

No. 19-396

In the Supreme Court of the United States

CHARLES SIMON,

Petitioner,

v.

UNITED STATES DEPARTMENT OF JUSTICE;
T. SPEIGHTS, Coordinator of Federal Prisons Industries Inc.,
28 C.F.R. Part 301; FEDERAL PRISON INDUSTRIES, INC.;
STEVE SHWALB, Retired Chief Operating Officer of Federal
Industries, Inc., Policy, 18 U.S.C. § 4126, 28 C.F.R. Part 301,

Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

PETITION FOR REHEARING

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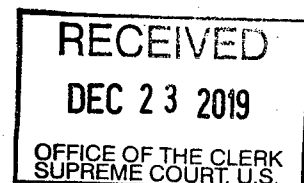


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PETITION FOR REHEARING

Pro Se Petitioner advance the November 18, 2019 Order Denial of Petition for Writ of Certiorari solely on a single ground where T. SPEIGHT, Coordinator of Inmate Accident Compensation Procedure., 28 C.F.R. Part 301, proceeded to unlawful termination of Petitioner's compensation Section 301.315(a) entitlement without cause or notice for its adverse action. Judicial Notice Petitioner received said substandard, compensation under 28 C.F.R. Part 301 for two decades, *See: Simon v. Fed. Prison Indus., Inc.*, No.94-112 (2d. Mass.) *aff'd* 89 F.3d, 8 (1st Cir. 1996), before being illegally terminated in on or about March of 2018; Furthermore, Notice the lower courts' favoritism adopts the Chief Operating Officer of Federal Prison discriminatory practice under 18 U.S.C. § 4126 attending 28 C.F.R. Part 301 in *Simon v. Fed. Prison Indus., Inc.*, No.94-112 (2d. Mass.) *aff'd* 89 F.3d, 8 (1st Cir. 1996), hence, the lower Court admit the well pleaded facts of unlawful termination; hence, denies its legal sufficiency ruling improper venue, thus vigorously avoid ruling on the merits in Pro Se plaintiff favor; Central to this factual conclusion, it is well settled law jurisdictional nexus pursuant judicial review of the merits of the Administrative Agency's decision is restricted to the arbitrary and capricious standard; hence, jurisdictional nexus is prescribed by Section 10 of the Administrative Procedure Act 5 U.S.C. section 701, *et seq.*; citation omitted.



DISCUSSION OF FACTS IN SUPPORT OF GRANTING PETITION FOR REHEARING

Conversely, the only way a compensation recipient benefit can be legally terminated is through Section 301.315(a) medical examination by a physician; Congressman Rangel directed Mrs. Robinson Coordinator of Inmate Accident Compensation Procedure at the time to afford Petitioner medical treatment; however, Mrs. Robinson Coordinator of the Inmate Accident Compensation Procedure denied Petitioner back surgery; Petitioner had two back surgeries through work fair welfare program; Petitioner worked for medical treatment and food stamps in work fair program; It must be remembered, the Government's prison physician recommend medical treatment and back surgery for Petitioner; On intake of federal custody Petitioner went to Springfield medical center for federal Prisoners; Prior to incarceration, Petitioner was under doctor's care upon receiving electrical shock fell fifteen feet doing high glass maintenance work; Petitioner was later transferred to Federal Correctional Institution, Oxford Wisconsin, while working in kitchen Movant was further injured slipped and fell where make shift garbage disposal caused slippery floor; Petitioner injury cause greater disability to the back.

Respectfully, the problem here, evident by the administrative record under Section 301.314 *et seq*, is that neither of the lower courts below gave proper consideration to the possible existence of exceptional facts to the procedural challenge that justify the Government refusal to file opposition to Pro Se

Appellant's appeal brief; Moreover, "the fundamental requisite of due process of law is the opportunity to be heard," has compelling applicability. *Grannis v. Ordean*, 234 U.S. 385, 394 (1914). Several of the Supreme Courts' decision emphasizes the glaring constitutional infirmity of the procedures challenged herein; this reasoning of Supreme Court Cases that some form of hearing is required before an individual is finally deprived of a property interest. (96 S.Ct. at 902.) Furthermore, In this case the Court need not have to rely on the demeanor or credibility of a witness; to the contrary, the procedural record paint a detail picture of the constitutional violation; Petitioner's twenty five years of paralegal intuition finds that the Judicial arm of the Government frown on Pro Se litigation, showing favoritism against Pro Se litigation; evidence where the judicial arm of the Government adopts the a Chief Operating Officer Of Federal Prison Industries, Inc., discriminatory practice under 28 C.F.R. Part 301; Judicial Notice show the *District of Columbia Circuit's decision 97-757 aff'd 159 F.3d 637*, the ruling evidence a misrepresentation of the fact pursuant the Inmate Accident Compensation Procedure, hence the Appellant Court made Independent Determination of fact and law; *Anderson v. City of Bessemer City*, 470 U.S. 564, 573 (1985). See the attached Exhibit in support of the asserted fact, (Reh.App.1a) The adverse action encourages the erection of elaborate procedural devices to hinder the resolution of the Civil Right Cases; Thus exact an unacceptable heavy toll on the Courts. Duplication, congestion, and added expenses; After twenty five years litigating the same Civil Rights claims, Petitioner deserves a fair and just answer, not like here, a ticket

to the arcane world of form-selection law. If this was a private Company committing these constitutional violations, that company would be criminally prosecuted by the Department of Justice. Moreover, in spite of the Judicial Arm of the Government condemn Petitioner to suffer grievous loss with an uncompensated disability; *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 168 (1975). The unconstitutional forces of evil failed to entrap Petitioner into a life of crime, instead, Petitioner maintain its integrity though his Lord and Savior Jesus Christ putting on its full armor of God.



RELIEF REQUESTED

Petitioner request this Court exercise a judicial judgement providing petitioner the right of law, in fact and as a result; Grant award of \$3 million, allowing petitioner to pay taxes trigger Social Security on said monetary damages affording 79 year old disable claimant to receive Social Security benefits and pay into well needed medical treatment which includes dental; foreclose this case at this juncture, making it final; The Inmate Accident Compensation Procedure 18 U.S.C. § 4126 delineated in 28 C.F.R. sec. 301.314 *et seq.*, is a recovery and substitute for common law tort; *see United States v. Demko*, 385 U.S. 149 (1966), grant any other relief the court may deem proper and just.



CONCLUSION

For the factual and legal authorities explicated and set forth in this petition, Petitioner respectfully request that the Petition for Rehearing be granted.

Respectfully submitted,

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DECEMBER 6, 2019

RULE 44 CERTIFICATE

I, Charles Simon, petitioner pro se, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the following is true and correct:

1. This petition for rehearing is presented in good faith and not for delay.

2. The grounds of this petition are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

Charles Simon
Signature

Executed on

12/6/19

Date

Notary Public

JOSEPH E. MASON
Notary Public, State of New York
No. 01MA6066394
Qualified in Bronx County
Commission Expires Nov. 13, 2021

**Additional material
from this filing is
available in the
Clerk's Office.**