

IN THE SUPREME COURT OF THE UNITED STATES

Joseph P. Carson,)	
)	
Petitioner)	
)	
)	No: 17-1434
)	
Merit Systems Protection Board,)	
)	
Respondent)	
)	
)	

**PETITIONER’S MOTION TO DEFER DISPOSITION OF PETITION FOR WRIT OF
CERTIORARI PENDING PUBLIC RELEASE OF US GOVERNMENT
ACCOUNTABILITY OFFICE REPORT ON US OFFICE OF SPECIAL COUNSEL**

The Solicitor General was contacted about this motion on May 18, 2018. Despite petitioner’s efforts to obtain its response, it has not recieved word from the Solicitor General’s office.

Background to this Motion:

Several years ago, Congress, in part due to the disclosures of the Petitioner, requested the US Government Accountability Office (GAO) review the performance of the U.S. Office of Special Counsel (OSC) in processing whistleblower disclosures and in investigating whistleblower reprisal and other prohibited personnel practice (PPP) complaints.

GAO has informed the Petitioner that its report should be publicly available sometime after mid-June. When it is issued, Petitioner intends to file a supplemental brief with the Court, including it as other intervening matter, not previously available.

Why the Court Should Grant This Motion:

On May 10, 2018, the Solicitor General waived its response to the Petition for Certiorari. On May 4, 2018, the Solicitor General informed Petitioner that it granted blanket consent for *amicus curiae* briefs (according to the docket, the Solicitor General has yet to notify the Court). On May 16, 2018 an *amicus curiae* brief for the petitioner was filed and the Clerk informed the petitioner that additional parties could join it by letter. On May 22, 2018 the case was distributed and scheduled for conference on June 7, 2018.

Could the forthcoming GAO report on OSC, if it determines OSC does not appear to be properly performing its statutory duties in processing whistleblower disclosures and/or investigating whistleblower reprisal complaints possibly deterring federal agency employees from making whistleblower disclosures and/or filing whistleblower reprisal complaints, persuade the Court to request a response from the Solicitor General before disposing the case? If so, then petitioner respectfully suggests this motion should be granted.

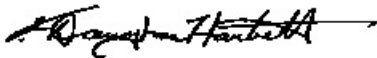
Additionally, if the GAO report is strongly critical of OSC, one result could be a number of current or former members of Congress joining the *amicus curiae* brief and/or separately filing. As noted in the petition and in the Devine Amicus Brief (served on Petitioner today), Congress has repeatedly expressed its frustration with the administration and enforcement of the statute at issue in this case. (Petition, pp. 7-9; Devine Amicus, pp. 6-8) The Court would benefit from the information and analysis of the GAO, as well as the reflection upon that assessment by Members of Congress, in considering the Petition for Certiorari in this matter.

Finally, no prejudice would result either side from granting this Motion to suspend

consideration of this Petition. In fact, for the same reasons outlined above, both parties would likely benefit.

For the above reasons, petitioner respectfully requests the Court defer its disposition of his petition until after the GAO report is publicly issued.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I certify that the following document for this case:

1. Motion for delay in processing the petition for certiorari

was served on:

Respondent

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Date: 5/23/2018