

MAR 28 2019

OFFICE OF THE CLERK

No.

18-1263

In The Supreme Court of the United States

JASON BRIAN BRAUN

Petitioner,

v.

**US DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY ET AL**

&

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
OFFICE OF FEDERAL OPERATIONS ET AL**
Respondent('s).

*On Petition for Writ of Certiorari to the
United States Court of Appeals District of Columbia
Circuit*

PETITION FOR WRIT OF CERTIORARI

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En Pro Se Petitioner

QUESTIONS PRESENTED FOR REVIEW

When a district court has erred and it's brought to their attention in contrast of that information a case continues to progress forward without correction in violation of its own local rules & Fed. Rules Civ. Procedure a series of events begins to erode at the claims process, damaging the totality of a claim for all who seek corrective action. That damage leads the district court to remove a party from the claim that should justly be held accountable. When a district court finalizes its decision under Title VII to change the venue to another state where the Petitioner lacks the ability and resources when other venue options are within the district courts, defendant's & claimant's ability the rights of the claimant become infringed upon. The Appellate Court for the district that made the venue change becomes crucial through the Writ of Mandamus petition process. When the Court of Appeals also denies motions by the Petitioner for status conference its an issue of a violation under the Constitution.

1. Whether this Court should use its authority to by ensuring that all rules and regulations are followed and reverse the district court order and correct any and all errors to include a location the Petitioner can travel to?
2. Whether any of the Due Process Rights of the Petitioner were violated when the U.S. Court of Appeals, District of Columbia Circuit dismissed the Petitioners Claim and denied Status Conference Motion without hearing all the Petitioners grievances.

PARTIES TO THE PROCEEDING

Jason Brian Braun, en pro se, was the plaintiff in the district court and the appellant in the US Court of Appeals DC Circuit.

Respondant(s), US Department Of The Interior Office Of The Secretary Et Al & Equal Employment Opportunity Commission Office Of Federal Operations Et Al, were the defendants(s) in the district court and the US Court of Appeals DC Circuit.

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Periodical Online;

American Bar Association

www.abajournal.com/news/article/federal_judge_is_ossed_from_two_cases_for_repeated_failure_to_rule_on_pend 9, 10

OPINIONS BELOW

There are no opinions listed in the United States Court of Appeals for the District Columbia Circuit only orders.

The Opinion of the United States District Court for the District of Columbia are reproduced in the appendices.

JURISDICTION

United States District Court, District of New Mexico, Albuquerque, No. 1:18-cv-00221-KK-KBM, Order Granting A Unopposed Motion to Stay of the Proceedings and Order Granting Plaintiff's Change Of Contact Information Under Seal on March 5, 2019.

United States Court of Appeals For the District of Columbia, No. 18-5120, Ordered Denial of Status Conference, Dismissed Mandamus Petition for lack of jurisdiction and all other requests dismissed as moot filed on December 28, 2018.

United States District Court for the District of Columbia, No. 1:16-cv-02457-TJK & RJJ, Ordered Defendants Motion to Dismiss and Transfer was Granted, Plaintiff's claims against the EEOC were Dismissed with Prejudice. All other remaining claims were Transferred to the United States District Court New Mexico, Albuquerque. Lastly it was ordered Secretary of the Interior Ryan Zinke shall be substituted for Defendant Sally Jewell pursuant to Fed. Rule of Civ. Procedure 25(d) dated February 13, 2018.

The United States District Court District of Columbia issued a Minute Order Denying Plaintiff's Motion for Status Conference/Hearing & Reconsideration is Denied without prejudice on February 27, 2018.

The United States Court of Appeals for the District of Columbia and District Court had jurisdiction under 28 USC §1291 & §1346(g).

The United States Court of Appeals for the District of Columbia has jurisdiction under Chapter 2 Canon 1, 2(A) & 3(A)(4).

The United States Court of Appeals for the District of Columbia and US District Court had jurisdiction under 42 USC §2000e-5(f)(3), 28 USC §1391(e)(1)(C) & 28 USC §1404.

CONSTITUTIONAL, STATUTORY AND RULE PROVISIONS

U.S. Const. Amend. I.

And to petition the Government for a redress of grievances.

U.S. Const. Amend. V.

Nor be deprived of life, liberty, or property, without due process of law..

42 U.S.C. 2000e-5(f)(3).

See Appendix O

Fed. Rules. Civ. Proced. Rule 7(b)(1)(A-C)

See Appendix O

28 U.S.C. 1404(a).

(a)

For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.

28 U.S.C. 1391(e)(1)

A civil action in which a defendant is an officer or employee of the United States or any.. agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, or the United States, may, except as otherwise provided by law, be brought in any judicial district in which...

(C)

...the plaintiff resides if no real property is involved in the action.

28 U.S.C. 1291

The courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts of the United...

28 U.S.C. 1346(g)

Subject to the provisions of chapter 179, the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title

Guide To Judiciary Policy Vol. 2. Ch. 2
(Canon 1)
(Canon 2(A))
(Canon 3(A)(4))
See Appendix O

Local Civil Rule 7(n)(1).
See Appendix O

STATEMENT OF THE CASE

I. Introduction

This petition seeks a review of the US Court of Appeals for the District of Columbia Circuit, dismissal of mandamus petition for lack of jurisdiction and denial of status conference request along with other motion requests that were dismissed, which reaffirmed the U.S. District Court, District of Columbia's February 13th, 2018 decisions for defendant's summary judgment motion to dismiss and transfer, dismissal all action against the EEOC with prejudice, all remaining claims against the Department of the Interior, Secretary of the Interior be transferred to the U.S. District Court for the District of New Mexico, it was further ordered that Secretary of the Interior Ryan Zinke shall be substituted for defendant Sally Jewell pursuant to Fed. Rule of Civ. Procedure 25(d). The U.S. District Court's Minute Order dated February 27, 2018 denied the petitioners motion for reconsideration and motion for status conference without prejudice. The ruling of the

U.S. Court of Appeals for the District of Columbia Circuit undermines the Appellate process by stating it has lack of jurisdiction when all regulations and laws state that when an error occurs in a district court Fed. R. of Appellate Procedure Rule 21 & Rule 4(a)(1)(B)(ii) grant the Appellate Court the jurisdiction to address the concerns raised by the petitioner.

II. The District Court Granted Defendant's Motion to Dismiss or Transfer, Dismissed With Prejudice Petitioner's Claims Against The EEOC And Transferred Remaining Claims Against the Dept. of the Interior To U.S. District Court District Of New Mexico. Further Ordered That Ryan Zinke Shall Be Substituted For Defendant Sally Jewell

On February 13, 2018, the District Court entered a Memorandum Opinion and Order that granted respondent ('s) the dismissal and transfer of the petitioner's claim, the dismissal of the petitioner's claims against the EEOC with prejudice and the transferring of the petitioner's claim to the U.S. District Court District of New Mexico, Albuquerque, and the further ordering of the name change.

The petitioner has no grievance with the name change. Braun expressed in his ordered supplemental response, filed December 15, 2017, the transfer would be an undue hardship, being a service connected veteran, on a fixed income and lacking the resources to pursue the case across state lines justifies the relevance of the case staying in

Washington DC or in the alternative the Eastern District of Virginia. Braun's employment records were housed in Herndon Virginia when he initially filed his EEO Claim with the Agency EEO Representative at the Dept. of the Interior Washington, DC, January 11, 2011 (Initial Contact Dec. 29, 2010). Braun cites *Brigdon v. Slater, Secretary, Dept. of Transportation, No. 99-4120-CV-5-ECF, USDC W.D. Missouri, Central Division (April 26, 2000)* citing the Honorable District Judge Laughrey regarding the case on venue. While the District Court District of Columbia acknowledges Braun's statements of undue burden and hardship in their Memorandum Opinion and Order **denies the petitioner.**

The District's Courts dismissed Braun's claim against the EEOC with prejudice on the grounds that Congress hasn't given the Court explicit powers to address negligence. The petitioner filed a follow up motion on February 15, 2018 objecting to and requesting reconsideration and a status conference all of which was **denied.**

The District Court dismissed from the District of Columbia any pending litigation, closed the case and transferred it to U.S. District Court District of New Mexico.

Civil Case Closed and Transferred

III. The U.S. District Court, District of New Mexico, Albuquerque

The Petitioner received from the U.S. District Court, District of New Mexico, Albuquerque dated March 7, 2018 confirmation of the case transfer and that Magistrate Judges, the Honorable Kirtan Khalsa and the Honorable Karen B. Molzen were assigned (Appendix G & H).

On May 23, 2018 an Order Granting a joint Unopposed Motion to Stay this action pending the resolution of proceeding in the U.S. Court of Appeals District of Columbia Circuit, was approved by the Honorable Judge Molzen (Appendix F).

On March 5, 2019 an Order Granting Joint Motion to Stay and Granting Plaintiff's Change to Contact Information Under Seal was Approved by Honorable Judge Molzen (Appendix A & B)

**IV. U.S. Court of Appeals, District of
Columbia Circuit Order Dismissing
Mandamus Petition for lack of
Jurisdiction**

On April 27, 2018 the Petitioner submitted his Writ for Mandamus Petition citing F.R.A.P. Rule 4(a)(1)(B)(ii) and Rule 21 , following that submission the Petitioner filed a paper copy of the Report of Investigation and the Administrative Record of the EEOC Proceedings Books 1-3 and Book 2 Under Seal, which is still in the possession of the U.S. Court of Appeals Records May 14, 2018. Along with those filings the Petitioner cited Fed. Rules of Appellate Proced. Rule 10 & 11.

The Court of Appeals, issued its first order September 18, 2018 dismissing the Mandamus Petition for Non-Payment. This was done in error. Another Order was issued September 27, 2018 The Court of Appeals on its own motion **Ordered Reopening** the Mandamus Petition and referred it to a panel for disposition (Appendix D & E).

The Court of Appeals issued an Order dated December 28, 2018 **denying** the Petitioner a **Status Conference** and Further Ordered that the Mandamus Petition be dismissed for its lack of jurisdiction. It further ordered all additional motions by the Petitioner be dismissed as moot, denied the submission of document under seal without prejudice.

REASONS FOR GRANTING THE PETITION

I. Failure To Rule on Still Pending Motion in violation of U.S. District Court, District of Columbia Local Civ. Rule 7(n) and the Removal of the EEOC

In both the U.S. Court of Appeals, District of Columbia Circuit and the U.S. District Court District of Columbia the Petitioner repeated cited that Local Civil Rule 7(n) was not being adhered to when turning over a copy of the EEOC Administrative Record whether through the Petitioners Court Approved, U.S. Marshal served Subpoena dated 1/13/2017, Petitioners Amended Motion to Compel and an Amended Statement of Points and Authorities, Court dated February 6, 2017.

The Petitioner submitted his response Motion to the Respondents "EEOC Opposition Motion To Plaintiff's Motion to Compel Compliance with Subpoena" Under Seal citing *Packaged Ice Antitrust Litigation*, No. 08-md-01952, 2011 WL 1790189, *The USDC E.D. Michigan*, in this case the Subpoena was regarding the DOJ and the production of a tape and no protections were granted by the Court.

The Petitioner has raised this issue in his supplemental response and in his Writ of Mandamus and all of those motions still have no decisions. Pursuant to U.S. Supreme Court Rule 10(a) the conflict that persists here is that in a academic periodical from the American Bar Association Journal Online¹, in 2016 5th Circuit Court of Appeals, New Orleans removed a Judge from 2 cases in which the Judge failed to make rulings for 7 years

on pending motions. In the Petitioners case it has been approximately 2 years waiting for the Administrative Record, which the Petitioner turned into the U.S. Court of Appeals but never was reviewed to showcase a lack of orders from the EEOC, which substantiates the Petitioners claims against the agency. It also demonstrates to anyone who reads it that the Petitioner is a service connected disabled veteran and prima facie was establish contrary to the EEOC's reporting. Because of these egregious errors the charges against the EEOC should stand.

¹ Website:

www.abajournal.com/news/article/federal_judge_is_ossed_from_two_cases_for_repeated_failure_to_rule_on_pend

II. Transferring of the Case To Either Eastern District of Virginia or Washington DC

The Petitioner has stated in so many ways why this case should not reside in New Mexico. The fact is the Petitioner does lack the resources and ability to fight a case over 2,000 miles away. The Petitioner does live on a fixed income as a service connected veteran. Additionally in *Warfield v. Gardner, USDC D. Arizona, Case No. CV-04-0974PHXJAT, 346 F. Supp. 2d 1033, (Oct. 29, 2004)* held that the Plaintiff's home was a proper jurisdiction and The Court ruled on Specific Jurisdiction. What the Petitioner is driving at is, when the Petitioner filed his initial complaint with his Agency EEO Representative in Washington, DC January 11, 2011 (Initial Contact December 29, 2010) his employment files resided in Herndon Virginia this is when and where the claims process started for the Petitioner not when it was filed in the U.S. District Court.

In Judge Kelly's Order (Appendix J) he states that the Petitioners Employment file was in Herndon Virginia. So under 28 U.S.C. § 2000e-5(f)(3) (Appendix O) the Eastern District of Virginia or Washington DC is a just location.

III. Why Motions for Status Conferences Should Be Approved

The Petitioner has paid the Federal Court System over \$1,000.00 and to not be heard goes to the very basic fundamentals of the Courts Canon Laws and to the very heart of the Constitution under the 1st and 5th Amendments. To be denied an

opportunity to clarify or get clarification or even to challenge goes against every law we have about fairness and equality when addressing the Courts. Especially the part about balance, the lower courts have engaged in, with the violation of their Canons 1, 2(A) and 3(A)(4) by not ruling on pending motions or enforcing subpoenas which is information required to make an informed decision and the need for demonstrating that balance that all have the right to be heard.

CONCLUSION

For the reasons stated in this petition and all reasons stated in earlier motions to the lower court, the petitioner hopes and prays you grant this petition for certiorari.

Very Respectfully Submitted,

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