

18-9249 ORIGINAL
No. _____

Supreme Court of the United States

Tatyana Evgenievna Drevaleva

Petitioner Pro Se

vs.

FILED
MAY 08 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

- 1) The U.S. Department of Veterans Affairs
- 2) Mr. Robert Wilkie in his capacity as an acting Secretary of the U.S.

Department of Veterans Affairs

Respondents

On Petition for a Writ of Certiorari to the U.S. Court of Appeals for the Ninth
Circuit (18-17343)

PETITION FOR A WRIT OF CERTIORARI

Tatyana E. Drevaleva

Petitioner Pro Se

I. Questions presented:

- 1) Litigating the Preliminary Injunction Appeal pursuant to the 9th Circuit's Rule 3-3(b), shall the Defendant-Appellee file an Answering Brief "within 28 days of service of appellant's opening brief"?
- 2) Pursuant to the 9th Circuit Rule 31-2.3, shall the 9th Circuit impose sanctions on the Defendant-Appellee's Attorney at Law for failing to file an Answering Brief on time and for failing to notify the 9th Circuit that no Brief would be filed?
- 3) If the Defendants missed a deadline to file an Answering Brief without notifying the Court of Appeals that no Brief would be filed, and if the Plaintiff-Appellant requested to process the Appeal without awaiting the Answering and the Reply Briefs, shall the Court of Appeals ignore the Plaintiff's request and allow the Defendants-Appellees to file an Answering Brief?
- 4) Shall the 9th Circuit deny without any explanations the Plaintiff-Appellant's Motion for Sanctions pursuant to the 9th Circuit's Rule 31-2.3 for Defendants-Appellees failure to file an Answering Brief on time and for failure to notify the Court that no Brief would be filed?

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

1) 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.

Tatyana E. Drevaleva,

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2) 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.

The Assistant U.S. Attorney

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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.

1) The Order of the Court of Appeals for the 9th Circuit dated February 28, 2019 that denied my Motion for Sanctions without any explanations of the reasons of the denial and that prohibited me to file the Motions for Reconsideration of this Order.

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

I am filing this Petition under Rule 13.1 of the Rules of the U.S. Supreme Court which says that the Petition for a Writ of Certiorari shall be filed within 90 days after entry of the judgment. Also, see Rule 13.3 of the Rules of the U.S. Supreme Court that says that the time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed.

VI. The Constitutional provisions that are involved in this case –

The First Amendment to The U.S. Constitution

The Fifth Amendment to The U.S. Constitution.

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VIII. The authorities that have been involved in this case.

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

On December 03, 2018, the District Court of Northern California denied my Motion for Preliminary Injunction where I asked to immediately reinstate me back to work at any VAMC after being discriminated and unlawfully terminated. On December 07, 2018, I filed a Notice of Appeal of this Order. 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) and served the Defendants electronically.

The initial deadline for the 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(b), "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(b), 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. On February 07, 2019, Defendants-Appellees filed an untimely and unauthorized Answering Brief. On February 16, 2019, I filed a Reply Brief.

On February 28, 2019, the Court of Appeals for the 9th Circuit issued an Order that denied my Motion for sanctions without giving any explanations about the reason of the denial and that prohibited me to file the Motions for Reconsideration of this Order.

I believe that the Order denying Plaintiff's request for a relief without giving any explanation of the reasons of the denial violates the Substantive Due Process Clause of The Fifth Amendment to The U.S. Constitution. Prohibiting the Plaintiff to file a Motion for Reconsideration violates the freedom of speech and petitioning pursuant to The First Amendment to The U.S. Constitution.

Also, I believe that, if the Court of Appeals wants all Litigants to follow its Rules, the Court must follow its own Rules itself.

X. Reasons for granting the Petition

I believe that this Petition shall be granted because I have no any other Court where I can obtain the relief. The Court of Appeals for the 9th Circuit improperly denied my Motion for Sanctions without giving any justifying reason and prohibited me to file the Motions for Reconsideration. I believe that all Courts shall treat all Litigants impartially and fairly. Also, the Courts shall follow their own Rules if they want all Litigants to follow the same Rules.

XI. Conclusion.

I am respectfully asking the U.S. Supreme Court to grant this Petition for a Writ of Certiorari and to reverse the Order of the Court of Appeals for the 9th Circuit that denied my Motion for Sanctions without giving any justifying reason.

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 May 08, 2019.

Respectfully submitted,

s/ Tatyana Drevaleva

Plaintiff-Appellant Pro Se

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Date: May 08, 2019

Signature



CERTIFICATE OF COMPLIANCE.

This Petition was prepared using 659 words.

Respectfully submitted,

s/ Tatyana Drevaleva

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Date: May 08, 2019

Signature

