

No. 18-\_\_\_\_\_

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In the  
Supreme Court of the United States

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ERNEST HUNTER,

*Petitioner,*

v.

DISTRICT OF COLUMBIA,

*Respondent.*

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On Petition for Writ of Certiorari to the  
District of Columbia Court of Appeals

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**PETITION FOR WRIT OF CERTIORARI**

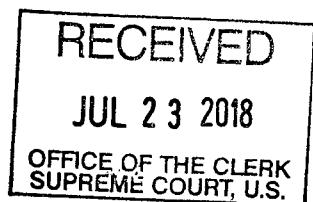
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## **QUESTION PRESENTED**

Is the application of the relevant personnel rules of the District of Columbia, including the Abolishment and D.C. Whistleblowers Acts (DCWPA) by the District's Office of Employee of Appeals (OEA) and the District of Columbia's District Court and Circuit Court of Appeals, unconstitutional?

## **PARTIES TO THE PETITION**

### **PETITIONER**

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- Ernest Hunter, an individual

### **RESPONDENTS**

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- District of Columbia Government
- District of Columbia, Child and Family Services Agency

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## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner respectfully seeks the court review of the District of Columbia's Court of Appeals decision relative to an administrative appeal from the District's Office of Employee Appeals (OEA) and its Board of Directors.



## **OPINIONS BELOW**

The opinion of the District of Columbia Court of Appeals, dated November 17, 2017 is included below at App.1a. The Memorandum Opinion and Judgment of the Court of Appeals of the District of Columbia, date May 8, 2018, is included below at App.10a.



## **JURISDICTION**

The Court of Appeals of the District of Columbia entered its opinion on May 8, 2018 (App.10a). This Court has jurisdiction under 28 U.S.C. 1254(a)

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## STATEMENT OF THE CASE

### A. Introduction

Petitioner questions the constitutionality of OEA's application of relevant District of Columbia Personnel Rules, including the Abolishment and DC Whistleblower Acts (DCWPA). Petitioner is asking the court to consider the retaliatory implications he presented initially and at every level in this matter and whether the constitutional assurances afforded under United States law and the DC Whistleblower provisions, including guaranteed rights have been abridged, as he feels his initial challenges regarding his termination have yet to be fully and factually addressed, including the following: the Fitness for Duty examination, Competitive Area and Competitive level, as well as the Office of Inspector General investigation synopsis that was issued just weeks before Petitioners being selected for termination, and the fairness of allowing the District director for the first time to conduct the RIF without the mayor approval or established policies and procedures, and whether the fact that this matter was initially filed in federal court represents a causal connection in an administrative or civil retaliation claim?

The U.S. Supreme Court has an inherent authority to review the decisions of lower courts that impact the constitutional rights of U.S. Citizens. In this matter questions of law regarding basic constitutional rights, including the right to equal employment free of retaliation and the right to freedom of speech,

including the right to file lawful complaints concerning his treatment are being asserted, and if a federal lawsuit, constitutes the ultimate complaint Elements of this administrative appeals were first presented in the U.S. District Court for D.C. in August 2009, while employee was still employed with the agency after being forced to take a Fitness for Duty examination, one day after senior management found out about his reports to the OIG concerning mismanagement and discrimination. DCWPA makes the Fitness for Duty Examination an actionable offense. Prior to taken that action, Petitioner, filed administrative complaints, and sent required notices to the District of Columbia's Office of Risk Management (ORM), and mayor respectively. The ORM had the authority and responsibility to investigate and mitigate Petitioners complaint, at the earliest phase, but failed to do so, after assuring Petitioner it would.

#### **B. Statement of Facts**

The Petitioner was terminated, prior to that court disposing of his federal claims and exercising its discretion not to hear the state claims, dismissing those claims without prejudice. Petitioner filed an appeal relative to his termination with OEA on June 10, 2010. The appeal was after the District of Columbia, selected him as the sole employee within his respective competitive area and level to be subjected to a reduction in force. OEA's administrative judge (AJ) ruled against Petitioner, and after considering employees, Petition for Review, OEA's Board of Directors reversed its AJ decision On March 4, 2014. On April 15, 2016, The lower court reversed OEA's Board decision without addressing the issues Petitioner raised in his

administrative appeal In a trial, that resulted after Petitioner re-filed his claims in DC Superior Court, a jury ruled against Petitioner, but on May 8, 2018, the DC Court of Appeals remanded Petitioners DC Whistleblower claim ruling the lower court incorrectly disposed of that claim. The uniqueness and manner in which both the District Government applied and the lower courts sanctioned their laws warrants the highest level of federal review.

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#### **REASONS FOR GRANTING THE PETITION**

These applications of law includes for the first time, allowing a cabinet level agency of the District Columbia to execute a Reduction in Force, without the mayor approval or without any established procedures, and allowing the Districts Child and Family Services Agency to shift the authority to conduct the RIF, from a Consent Order, to D.C. Code 1-604.06, and Abolishment Act, without allowing Petitioner to address these shifting authorities.

The lower court in contrast to this matter, also in a matter relating to the Abolishment Act, noted the fact that the District of Columbia had misapplied the Abolishment Act, impacting many employees. The end result of these actions is Petitioner and his family being denied certain life liberties, and happiness through the denial of justice and misapplication of law! Petitioner prays that the court hears this matter as the roller coaster of rulings and opinions in the quest for justice has impacted him severely emotionally!

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CONCLUSION

For the foregoing reasons, the Court should grant the petition for writ of certiorari.

Respectfully submitted,

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