

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA**

Case No. _____

JASON PIZZO, as a citizen and taxpayer of the State of Florida,

Plaintiff,

vs.

JIMMY PATRONIS, in his official capacity as the Chief Financial Officer on the State of Florida; **FLORIDA DEPARTMENT OF TRANSPORTATION**; **JARED W. PERDUE**, in his official capacity as the Secretary of the Florida Department of Transportation; and **RON DESANTIS**, in his official capacity of a Governor of the State of Florida,

Defendants.

**EMERGENCY COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff sues Defendants and alleges:

Introduction

1. Article I Section 19(1)(c) Florida Constitution, provides that “[n]o money shall be drawn from the treasury except in pursuance of appropriation made by law.” As a citizen and taxpayer of the State of Florida, Plaintiff Jason Pizzo challenges the expenditure of funds appropriated by the Legislature to transport

aliens from San Antonio, Texas into Florida and then to Martha's Vineyard, Massachusetts. The expenditure of funds appropriated by the Legislature to transport aliens from San Antonio, Texas into Florida and then ultimately Martha's Vineyard, Massachusetts, is contrary to Section 185 of the 2022 General Appropriations Act as well as substantive law set forth in Section 908.111, Florida Statutes, as created by Chapter 2022-193, Laws of Florida.

2. Article III, Section 12, Florida Constitution, provides: "Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject." An appropriations act is not the proper place for the enactment of general public policies on matters other than appropriations. Section 185 of the 2022 General Appropriations Act establishes "a program to facilitate the transport of unauthorized aliens from this state consistent with federal law," a substantive matter that should have been scrutinized through the legislative process applicable to substantive legislation, contrary to Article III, Section 12, Florida Constitution.

Parties

3. Plaintiff Jason Pizzo is a citizen and taxpayer of the of the State of Florida.

4. Defendant Jimmy Patronis is the Chief Financial Officer of the State of Florida. As provided in s. 4(c), Art. IV of the State Constitution, the Chief Financial Officer is the chief fiscal officer of the state and is responsible for settling and approving accounts against the state and keeping all state funds and securities.

5. Defendant Department of Transportation is an agency within the executive branch responsible for implementing a program to facilitate the transport of unauthorized aliens from this state consistent with federal law as provided in Section 185 of the 2022 General Appropriations Act.

6. Defendant Jared W. Perdue as Secretary of the Department of Transportation is the head of the Department of Transportation.

7. Defendant Ron DeSantis is the Governor of the State of Florida. The Secretary of the Department of Transportation is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor.

Jurisdiction Standing and Venue

8. This is an action for Declaratory and Injunctive Relief, pursuant to Chapter 86, Florida Statutes. This Court has jurisdiction to grant declaratory and injunctive relief, pursuant to Chapter 86, Florida Statutes.

9. Venue is proper in Leon County, pursuant to Section 47.011, Florida Statutes.

10. Plaintiff Jason Pizzo has standing as an ordinary citizen and taxpayer to attack the Legislature's taxing and spending power without having to demonstrate a special injury.

Section 185, as created by Chapter 2022-156

11. Section 185 of the 2022 General Appropriations Act provides as follows:

SECTION 185. From the interest earnings associated with the federal Coronavirus State Fiscal Recovery Fund (Public Law 117-2), the nonrecurring sum of \$12,000,000 from the General Revenue Fund is appropriated to the Department of Transportation for Fiscal Year 2021-2022, for implementing a program to facilitate the transport of **unauthorized aliens from this state** consistent with federal law. The department may, upon the receipt of at least two quotes, negotiate and enter into contracts with private parties, including common carriers, to implement the program. The department may enter into agreements with any applicable federal agency to implement the program. The term "unauthorized alien" means a person

who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations. The unexpended balance of funds appropriated to the department in this section remaining as of June 30, 2022, shall revert and is appropriated for Fiscal Year 2022-2023 to the department for the same purpose. This section shall take effect upon becoming a law.

(emphasis added).

12. Upon information and belief, Defendant Department of Transportation has not developed a program to facilitate the transport of **unauthorized aliens from this state** as required by Section 185 of the 2022 General Appropriations Act.

13. Upon information and belief, Defendant Department of Transportation has not received at least two quotes, negotiated and entered into contracts with private parties, including common carriers, to implement the program to facilitate the transport of **unauthorized aliens from this state** as required by Section 185 of the 2022 General Appropriations Act.

14. Section 185 of the 2022 General Appropriations Act establishes a substantive policy of the State of Florida to transport **unauthorized aliens from this state** consistent with federal law

within the general appropriations act, as opposed to separately filed, presented, and deliberated legislation.

Section 908.111, Florida Statutes, as created by Chapter 2022-193

15. Section 908.111(2), Florida Statutes, as created by Chapter 2022-193, Laws of Florida, in pertinent part, provides:

(2) A governmental entity¹ may not execute, amend, or renew a contract with a common carrier² or contracted carrier if the carrier is willfully providing any service in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien,³ except to facilitate the detention, removal, or departure of the person **from this state** or the United States.

(emphasis added)

16. Upon information and belief, the Defendant Department of Transportation and / or the office of Jared W. Perdue and / or the

¹ The legislation defines a “governmental entity” as “an agency of the state, a regional or local government created by the State Constitution or by a general or special act, a county or municipality, or any other entity that independently exercises governmental authority.”

² The legislation defines a “common carrier” as a person, firm, or corporation that undertakes for hire, as a regular business, to transport persons or commodities from place to place, offering his or her services to all such as may choose to employ the common carrier and pay his or her charges.”

³ The legislation defines an “unauthorized alien” as a “person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term shall be interpreted consistently with any 318 applicable federal statutes, rules, or regulations.”

office of Defendant Ron DeSantis and / or the office of Defendant Jimmy Patronis has entered into a contract to willfully transport a person or persons into the State of Florida knowing that the person is an unauthorized alien, while not meeting any of the exceptions enumerated in Section 908.111(2), Florida Statutes.

17. Upon information and belief, the Defendant Department of Transportation and / or personnel from the office of Jared W. Perdue and / or the office of Defendant Ron DeSantis and / or the office of Defendant Jimmy Patronis worked with Vertol Systems Company, Inc. to transport a person or persons into the State of Florida knowing that the person or persons is an unauthorized alien.

Payments to Common Carriers

18. On September 8, 2022, Defendant Department of Transportation paid \$615,000 to Vertol Systems Company, Inc. to transport a person or persons into the State of Florida knowing that the person was, or persons were, an unauthorized alien(s). See Payments to Vertol, attached as **Exhibit A**.

19. On September 14, 2022, two planes carrying aliens from San Antonio, Texas traveled to Florida and ultimately to Martha's

Vineyard, Massachusetts, after which there was widespread reporting and questions concerning the legality of these actions.⁴

20. Notwithstanding, and in the face of the concerns of the legality of these actions, on September 16, 2022, Defendant Department of Transportation paid \$950,000 to Vertol Systems Company, Inc. to transport a person or persons into the State of Florida knowing that the person was, or persons were, unauthorized alien(s). See **Exhibit A**.

21. These payments were facilitated and approved by Defendant Jimmy Patronis, contrary to the provisions of Section 185 of the 2022 General Appropriations Act and Section 908.111, Florida Statutes, as created by Chapter 2022-193, Laws of Florida.

22. Upon information and belief, pursuant 49 U.S.C. § 46501(1), at all times material the aircraft(s) was considered “in flight” with no disembarkation of any aliens that would form the necessary nexus to be **from the State of Florida** pursuant to, and as required by, Section 185 of the 2022 General Appropriations Act and Section 908.111 Florida Statutes.

⁴ See Flight Tracking Information available at <https://flightaware.com/live/flight/UJC11> and <https://flightaware.com/live/flight/UJC59>

23. The provisions of Section 185 of the 2022 General Appropriations Act and Section 908.111 Florida Statutes do not authorize the Defendants to use state funds for (a) the transporting of aliens who are authorized from Florida, (b) the transporting of aliens from another state who are unauthorized, or (c) the transporting of authorized aliens from another state.

24. Defendant Ron DeSantis has asserted that the vendor and / or common carrier or contracted carrier provided hotel accommodations, food, haircuts, and information packets to aliens residing in Texas prior to any transportation of persons to Florida. See Sept. 20, 2022 Governor DeSantis interview available at <https://video.foxnews.com/v/6312572380112>

25. These payments were made outside the specific requirements of Section 185 of the 2022 General Appropriations Act and therefore violated Article I Section 19(1)(c) which provides that “[n]o money shall be drawn from the treasury except in pursuance of appropriation made by law.”

Need for Declaratory Relief

26. Declaratory relief is appropriate because the matter before the Court deals with a present, ascertained or ascertainable state of facts or present controversy as to a state of facts.

27. The rights and privileges of Jason Pizzo, as a citizen and taxpayer of the State of Florida, are dependent upon the facts and law applicable to the facts concerning the constitutionality of the taxing and spending authority of Section 185 of the 2022 General Appropriations Act and Section 908.111 Florida Statutes.

28. Jason Pizzo, as a citizen and taxpayer of the State of Florida, is a person who has an actual, present, adverse, and antagonistic interest in this subject matter, and all antagonistic and adverse interests are before this Court.

29. The relief sought herein is not merely the giving of legal advice by the courts or the answer to questions propounded from curiosity.

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests an emergency case management conference and hearing to set expedited deadlines and that this Court enter as judgment:

A. A declaration that Section 185 of the 2022 General Appropriations Act is unconstitutional in violation of Article III, Section 12, Florida Constitution, which provides that “[l]aws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.”

B. A declaration that payments to Vertol Systems Company, Inc. to transport a person or persons into the State of Florida knowing that the person was, or persons were, an unauthorized alien(s) contrary to Section 908.111, Florida Statutes, as created by Chapter 2022-193, Laws of Florida, violates Article I Section 19(1)(c) Florida Constitution.

C. A declaration that Defendant Florida Department of Transportation and Defendant Florida Department of Financial Services are government entities that “may not execute, amend, or renew a contract with a common carrier or contracted carrier if the carrier is willfully providing any service in furtherance of transporting a person into the State of Florida knowing that the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.”

D. An order enjoining Defendant Jimmy Patronis from facilitating payment or paying a common carrier or contracted carrier to transport a person or persons into the State of Florida knowing that the person was, or persons were, an unauthorized alien(s).

E. An order enjoining all Defendants from entering into a contract, or continuing to contract, with a common carrier or contracted carrier to transport a person or persons into the State of Florida knowing that the person was, or persons were, an unauthorized alien(s).

F. If determined to be constitutional, a declaration that funds appropriated by Section 185 of the 2022 General Appropriations Act and Section 908.111, Florida Statutes, as created by Chapter 2022-193, Laws of Florida, may only be used to transport unauthorized aliens from this state.

G. If determined to be constitutional, an order enjoining Defendants from using state funds to transport unauthorized aliens not from this state.

H. Such other relief as the Court deems necessary and appropriate.

Respectfully submitted this 22nd day of September, 2022 by:

/s/Mark Herron

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EXHIBIT A



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Florida makes payments to businesses throughout the state, country and internationally as well as local governments, state agencies and employees. To see payments to a particular vendor, enter at least the first two characters of the vendor name. The resulting list will show all vendors that match the criteria as well as the amount paid. Also included in the results is the vendor ID which allows the users to see all payments made to a vendor regardless of how the name is spelled.

Use Ctrl+F (Find on this page) to highlight the word or phrase you are searching.

2022-23 Vendor Search - Warrants

Fiscal Year 2022-23

Vendor: VERTOL SYSTEMS COMPANY INC

Agency: TRANSPORTATION, DEPARTMENT OF
TRANSPORTATION SYSTEMS OPERATIONS
PROGRAM: HIGHWAY OPERATIONS

Line Item: ***** ~ SPECIAL CATEGORIES ~ GRANTS AND AIDS - RELOCATION PROGRAM OF UNAUTHORIZED ALIENS ~ FROM GENERAL REVENUE FUND

Payment Date	Statewide Document Number	Amount
09/08/2022	D3000103744	615,000.00
09/19/2022	D3000121619	950,000.00
Total		1,565,000.00

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