

Drevaleva v. 1) Department of Veterans
No. 18-8315 Affairs
2) Secretary of the
Department of
Veterans Affairs
IN THE

SUPREME COURT OF THE UNITED STATES

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

Tatyana E. Drevaleva — PETITIONER
(Your Name)

Court of Appeals for the 9th Circuit — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals for the 9th Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI — mandate

Tatyana E. Drevaleva

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I. Questions presented:

- 1) Shall the Court immediately reinstate back to work a Federal employee who was fired for an attempt to get pregnant, for being discriminated against sex (I am a female), against age (50 yo), and against temporary disability that was related to taking time off to undergo an In-Vitro Fertilization (IVF) procedure in violation of 5 U.S. Code §2302(b)(1)(A)-(E)?
- 2) Shall the Court immediately reinstate back to work a Federal employee if the Agency fraudulently withheld the information that the employee is eligible for a paid Sick Leave for the purpose of pregnancy according to the Master Agreement between the AFGE and the Department of Veterans Affairs (Master Agreement) instead of an unpaid Leave Without Pay (LWOP), and if the Agency forced the employee to submit a request for an unpaid LWOP under the Family and Medical Leave Act (FMLA)?
- 3) Shall the Court immediately reinstate back to work a Federal employee if the employee's Supervisor committed fraud and withheld the truthful information about the reasons of the employee's absence from the Director who is authorized to terminate employment?

- 4) Shall the Court immediately reinstate back to work a Federal employee if the employee's Supervisors submitted a forged document to the Director regarding the reason of the employee's absence?
- 5) Shall the Court immediately reinstate back to work a Federal employee who went to Russia with a verbal permission of her Assistant Manager for the purpose of an IVF procedure and was fired when she was in Russia without being previously given a 30 day Notice and an opportunity to be heard at least 7 days prior to terminating the employee's job in violation of both the Master Agreement and 5 U.S. Code §7513(b)?
- 6) Shall the Court immediately reinstate back to work a Federal employee if the Agency's Director who is authorized to terminate employment failed to personally speak to the employee about the reasons of absence and to review the employee's medical documentation in violation of 5 U.S. Code §2302(b)(2)(A)-(B)?
- 7) Shall the Court immediately reinstate back to work a Federal probationary employee and order the Agency to pay at least all lost salary and benefits if the employee was fired for being absent, and this reason is not a described as a valid reason of terminating probationary employment at 5 CFR 315.803 and 5 CFR 315.804?

- 8) Shall the Court immediately reinstate back to work a Federal probationary employee if the Agency claimed that the reason of terminating employee's job was "negligent failure to follow a proper chain to obtain Leave Without Pay under the Family and Medical Leave Act", and this reason is not described as a valid reason for terminating employment at 5 CFR 315.803 and 5 CFR 315.804?
- 9) Shall the Court immediately reinstate back to work a Federal employee because she is suffering from irreparable harm because of her lost salary, lost benefits, delayed opportunity to undergo another IVF attempt, shame and humiliation due to being fired, and inability to find the subsequent employment because of Defendants' Libel regarding the reasons of terminating my employment?
- 10) Is *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008) the appropriate case law to enter preliminary or permanent injunction in employment discrimination/retaliation cases?
- 11) Shall the Court immediately reinstate back to work an employee if the employer fired the employee without previously giving a Notice and an opportunity to be heard in violation of the Due Process clause of the Fourteenth Amendment to the U.S. Constitution?

12) Shall the termination of an employee as a result of discrimination or retaliation be viewed as a cruel and unusual punishment which is a violation of the Eighth Amendment to the U.S. Constitution? Shall a discriminated or retaliated employee be granted preliminary injunction and get immediately reinstated back to work?

13) Shall a discriminated or retaliated employee be granted preliminary injunction and get immediately reinstated back to work if the employee works as a slave or performs involuntary servitude in order to earn just any money as a result of being fired from the main job and in violation of the Thirteenth Amendments to the U.S. Constitution?

14) Does the Defendant have a right to file an Answering Brief after missing a deadline to do it?

15) Does a Plaintiff have a right to obtain sanctions from Defendants' lawyer for failing to file an Answering Brief on time?

II. A list of all parties to the proceeding in the court whose judgment is sought to be reviewed.

- a) Tatyana Evgenievna Drevaleva – Plaintiff-Petitioner Pro Se. I was a Plaintiff at the District Court, and I was a Plaintiff-Appellant at the Court of Appeals for the 9th Circuit
- b) The U.S. Department of Veterans Affairs and Mr. Robert Wilkie in his official capacity as an acting Secretary of the U.S. Department of Veterans Affairs – Respondents. They were Defendants at the District Court and Defendants-Appellees at the Court of Appeals for the 9th Circuit.

III. Corporate disclosure statement according to Rule 29.6 of the Rules of the U.S. Supreme Court – not applicable.

IV. The Orders of the lower Courts that are challenged in this Petition:

- a) The Order of the U.S. District Court for Northern California dated December 03, 2018 denying my Motion for Preliminary Injunction where I asked to IMMEDIATELY reinstate me back to work to any VAMC
- b) The Order of the Court of Appeals for the 9th Circuit dated January 24, 2019 that denied my Petition for Writ of Mandate to challenge the December 03, 2018 Order
- c) The Order of the U.S. District Court for Northern California dated January 03, 2019 that denied my Motion for Leave to File a Motion for Reconsideration and my Motion for Injunction Pending Appeal claiming that the reason of terminating my employment was the fact that I didn't work at the VA for 12 months and therefore I was not eligible for LWOP under the FMLA.

V. The basis of jurisdiction in the U.S. Supreme Court.

- a) I am filing this Petition for Writ of Certiorari under Rule 11 of the Rules of the U.S. Supreme Court which says, "A petition for writ of certiorari to review a case pending in a United States court of appeals, before judgment is entered in that court, will be granted only upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court. See 29 U.S.C. §2101(e)
- b) The notification required by Rule 29.4(a) was made, and this Petition was served on the Solicitor General of the United States.

VI. The authorities that have been involved in this case:

Statutes.

The Eighth Amendment to the U.S. Constitution.....	5, 23, 26
The Thirteenth Amendments to the U.S. Constitution.....	5, 23, 26
The Fourteenth Amendment to the U.S. Constitution.....	4, 22, 26
The Family and Medical Leave Act (FMLA).....	2, 4, 8, 12, 16, 17, 20, 21
The Rules of the U.S. Supreme Court, Rule 11.....	18
The Rules of the U.S. Supreme Court, Rule 29.4(a).....	9
The Rules of the 9th Circuit, Rule 3-3.....	24
The Rules of the 9th Circuit, Rule 31-2.3.....	25, 28
29 U.S.C. §2101(e).....	9
5 CFR 315.803.....	3, 4, 19, 20
5 CFR 315.804.....	3, 4, 19, 20
5 CFR 752.404.....	20
5 U.S. Code §2302(b)(1)(A)-(E).....	2, 19
5 U.S. Code §2302(b)(2)(A)-(B).....	3, 19
5 U.S. Code §7513(b).....	3, 20

Case Laws

<i>Gibson v. USI & NS</i> , 541 F. Supp. 131 (S.D.N.Y. 1982).....	20
<i>Sampson v. Murray</i> , 415 U.S. 61 (1974).....	20
<i>Winter v. Natural Resources Defense Council, Inc.</i> , 555 U.S. 7 (2008).....	4, 22, 26

VII. A concise statement of the case setting out the facts material to consideration of the questions presented.

Petitioner Tatyana E. Drevaleva was a full time probationary employee at the Raymond G. Murphy VAMC in Albuquerque, NM. I was a Title 38 Medical Instrument Technician (Electrocardiograph.) I started to work on April 03, 2017. At the beginning of May 2017, I approached Manager Ms. Carla Dunkelberger and said to her that I was 50 yo, I was married twice but both husbands didn't give me children, I unsuccessfully attempted to get pregnant in the United States using In-Utero Inseminations, afterwards I spent 2.5 years in Russia to undergo a full medical examination and treatment, and I performed In-Vitro Fertilization attempts in Russia, that, as a citizen of the Russian Federation, I have a right for a free of charge IVF attempt, that I can't pay \$15 thousand U.S. dollars for 1 IVF attempt in the United States, that I was taking hormonal pills named Jeanine that were prescribed by my Russian OB/GYN and they were not available in the United States, that I can't miss a day without a pill, that I just discovered that I was running out of the hormonal pills, I had just 10 pills left which is for 10 days, that I called my Russian OB/GYN and discovered that my turn in line for a free IVF attempt just came in, and therefore I

urgently need to go to Russia to refill a prescription of the hormonal pills and to perform an IVF attempt.

Manager Ms. Dunkelberger made a very displeased face. She asked me whether I would go to Russia again to perform another IVF procedure. She said to me that she couldn't pay me my salary and benefits while I am taking a time off. She said to me that, because I just started to work at the VA and didn't work for 12 months, I was not eligible for a Leave Without Pay (LWOP) under the Family and Medical Leave Act (the FMLA). She asked me to provide her with a copy of medical documentation prior to departure to Russia. I said that I would request a document from my Russian OB/GYN, and this document will be in Russian language. Ms. Dunkelberger said that I shall find a certified translator to translate this document into English, and I couldn't translate this document myself. I immediately made a request to my Russian OB/GYN. I got this document in the email only in seven days after the request. At that time, I had only three hormonal pills left, and I couldn't afford to stay in the United States for a longer time to find a certified translator because I needed approximately 2-3 days to travel to Russia.

On May 17, 2017, Ms. Dunkelberger was out of her office. I approached Assistant Manager Mr. Phil Johnson, and I said to him the

same information that I had said to Ms. Dunkelberger about my history of getting pregnant, about only three hormonal pills left, and about the necessity to go to Russia to obtain the hormonal pills and to perform an IVF attempt. Mr. Johnson verbally allowed me to go to Russia. His exact words were, “If you need to go – go!” I said to Mr. Johnson that I didn’t have time to find a certified translator before I leave to Russia because I had only three pills left for three days, and I needed 2-3 days to travel to Russia. I said that, however, I will email this document translated by a certified translator into English from Russia. In the mean time, I authorized my Russian speaking co-worker Ms. Nadya Das to preliminary translate this document into English. Mr. Johnson gave me a request form for Leave Without Pay and asked me to fill it out. I filled this form out, and I put it under the door of the Manager’s office.

On May 17, 2017, there was my night shift together with my Russian speaking co-worker Ms. Nadya Das. I said to her that I had spoken to Mr. Johnson, and he verbally allowed me go to Russia to perform an IVF procedure. On the same night, I received a copy of my medical documentation from my Russian physician, and Ms. Das was a witness that I received it only early morning (approximately at 2.00AM) in the email. This documentation was on Russian language. I emailed this document to

both Ms. Dunkelberger and Mr. Johnson on May 18, 2017 at 9.02 AM. On the same evening on May 18, 2017, I departed to Russia.

While being in Russia, I emailed a few times to both Ms. Dunkelberger and Mr. Johnson informing them about the progress of undergoing through a complete medical examination and preparing to the IVF attempt. I never heard back from both managers. I emailed a translated version of the document to both Ms. Dunkelberger and Mr. Johnson on May 30, 2017.

In June 2017, I underwent an unexpected gynecological surgery, and I was waiting for the pathology result for 10 days. Afterwards, I waited for the appropriate time according to the doctor's order to perform a blood hormonal test. I realized that I would have to stay in Russia for a longer time than I had expected. I emailed both Ms. Dunkelberger and Mr. Johnson, I informed them about these unforeseen circumstances, and I asked for a permission to stay in Russia for a longer time. I said that I would provide them with a second document from my physician (which I later did). On July 03, 2017, I got an email from Ms. Dunkelberger informing me that I had been fired from my probationary employment on June 30, 2017. Before getting fired, I didn't receive any Notice, and I was not given an opportunity to be heard.

After returning back to the United States, I had a Mediation with Ms. Dunkelberger on September 07, 2017. During the Mediation, Ms. Dunkelberger said that my request for LWOP had been denied by Director of Nursing Services Dr. Tina Prince. Ms. Dunkelberger said that she had mailed this denial letter to my home postal address in Albuquerque, NM. Ms. Dunkelberger said that, because I didn't respond to that letter and didn't return back to work, she fired me. I objected, and I said that I at that time I was in Russia, and I had no chance to receive the letter that was mailed to Albuquerque, NM. Ms. Dunkelberger refused to reinstate me back to work.

Speaking over the phone with Ms. Nadya Das, I learned that, after firing me, Ms. Dunkelberger hired two young male employees whose ages were 30 and 35 yo. One of them was already married and already had children. I realized that I was discriminated against my desire to get pregnant, against my sex (I am a female), against my age 50 yo, and against my temporary disability that was related to taking a time off to undergo an IVF attempt.

After being fired, I was not receiving unemployment insurance benefits because the Agency said to the Employment Development Department that the reason of terminating my employment was my negligent failure to

follow a proper chain to obtain LWOP, and I was not eligible for LWOP under the FMLA because I hadn't worked at the VA for 12 months. Also, for the same reason, my subsequent full time employment offer at the Minneapolis VAMC was cancelled in 2018. Now, nobody hires me.

After not being able to resolve this issue through a formal EEO complaint, I filed an action at the District Court of Northern California on June 25, 2018. Defendants argued that the reason of terminating my employment was the fact that I didn't work at the VA for 12 months, therefore I was not eligible for the LWOP under the FMLA, my request for LWOP was denied, I was absent from work without the permission, and I didn't return back to work after the Manager sent me a piece of mail to Albuquerque, NM (that I never received.)

I filed a Motion for Preliminary Injunction asking to immediately reinstate me back to work at any VAMC. I provided the District Court with a printout of the Master Agreement between the American Federation of Government Employees (AFGE) and the Department of Veterans Affairs where it is written that Title 38 employees shall be granted with a paid Sick Leave for the purpose of pregnancy. Also, I provided the Court with a printout of the Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care of the Office of the Personnel

Management (OPM) of the VA system where it is written that new employees who are not formally eligible for LWOP under the FMLA shall be granted with a FMLA-like benefit for the purpose of pregnancy.

While litigating the lawsuit and obtaining pieces of evidence from the Defendants, I learned that Ms. Johnson lied to Dr. Prince about the reasons of my request for LWOP. On May 18, 2017, Mr. Johnson submitted my request for LWOP to Dr. Prince and accompanied this request by his letter. In this letter, Mr. Johnson said that the purpose of my trip to Russia was “a medical procedure” but didn’t say that it was related to pregnancy. Also, Mr. Johnson said that, prior to my departure to Russia, I hadn’t provided the VA with medical documentation. It was not true because Mr. Johnson received my medical documentation on May 18, 2017 at 9.02 AM. At the end of the letter, Mr. Johnson wrote, “At this time, I do not recommend approval of Tatyana Drevaleva’s request for Leave Without Pay” despite he verbally allowed me to go to Russia for the purpose of the IVF procedure on May 17, 2017.

Also, I learned about the June 12, 2017 letter that Ms. Dunkelberger mailed to my home postal address in Albuquerque, NM. In this letter, she claimed that I had not provided her with medical documentation on English

language. It was not true because she received this documentation on May 30, 2017 in the email.

I believe that Ms. Dunkelberger didn't say to Dr. Prince that I was in Russia, and therefore I never had a chance to receive and respond to that June 12, 2017 letter that was sent to my home postal address in Albuquerque, NM. Ms. Dunkelberger kept claiming that at that time I was in Albuquerque, NM. She wrote a Report of Contact where she claimed that I came to her office on May 25, 2017. There was no way for me to do it because on that day I was in Russia.

After not receiving my response to her June 12, 2017 letter, Ms. Dunkelberger reported to Dr. Prince that I was absent from work despite my request for LWOP had been denied, I didn't provide my medical documentation on English language, and I didn't return back to work. Ms. Dunkelberger obtained Dr. Prince's permission to fire me. Not being aware that I, in fact, provided the medical documentation, I was in Russia for the purpose of pregnancy, I went to Russia with the verbal permission of Assistant Manager Mr. Johnson, I never received that June 12, 2017 letter, and I didn't have a chance to respond to that letter and to return back to work, Dr. Prince allowed to fire me.

In its December 03, 2018, the District Court of Northern California issued an Order dismissing my original Complaint in its entirety. The Court also denied my Motion for Preliminary Injunction and refused to reinstate me back to work. On December 07, 2018, I filed a Notice of Appeal of the Court's Order denying my Motion for Preliminary Injunction. On December 12, 2018, I filed a Motion for Injunction Pending Appeal pursuant to F.R.A.P. Rule 8(a)(1)(C) at the District Court. In this Motion, I argued that:

- 1) I was discriminated against my desire to get pregnant, my sex, my age, and my disability in violation of 5 U.S. Code §2302(b)(1)(A)-(E)
- 2) Dr. Tina Prince who approved the termination of my employment did it without previously speaking to me and without reviewing my medical documentation in violation of 5 U.S. Code §2302(b)(2)(A)-(B)
- 3) Being absent from work is not a valid reason for terminating a probationary Federal employment, see 5 CFR 315.803 and 5 CFR 315.804. A probationary employee may be terminated only for bad performance but not for being absent from work

- 4) The same is about “failure to follow the proper chain to obtain LWOP under the FMLA”. It is not a proper reason for terminating a probationary Federal employment under 5 CFR 315.803 and 5 CFR 315.804
- 5) Before terminating my employment, the Agency didn’t provide me with a Notice and an opportunity to be heard in violation of 5 CFR 752.404
- 6) Before getting fired, I was supposed to receive a 30 day Notice according to 5 U.S. Code § 7513, and the Agency didn’t provide me with this Notice
- 7) I was suffering from irreparable harm as a result of lost salary and benefits. See *Sampson v. Murray*, 415 U.S. 61 (1974). I was suffering from irreparable harm due to damaged reputation. See *Gibson v. USI & NS*, 541 F. Supp. 131 (S.D.N.Y. 1982).
- 8) I asked the District Court to immediately reinstate me back to work at any VAMC.

Also, I filed a copy of that Motion to the 9th Circuit. I asked to immediately reinstate me back to work. On December 19, 2018, the 9th Circuit denied my Motion without any explanations. I filed a Motion

for Clarification and the Motion for Panel Rehearing. The 9th Circuit didn't respond. Also, I filed a Petition for Writ of Mandate to challenge the December 03, 2018 Order. On January 24, 2019, the 9th Circuit headed by Chief Justice Hon. Sidney Thomas denied my Petition for Writ of Mandate, denied all pending Motions, and prohibited me to file any new Petitions at the 9th Circuit regarding this matter.

On January 03, 2019, the District Court denied my Motion for Leave to File a Motion for Reconsideration of the December 03, 2018 Order and denied my demand to get reinstated back to work. The Court reasoned that I had negligently failed to follow a proper chain to obtain LWOP under the FMLA because I didn't work at the VA for 12 months.

On December 13, 2018, I got a notification from the Clerk of the 9th Circuit that I am welcome to file an Opening Brief. Next day, on December 14, 2018, I filed an Opening Brief for Appeal 18-17343 (Preliminary Injunction). While filing this Opening Brief, I realized that there is no Opinion of the U.S. Supreme Court that gives the lower Courts the framework regarding reinstating back to work discriminated and unlawfully terminated employees. The District Courts of California and the 9th Circuit use the framework for Preliminary Injunction in

employment discrimination/retaliation cases set forth in *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008.) However, this case law is not regarding a labor dispute. This case law is about giving preliminary injunction to the U.S. Navy to use the sonar systems while performing trainings. To the best of my understanding, this case law is irrelevant to the employee who was discriminated and unlawfully terminated from her job, and the employer deprived the employee with Liberty and property without giving a mandatory Notice and an opportunity to be heard in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. Therefore, I am petitioning to the U.S. Supreme Court with a request to establish a new case law that allows victims of employment discrimination and retaliation to quickly obtain Preliminary Injunction and to get reinstated back to work if the employer just kicked the employee out without giving her a Notice and an opportunity to be heard.

Also, it takes a very long time for the fired employee to undergo a formal EEO process, to file a lawsuit not having help of a Counsel because of the absence of money, and to struggle in a fight with both the Defendants and the Judges. I was fired on June 30, 2017. Now, it is February 2019, and I am still not reinstated back to work. Because

Defendants said that it was my fault that I didn't receive a letter that was mailed to Albuquerque, NM, didn't respond, and didn't return back to work, and because Defendants said that it was my fault that I didn't work at the VAMC for 12 months and therefore I was not eligible for the LWOP under the FMLA, I was not receiving Unemployment Insurance benefits, and my subsequent full time employment offer was cancelled. Now, nobody hires me. I have to get just any job in order to earn pennies. I worked as a Janitor at Monterey County, CA cleaning streets for \$340 per month, and I worked with former convicted felons. I worked as a Caregiver traveling for seven hours one way to my client's place in Sacramento, CA because I don't have a car. To the best of my understanding, it is a violation of the Eighth Amendment to the U.S. Constitution. I don't have to be punished so cruelly because I am a woman, and I wanted to get pregnant. I don't have to be a slave and to perform involuntary servitude because it is prohibited in the United States according to the Thirteenth Amendment to the U.S. Constitution. I am an Electrocardiography Technician, and I must work in my professional field.

Currently, I am unemployed, I can't get employment in my professional field, and I am forced to spend a lot of time and effort

litigating my lawsuit myself. Because of that, I've been unable to pay rent for 2.5 months. On February 17, 2019, my landlord served me with a Summons for Unlawful Detainer for my failure to pay rent. I am in the situation when the 9th Circuit procrastinates and doesn't want to reinstate me back to work, I can't find employment, and I don't have time to be looking for employment because I spend a huge amount of time writing my legal papers and fighting with both the Defendants and the Judges.

The initial deadline for Defendants to file an Answering Brief was on February 07, 2019. However, because I filed an Opening Brief and served the Defendants on December 14, 2018, Defendants had only 28 days from the date when they were served. See the 9th Circuit's Rule 3-3, "Appellee's brief and any supplemental excerpts of the record shall be filed within 28 days of service of appellant's opening brief." Therefore, according to the Circuit Rule 3-3, Defendants' deadline for filing an Answering Brief was on January 11, 2019. Defendants missed that deadline. They didn't notify the 9th Circuit that no brief would be filed, and they didn't obtain the 9th Circuit's permission to file a late brief.

I objected, and I said to the 9th Circuit that Appellees had missed their deadline for filing an Answering Brief. I asked the 9th Circuit to rule on my Opening Brief without awaiting the Answering and the Reply Briefs. Defendants argued that the deadline for filing an Answering Brief was on February 07, 2019. I also filed a Motion for Sanctions against Defendants' Attorney Mr. Kimberly Robinson pursuant to the Circuit Rule 31-2.3 which says, "**Failure to File Briefs**, "If appellee does not elect to file a brief, appellee shall notify the Court by letter on or before the due date for the answering brief. Failure to file the brief timely or advise the Court that no brief will be filed will subject counsel to sanctions. (Rev. 7/93; 12/1/09)."

The 9th Circuit never responded to my requests to process my Preliminary Injunction Appeal without awaiting the Answering and the Reply Briefs. The 9th Circuit also never responded to my Motion for Sanctions. On February 07, 2019, Defendants-Appellees filed an untimely and unauthorized Answering Brief where they claimed that I had been properly fired from my job for my failure to follow a proper chain to obtain LWOP under the FMLA. On February 16, 2019, I filed a Reply Brief.

VIII. Reasons for Granting the Writ.

I believe that all the issues presented in this Petition have a significant public interest. It is the Congress's intention to end discrimination and retaliation at the work place. Up to today, there is no case law of the U.S. Supreme Court that directs the lower Courts to issue the Preliminary Injunction to victims of employment discrimination and retaliation. To the best of my belief, the currently used Opinion in *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008) is irrelevant to the labor disputes. Unlawfully terminated employees must have a quick and efficient remedy to go back to work if employers didn't provide the employees with a Notice and an opportunity to be heard in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution. Absent the relevant Opinion of the U.S. Supreme Court, victims of employment discrimination and retaliation will continue suffering from a cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution. These victims will continue suffering from working as slaves and doing involuntary servitude in violation of the Thirteenth Amendment to the U.S. Constitution.

IX. Conclusion.

I am respectfully asking the U.S. Supreme Court to grant my Petition to compel the Department of Veterans Affairs to follow the Master Agreement between the AFGE and the Department of Veterans Affairs and to grant Title 38 employees who are incapacitated to perform their duties because of pregnancy with a paid Sick Leave. Also, I am respectfully asking the U.S. Supreme Court to prohibit the Department of Veterans Affairs to speculate that employees who didn't work at the VA for 12 months are not eligible to take an unpaid LWOP under the FMLA for the purpose of pregnancy. The Department of Veterans Affairs must comply with its own Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care of the Office of the Personnel Management (OPM) of the VA system and allow new employees to take a time off for the purpose of pregnancy when the employee wants and not when the employer allows after 12 months.

I am respectfully asking the U.S. Supreme Court to immediately reinstate me back to work at any VAMC for the position equivalent of higher and to pay me all lost salary and benefits in full. I am asking the U.S. Supreme Court to compel the Department of Veterans Affairs to consider me working for all the time that I was unemployed for the purpose of retirement, benefits, promotions, and educational opportunities.

I am respectfully asking the U.S. Supreme Court to rule whether the Court of Appeals has a right to allow Defendants-Appellees to file an Answering Brief after the Appellees missed a deadline to do so.

I am respectfully asking the U.S. Supreme Court to compel the 9th Circuit to follow its own Circuit Rule 31-2.3 and to impose sanctions on Defendants' Attorney Ms. Kimberly Robinson for failure to timely file an Answering Brief and failure to notify the Court of Appeals that no Brief would be filed or it would be filed later.

I declare under the penalty of perjury and under the Federal laws that all foregoing is true and correct. Executed at Daly City, CA on February 18, 2019.

Respectfully submitted.

s/ Tatyana Drevaleva



Tatyana Evgenievna Drevaleva

Plaintiff-Petitioner

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