

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
DISTRICT OF COLUMBIA

ROGER CHARLES DAY, JR. — PETITIONER
(Your Name)

vs.

EXECUTIVE OFFICE OF
THE PRESIDENT, — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS - DISTRICT OF COLUMBIA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ROGER CHARLES DAY, JR.

(Your Name)

USP - Terre Haute
P.O. Box 33

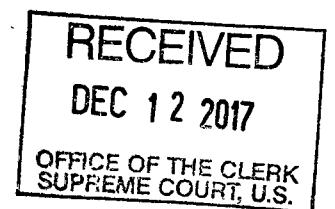
(Address)

Terre Haute, Indiana 47808

(City, State, Zip Code)

None

(Phone Number)



QUESTION(S) PRESENTED

- 1) Whether the Executive Office of the President is required, as an agency of the Federal Government to provide hearing and adjudication to the aggrieved Petitioner under Title 5 U.S.C. §§ 551 et seq.?
- 2) Whether the District Court and the Lower Court violated Title 5 § 706 by failing to provide substantial evidence review as required by the Administrative Procedures Act?
3. Whether the Lower Court, having found the Administrative Procedures Act applicable to the Executive Office of the President (Judicial Watch, Inc. v. Dept. of Justice, 356 F.3d 361, HN1 (CA D.C. 2004)), violated the Due Process and Equal Protection Constitutional Rights of the Petitioner by failing to order the Executive Office of the President to provide a hearing as Title 5 U.S.C. §§ 551 et seq. provides?
- 4) Whether the relief afforded by Title 5 U.S.C. §§ 551 et seq. is the same as that of Habeas Corpus relief for violation of Title 18 U.S.C. § 3192 and can be substituted as did the Lower Court?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Connecticut Nat Bank v. Germin</u> , 503 U.S. 249 (1992) ..	7
<u>Day v. Trump</u> , No. 15-5144 (CA D.C. 2017)	7
<u>Judicial Watch, Inc. v. Dept of Justice</u> , 356 F.3d 361, HN1 (CA D.C. 2004)	III, 4
<u>Marx v. General Revenue Corp.</u> , 568 U.S. 371 (2013) ..	7
<u>United States v. Ron Pair Enterprises Inc</u> , 489 U.S. 235, 241 (1998)	7

STATUTES AND RULES

5 U.S.C. §§ 551 et seq.	III, 5, 7, 8
5 U.S.C. § 706	III
18 U.S.C. § 2	4
18 U.S.C. § 3192	III, 4, 5, 9
28 U.S.C. § 1257	2
28 U.S.C. § 2241	6

OTHER

31 UST 5059, Article 2	4
31 UST 5059, Article 10	4
31 UST 5059, Article 14	4
31 UST 5059, Article 17	4

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

[] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 12, 2017.

[X] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Due Process - United States Constitution - Fifth Amendment

Equal Protection - United States Constitution - Fifth Amendment

STATEMENT OF THE CASE

The Executive Office of the President is an agency of the Federal Government and is subject to the Administrative Procedures Act, See: Judicial Watch, Inc., v. Dept. of Justice, 365 F.3d 361, HN1 (CA D.C. 2004).

The rights and protections pursuant to Title 18 U.S.C. § 3192 are applicable to the undersigned Petitioner as a person delivered by a foreign government to an agent of the United States for the purpose of being brought within the United States and tried for any offense of which he is duly accused.

The undersigned Petitioner was extradited from Mexico in December 2010, pursuant to a 158 page "Order of Extradition" which specifically limited which "offenses" for which the undersigned could be detained, tried or punished as defined in the treaty, 31 UST 5059, Articles 2, 10, 14 and 17.

The undersigned Petitioner was tried and punished after his delivery to an agent of the United States for offenses as defined in Article 2 of said treaty for which he was neither duly accused nor were these offenses authorized by Mexico in its Order of Extradition, namely 18 U.S.C. §§ 2(a) and 2(b), thereby requiring protections under 18 U.S.C. § 3192.

The undersigned Petitioner has in writing repeatedly

demanded a hearing from the above captioned Respondent so as to avail himself of the protections that Title 18 U.S.C. § 3192 affords him.

The Executive Office of the President has not allowed the Petitioner adjudication of his statutory demand for protection under 18 U.S.C. § 3192 nor has the Respondent allowed for a hearing, both, in violation of Title 5 U.S.C. § 551 et seq.

It is now since December 2010 that the statutory protections, as a matter of the Petitioner's right have been denied, after repeated written requests for hearing as the Administrative Procedures Act allows. The Respondent is in DEFAULT as to any opposition to the facts as stated herein above and by such DEFAULT the Executive Office of the President has thereby conceded that the Title 18 § 3192 protections have been withheld to the injury and prejudice of the Petitioner and has damaged him in his person, business, and property.

The District Court took the suit under Title 5 U.S.C. §§ 551 et seq. as an "invitation" to decide the merits of the Title 18 U.S.C. § 3192 Presidential Protection. No such invitation was extended nor does §§ 551 et seq. allow for such usurping of Presidential power and obligation. Appendix B.

The Lower Court affirmed while finding the case Day v. Trump, No. 15-5144 satisfied and/or substituted for the instant

claim under the Administrative Procedures Act as it is the same as Title 28 U.S.C. § 2241. Appendix A.

REASONS FOR GRANTING THE PETITION

THE SOLE FUNCTION OF THE COURTS

The Court's function is to explicitly follow the statutes of the United States as Congress enacted.

"We presume what Congress 'means in a statute what it says there' Connecticut Nat. Bank v. Germain, 503 U.S. 249 (1992) and 'where the statute's language is plain the sole function of the Courts is to enforce it according to its terms.' United States v. Ron Pair Enterprises Inc, 489 U.S. 235, 241 (1998)" Marx v. General Revenue Corp., 568 U.S. 371 (2013).

The Administrative Procedures Act expressly requires a agency of the Federal Government, such as the Executive Office of the President allow for a hearing and adjudication of a grievance with said agency. Title 5 U.S.C. §§ 551 et seq. The Lower Court and District Court have no jurisdiction to usurp the agency's authority and obligation to decide the merits of said grievance.

The only question before this Court is whether the Executive Office of the President is required, as a agency of the Federal Government to provide such hearing and adjudication to the aggrieved undersigned Petitioner.

Nowhere on the instant record does there exist any opposition to the facts:

- a) The Executive Office of the President is an agency of the federal government and subject to Title 5 U.S.C. §§ 551 et seq.
- b) The undersigned Petitioner is entitled to a hearing according to Title 5 U.S.C. §§ 551 et seq.
- c) The undersigned has been denied any form of administrative adjudication of his grievance before the federal government agency from whom he seeks relief.

The merits and decision as to whether the undersigned is entitled to relief is not at bar. Solely the question of whether Title 5 U.S.C. §§ 551 et seq. affords the undersigned administrative hearing and adjudication before the federal agency from whom relief is sought, as presented.

Judicial agreement with the reasons for relief are never required of the Lower Court. This Court must honor the Administrative Procedures Act and require the Executive Office of the President to conduct a full and fair hearing and adjudication of the grievance as Title 5 U.S.C. §§ 551 et seq. provides and affords the Petitioner and requires of said

agency. At such hearing the merits would be decided as Title 18 U.S.C. § 3192 specifically require.^{FN}.

Simply, this particular action does not ask for or allow judicial usurpation of administrative merits decision making. It is not to question the grievance, it is but to order that which the law requires and that which has been so long denied.

"Theirs not to reason why, theirs but to do and die."

Charge of the Light Brigade.
Alfred Lord Tennyson

FN. The idea that the Lower Court did not understand that unique statutes afford and requires completely different methods, circumstances, avenues of review and that the use of different statutes to achieve a desired result is a joke. This Court and every federal Court in this Country use this technique everyday, I am simply following the noble example.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Roger Charles Day, Jr.

Date: December 1, 2017