, there are only eight defendants who plan to stand trial, including Young Thug, while other defendants such as Gunna have entered an Alford Plea, which allows them to maintain their innocence, whilst pleading guilty: Guy, Zoe. “Everything We Know About YSL’s RICO Case.” *Vulture*, July 11, 2023. <https://www.vulture.com/article/ysl-young-thug-gunna-arrest-charges-explained.html>.

⁷⁶ FITZPATRICK, District Judge, *Waller v. Osbourne*, 763 F. Supp. 1144 (M.D. Ga. 1991).

RICO to be clearly defined.⁷⁷ This is the case that can set a precedent for loosely affiliated gangs like YSL to be excluded from RICO statutes as they do not affect interstate commerce.⁷⁸ The people of Georgia have the power to make this case the beginning of the end for racial injustice within modern RICO charges. And finally, this is the case that can prove “Fat Tony” right about the corruption of the government by acting on it through the reversal of the hypocrisy that the government has solidified through precedent.

Addendum

As of late December of 2023, there have been the following updates on the YSL Case. First, the Court ruled that the use of lyrics in the trial is allowed, as the prosecution began citing their “significance to real life.”⁷⁹ While more specific guidelines exist surrounding the use of these lyrics, in order to prevent the jury from taking these lyrics literally, the defense counsel has pivoted from fighting against the allowance of the lyrics to making their meaning clear. By this, I mean the defense counsel has made claims that “Thug” in Young Thug’s name is actually an acronym that stands for “truly humble under God” and that the phrase “pushin’ P” refers to pushing positivity.⁸⁰ While it is unclear that these more positively connoted meanings of commonly used YSL phrases are truly what they have always meant, these alternative meanings result in a level of reasonable doubt within lyrics, which the Court has allowed. While the result of this case is still yet to be determined, it is clear to me and many legal scholars that this is a miscarriage of justice, no matter how it is spun. Saying that is not to discount the alleged crimes that have been committed against many people in Georgia from other people, associated or not with Young Thug or others. Rather, it is to call for a more egalitarian carriage of justice for all citizens of America.

⁷⁷ State of Georgia, 2020 Georgia Code, Title 16 - Crimes and Offenses, Chapter 14 - Racketeer Influenced and Corrupt Organizations, § 16-14-4. Prohibited Activities.

⁷⁸ Clarence Thomas, *United States v. Morrison*; Justice Rehnquist, *United States v. Lopez*.

⁷⁹ Jessica Murphy and Max Matsa. “Young Thug’s Lyrics Used against Him as Gang Trial Starts,” November 27, 2023. <https://www.bbc.com/news/world-us-canada-67527707>.

⁸⁰ Loh, Matthew. “Young Thug’s Defense Lawyer Said His Name Stands for ‘Truly Humble Under God.’” *Business Insider*, November 29, 2023.

<https://www.businessinsider.com/young-thugs-name-stands-truly-humble-under-god-defense-lawyer-2023-11>.