

**Suntrust Bank v. Houghton Mifflin Co.,
268 F.3d 1257 (11th Cir. 2001)**

Year	2001
Court	United States Court of Appeals for the Eleventh Circuit
Key Facts	Defendant publisher Houghton Mifflin owned the rights to the 2001 novel <i>The Wind Done Gone</i> (TWDG), which was based on and critiqued Margaret Mitchell's well-known 1936 novel <i>Gone With The Wind</i> (GWTW). Plaintiff Suntrust Bank, trustee for the Mitchell heirs, owned and managed GWTW's copyrights, including derivative works. Plaintiff alleged that TWDG violated the trust's copyright interests by explicitly referring to GWTW in the foreword; copying core characters, traits, and relationships; copying and summarizing famous scenes; and copying verbatim certain dialogues and descriptions. Defendant appealed the district court's ruling in plaintiff's favor.
Issue	Whether a novel critiquing/parodying another novel through verbatim and nonliteral copying of characters/plot was fair use.
Holding	The court held that defendant's borrowing from GWTW was fair use. The court first found that the defendant's novel was in fact a parody because it commented on or criticized an original work by appropriating its elements to create a new artistic work. Specifically, TWDG criticizes GWTW's depiction of slavery and race relations in the antebellum South. The court found that although TWDG clearly had a commercial purpose, its significantly transformative nature outweighed that fact. According to the court, TWDG added significant new expression and meaning by transforming GWTW from a third-person epic to a first-person diary or memoir. Additionally, the last half of TWDG told a completely new story that, while incorporating GWTW characters and settings, featured plot elements found nowhere in the original work. The court gave little weight to the "nature of the work" factor, finding that while GWTW was an original work of fiction entitled to the greatest degree of protection, parodies almost invariably copy publicly known expressive works. Regarding the amount of GWTW used, the court found that, based upon the record before it, it could not determine "in any conclusive way" whether the quantity and value of the materials used was reasonable in relation to the purpose of the copying. Finally, the court found that plaintiff's evidence failed to demonstrate that TWDG would have a deleterious effect on the market for GWTW by displacing sales.
Tags	Eleventh Circuit; Parody/Satire; Textual work
Outcome	Fair use found

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