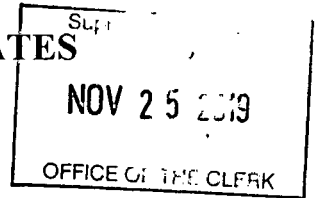


19-6764 ORIGINAL
No. _____

IN THE SUPREME COURT OF THE UNITED STATES



Nicole Rena McCrea
Petitioner

v.

D.C. POLICE AND FIREFIGHTERS' RETIREMENT AND RELIEF
BOARD

Respondent

ON PETITION FOR WRIT OF CERTIORARI TO THE DISTRICT OF
COLUMBIA COURT OF APPEALS

Nicole Rena McCrea

(Name)

5205 East Capitol St., SE

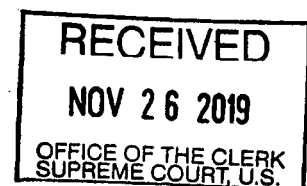
(Address)

Washington, DC 20019

(City, State, Zip Code)

202/491-9656

(Phone Number)



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CLERK OFFICE

2019 NOV 25 P 10:26

QUESTION(S) PRESENTED

1. Are the provisions of the United States Constitution, Amendment 5, Due Process Clause, compelled and/or implied as pertains to the expressed statutory guidelines within the Police and Firefighters Retirement and Disability Act (“PFRDA”), a state law governing disability and disability provisions of the District of Columbia Police, Firefighters and Capitol Police, as concerns the property interest in the calculation and/or adjustment of the Petitioner’s annuity; the Petitioner’s property interest in a disability review for recovery back to reemployment; the Petitioner’s property interest in the ability to be employed in any profession; the Petitioner’s property right protected by the Takings Clause?
2. Is the Petitioner’s challenge to the Constitutionality of the Board’s actions a contested case subject to the provisions of the United States Constitution, Amendment 5, Due Process Clause, a hearing to refute charges and/or clear her name?

LIST OF PARTIES

[X] 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:

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Universal Camera Corp. v. NLRB, 340 U.S. 474, 487, 71 S.Ct. 456, 95 L.Ed. 456 (1951)) page 13

Univ. Med. Ctr. v. Shalala, 173 F.3d 438, 440 n. 3 (D.C.Cir.1999)

STATUTES AND RULES

United States Constitution, Amendment 5, Due Process Clause.....

DC Code §5-571(b)(2).....

DC Code §5-714(a)(1).....

DC Code §5-714(b)

DC Municipal Regulation (“DCMR”), 7 DCMR §2515.....

DC Municipal Regulation (“DCMR”), 7 DCMR §2519.....

Petitioner respectfully prays that a Writ of Certiorari issue to review the Judgment below.

Petitioner respectfully prays that a Writ of Certiorari issue to review the Judgment below.

OPINIONS BELOW

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is
[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the D.C. Police and Firefighters' Retirement and Relief Board appears at Appendix B to the petition and is
[] reported at _____ or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

For cases from **state courts**:

The date on which the highest state court decided my case was 07-03-2019.
A copy of that decision appears at Appendix A.
[X] A timely petition for rehearing was thereafter denied on the following date 08-26-2019 and a copy of order denying rehearing appears at Appendix C

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Amendment 5, Due Process Clause provides, in relevant part(s):

“No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

Police and Firefighters' Retirement and Disability Act ("PFRDA"), D.C. Code §§ 5-714 and 5-571 (2017 Supp.), provides, in relevant part(s):

DC Code §5-714(a)(1) states: “If any annuitant retired under § 5-709 or § 5-710, before reaching the age of 50, recovers from his disability or is restored to an earning capacity fairly comparable to the current rate of compensation of the position occupied at the time of retirement, payment of the annuity shall cease: **(A)** Upon reemployment in the department from which he was retired; **(B)** Forty-five days from the date of the medical examination showing such recovery

DC Code §5-714(b) states: “When an annuitant recovers prior to age 50 from a disabling condition for which he has been retired, and applies for reinstatement in the department from which he was retired, he shall be reinstated in the same or nearest equivalent grade and salary available as that received at the time of his separation from the service; provided, that such applicant meets the current entrance requirements of such department as to character.”

DC Code §5-571(b)(2) states, “The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia ... to undergo, during each 12-month period following the effective date of this paragraph, at least 1 medical examination of the disability upon which the annuitant's retirement under § 5-709 or § 5-710 is based. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.”

DC Municipal Regulation ("DCMR"), 7 DCMR §2515 and 7 DCMR §2519, provides, in relevant part(s):

7 DCMR §2515.2 states, “the Board shall give due regard to the nature of the injury or disease; the percentage of impairment; the position held immediately prior to retirement; in considering and evaluating percentages of disability; the age and years of service; education, training, and special skills; qualifications for wage-earning capacity while in

retirement shall be reviewed and examined; jobs that the disabled retiree is qualified for shall exist; aptitude for acquiring new skills, the ability to adjust to a handicap and other personality conditions, and the impact the presence of the injury or disease could have on the employability of a disabled retiree shall be considered and evaluated when determining the percentage of disability.”

7 DCMR §2515.3(a) states: “The criteria for determining percentages of disability or loss of wage-earning capacity shall be considered in the context of the application of §2515.1 for each individual case. No one criteria shall be considered by the Board as controlling or standard. The ***combined result of the application of §2515.1*** shall produce the final determination by the Board” [emphasis added].

7 DCMR §2515.3(d) states: “The Board, after weighing the physical and mental condition(s) and economic and other factors, shall render a final decision as to the extent to which a disability affects a Police Officer's or Firefighter's ability to earn wages while in disability retirement, pursuant to §§4-615(b) and 4-616(e), D.C. Code (1981)”.

7 DCMR §2515.4 states: “Once the percentage of disability has been determined by the Board's final decision, the percentage shall not be changed unless it is subsequently shown, by medical evidence presented at annual reviews, that the degree of impairment has increased or decreased, or that the annuitant's actual annual earnings fairly represent his or her earning capacity”.

7 DCMR § 2519.1 states: “Each annuitant retired for disability shall appear before the Board of Surgeons, or before a medical specialist approved by the Board of Surgeons, at least once every year until he or she shall have reached the age of fifty (50) years, for a medical ***examination of the disability for which he or she was retired***, to determine his or her current physical and/or mental condition, unless excused from the examination by order of the Board.” [emphasis added]

7 DCMR §2519.2 states: “The Board shall receive ***all medical and psychiatric reports*** through and from the Board of Surgeons and, upon review of the reports and recommendations made by the Board of Surgeons, determine the current status of the annuitant's disability and make a decision as to the disposition of the case.”

7 DCMR §2519.6 states, in relevant part: “If the Board finds there is sufficient evidence that the annuitant has recovered from the disability for which he or she retired, then the annuitant may be required to appear before the Board for a hearing.”

STATEMENT OF THE CASE

The Petitioner is a former Firefighter/EMT of the District of Columbia Fire and Emergency Medical Services Department (“DCFEMS”). While at work and asleep in her bed, around midnight, May 30/31, 2013, the Petitioner was the victim of a sexual harassment incident involving three other members of the DCFEMS. The investigating police officers, Detectives of the Special Victims Unit of the Metropolitan Police Department (“MPD SVU”) classified the sexual harassment incident as a misdemeanor sexual abuse. Within one month of the sexual assault the Plaintiff-Appellant began to experience a variance of stress related somatic dysfunctions. Within one month, while at work, the Plaintiff- Appellant woke up screaming, having had a nightmare about the events that occurred during the sexual assault. The DCFEMS EEOC and Diversity Manager, advised the Petitioner to immediately report to the Police and Firefighter’s Clinic (“PFC”). The Petitioner was immediately placed on leave due to a variance of physical and psychological symptoms.

The DCFEMS, in concert with the PFC then Ordered the Petitioner to submit to a comprehensive forensic sexual harassment psychological assessment, under the color of state law, in the guise of determining Petitioner’s Fitness for Duty. The Petitioner immediately voiced her opposition as the DCFEMS, in concert with the PFC, had been Ordering her to report to forced monitoring every week and then every other week since the assault, therefore knew her Fitness-for-Duty. Petitioner’s opposition was dismissed and she was Ordered to submit to six(6) extensive and comprehensive psychological exams: the Minnesota Multiphasic Personality Inventory- 2 (“MMPI-2”) and/or the Minnesota Multiphasic Personality Inventory- 2 Restructured Form (“MMPI-2 RF”); The Personality Assessment Inventory (“PAI”); the Trauma Symptom Inventory- II (“TSI-2”); the Beck Hopelessness Scale (“BHS”); the Beck Depression

Inventory-II (“BDI-II”); the Beck Anxiety Inventory (“BAI”) and a detailed forensic psychological interview. The DCFEMS, in concert with the PFC, under color of state law, recommended the Plaintiff- Appellant for Involuntary Non-POD Disability Retirement, citing her as permanently disabled. Under color of the Police and Firefighters’ Disability Act (“PFRDA”), a state law that is a form of Workman’s Compensation for D.C. Police and Firefighters, the DCFEMS, PFC and DC Police and Firefighters’ Retirement and Relief Board (“Board”) asserting a psychological diagnosis that the Petitioner was PERMANENTLY DISABLED, recommended the Petitioner for Involuntary Non- POD Disability Retirement; citing issues borne out of the Petitioner’s Sexual Harassment complaints of the May 30/31, 2013 Misdemeanor Sexual Abuse. On May 15, 2015, the Petitioner was forced into Involuntary Non-POD Disability Retirement, due to disability from an alleged psychological disability, with the District of Columbia citing the Petitioner, without objective data, as a danger to herself and others.

In 2016, pursuant to DC Code §5-721(b)(2), the Petitioner scheduled her annual medical evaluation of the *disability for which he or she was retired*. In **November 2016**, the Petitioner attended the scheduled medical evaluation. The Petitioner learned that the PFC had scheduled the Petitioner for a *physical* medical evaluation, not a *psychological* examination for the alleged psychological disability for which she was involuntarily retired. The Petitioner questioned the doctor rendering the physical medical evaluation as to why she was receiving a physical evaluation when she was returned to full physical duty and retired under PFC’s allegations of psychological disability. The Petitioner was informed that it was the only examination that the PFC has scheduled for her. The Petitioner **did not** receive a psychological examination in 2016 for the alleged psychological disability for which she was involuntarily retired.

In 2017, pursuant to DC Code §5-721(b)(2), the Petitioner scheduled her annual medical evaluation of the *disability for which he or she was retired*. In **November 2017**, the Petitioner attended the scheduled medical evaluation. The Petitioner learned that the PFC had once again scheduled the Petitioner for a *physical* medical evaluation, not a *psychological* examination for the alleged psychological disability for which she was involuntarily retired. The Petitioner, once again, questioned the doctor rendering the physical medical evaluation as to why she was receiving a physical evaluation when she was returned to full physical duty and retired under PFC's allegations of psychological disability. The Petitioner was informed that it was the only examination that the PFC has scheduled for her. The Petitioner **did not** receive a psychological examination in 2017 for the alleged psychological disability for which she was involuntarily retired.

In 2018, pursuant to DC Code §5-721(b)(2), the Petitioner scheduled her annual medical evaluation of the *disability for which he or she was retired*. (**Appendix H, attachment B**). On **December 06, 2018**, the Board issued an Order for a Show Cause Hearing to the Petitioner, to appear before the Board on January 24, 2019 under allegations of failure to schedule and/or complete an annual medical evaluation of the *disability for which he or she was retired*. (**Appendix D**). On **December 13, 2018**, the Petitioner attended the scheduled medical evaluation. (**Appendix H, attachment C**). The Petitioner learned that the PFC had once again scheduled the Petitioner for a *physical* medical evaluation, not a *psychological* examination for the alleged psychological disability for which she was involuntarily retired. The Petitioner, once again, questioned the doctor rendering the physical medical evaluation as to why she was receiving a physical evaluation when she was returned to full physical duty and retired under PFC's allegations of psychological disability. The Petitioner was informed that it was the only

examination that the PFC has scheduled for her. The doctor rendering the physical medical evaluation presented the document that PFC had provided for her annual medical exam. The Petitioner was informed, and witnessed by visual examination, that the document that the PFC provided did not mention a psychological examination or provide questions or guidelines for assessment for a psychological examination. The Petitioner **did not** receive a psychological examination in 2018 for the alleged psychological disability for which she was involuntarily retired.

On **January 17, 2019**, the Board issued a Certificate of Compliance certifying that the PFC issued a medical evaluation report that the Petitioner “did not complete the requirement to undergo a medical evaluation in calendar year 2018...finding a “*low likelihood of recovery based on previous examinations*”...“EXCUSED the Petitioner from further annual medical reviews”. (**Appendix E**). On **February 04, 2019**, the Petitioner filed, before the Board, the Petitioner’s Motion for Reconsideration and REQUESTED a hearing to establish her legitimate claim of entitlement under the Fifth Amendment of the U.S. Constitution as pertains to her property interest in the calculation and/or adjustment of her annuity; her property interest in a disability review for recovery back to reemployment is property necessary to support a due process claim; in addition to establishing a property right protected by the Takings Clause. (**Appendix F**). On **March 07, 2019**, the Board, DENIED the Petitioner’s Motion for Reconsideration and REQUESTED hearing. (**Appendix B**).

On **April 05, 2019** the Petitioner sought Judicial Review of the Board’s Order and Decision before the District of Columbia Court of Appeals (“DCCA”) (**Appendix G; Appendix H; Appendix I; Appendix J; and Appendix K**). On July 03, 2019, the DCCA DISMISSED the Petition for Judicial Review citing a lack of standing/jurisdiction (**Appendix A**). On July 16,

2019, the Petitioner filed, before the DCCA, the Petitioner's Petition for Rehearing and Petitioner's Petition for Rehearing En Banc. **(Appendix L)**. On August 26, 2019, the DCCA DENIED the Petitioner's Petition for Rehearing and Petitioner's Petition for Rehearing En Banc. **(Appendix C)**.

The Petitioner's April 05, 2019 Petition for Review of the Decisions and/or Orders of the Board pertained to the Petitioner's reemployment and/or the calculation of her annuity, property interests protected by the Fifth Amendment of the U. S. Constitution. The Petitioner's April 05, 2019 Petition for Review of the Decisions and/or Orders of the Board, expressly challenging the constitutionality of the Board's actions, should not have been dismissed for lack of standing/jurisdiction. Crowell v. Benson, 285 U.S. 22, 60, 52 S.Ct. 285, 76 L.Ed. 598 (1932) ("In cases brought to enforce constitutional rights, the judicial power of the United States necessarily extends to the independent determination of all questions ... of ... law, necessary to the performance of that supreme function.").

The Petitioner asserts that April 05, 2019 Petition for Review of the Decisions and/or Orders of the Board is within the federal law established by several decisions settled by this Court's precedence, in addition to that of several United States Courts of Appeals. The DCCA's dismissal for lack of standing/jurisdiction is prejudicial departure from its own precedence, establishing its accepted and usual course of judicial proceedings concerning claims of Constitutional rights, adopted from the precedence established by this Court and/or several United States Courts of Appeals.

REASONS FOR GRANTING THE PETITION

Generally, "administrative orders are not reviewable unless and until they impose an obligation, deny a right, or fix some legal relationship as a consummation of the administrative process." Chicago & S. Air Lines, Inc. v. Waterman S.S. Corp., 333 U.S. 103, 112-13, 68 S.Ct. 431, 437 92 L.Ed. 568 (1948) (citations omitted); *see also* United States v. Los Angeles & Salt Lake R.R. Co., 273 U.S. 299, 311-12, 47 S.Ct. 413, 415, 71 L.Ed. 651 (1927) (Brandeis, J.). "[W]hen a party seeks review of agency action under the [Administrative Procedure Act] APA, "The entire case on review is a question of law, and only a question of law." Marshall Cnty. Health Care Auth. v. Shalala, 988 F.2d 1221, 1226 (D.C.Cir.1993). When an agency's findings are at issue, the question of law is "whether [the agency] acted in an arbitrary and capricious manner." Univ. Med. Ctr. v. Shalala, 173 F.3d 438, 440 n. 3 (D.C.Cir.1999). This analysis is conducted under the substantial evidence standard, which requires that a court "determine only whether the agency could fairly and reasonably find the facts as it did." Robinson v. Nat'l Transp. Safety Bd., 28 F.3d 210, 215 (D.C.Cir.1994) (internal quotation marks and ellipses omitted). When the constitutionality of an agency's action and not the rationality of its findings is challenged, the appellate tribunal *must* [emphasis added] determine for itself whether the agency based its decision on the appropriate constitutional standard; Crowell v. Benson, 285 U.S. 22, 60, 52 S.Ct. 285, 76 L.Ed. 598 (1932) ("In cases brought to enforce constitutional rights, the judicial power of the United States necessarily extends to the independent determination of all questions ... of ... law, necessary to the performance of that supreme function.").

The Fifth Amendment of the U.S. Constitution, in relevant part states "No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." The Petitioner was a 15- year contract

Firefighter/EMT of the DC Fire and EMS at the time of her Involuntary Non-POD Disability Retirement. In addition, as a contract Firefighter/EMT for the DC Fire and EMS, the Petitioner had a statutory right to not be denied the opportunity to be returned to her public employment without cause; and the calculation of her annuity due to the Board's 2015 actions to force her into Involuntary Non-P.O.D. Disability Retirement. The Petitioner expressly asserts that she has NOT been afforded her Constitutional Rights to Due Process, substantive and/or procedural. Morgan v. United States, 298 US 468 - Supreme Court 1936.

In the Petitioner's Response to the April 23, 2019 Show Cause Order, with supporting attachments A-G the Petitioner challenged the findings and conclusions of the Board, expressly asserting that: they constituted a taking of property by the District of Columbia government as outlined in the Takings Clause of the Fifth Amendment of the Constitution of the United states; they denied her Constitutional Right to Substantive Due Process as outlined in the Fifth Amendment of the Constitution of the United states; they denied her Constitutional Right to Procedural Due Process as outlined in the Fifth Amendment of the Constitution of the United states; they denied her statutory rights as related to a medical *examination of the disability for which he or she was retired*; the calculation of her earning capacity and/or annuity; and they affixed a legal status that prevents her from being able to enter into or pursue *any profession DC Code §5-571(b)(2); 7 DC Municipal Regulation ("DCMR") § 2519.1; 7 DCMR §2519.2; 7 DCMR §2515.2; 7 DCMR §2515.3(a); 7 DCMR §2515.3(d); 7 DCMR §2515.4 ; DC Code §5-714(a)(1); DC Code §5-714(b); [Attachment F].*

A. The DCCA's July 03, 2019 Order of dismissal for lack of standing/jurisdiction, as pertains to the Fifth Amendment of the U.S. Constitution conflicts with the precedence of this Court, several United States Courts of Appeals, in addition to its own precedence.

The DCCA's Division Panel's Amended Order asserts that although "the petitioner's original retirement/annuity proceeding under D.C. Code § 5-721(a)(2012 Repl.) was a "contested case" that this court reviewed directly, *see McCrea v. District of Columbia Police & Firefighters' Ret. & Relief Bd.*, 199 A.3d 208 (D.C. 2019)" the Board's Order(s) and/or Decision(s) pertaining to the continuance of the Petitioner's Involuntary Non-P.O.D. Disability Retirement and the calculation of her annuity for an alleged psychological disability are NOT a "contested case" directly reviewed to this Court.

The DCCA's Division Panel's Amended Order further asserts that "no statute or regulation entitles [the Petitioner] to a trial-type hearing to dispute the adequacy of the annual medical examination required by D.C. Code § 5-721(b) and implemented-in 7 DCMR § 2519, *nor can we discern any constitutional right to one*" (emphasis added). *See R.O. v. Dep't of Youth Rehab. Servs.*, 199 A.3d 1160, 1164 (D.C. 2019) (specifying that a "contested case" involves a trial-type hearing required by the agency's enabling statute, implementing regulations, or constitutional right). The Petitioner further asserts that DCCA's Division Panel's Amended Order summarily disregarded its own precedent in order to disregard the Petitioner's arguments, with supporting authority as to the resolution of whether the Petitioner was aggrieved, after expressly Ordering briefing on the matter, in two separate Orders, because the Petitioner's Constitutional Rights and/or the violation of the Petitioner's Constitutional Rights compels the finding that a hearing was required because the facts and issues concerned implicates a contested case. The DCCA has jurisdiction not only when a contested case (trial-type) hearing has taken place, but also when a party has made "an effort to obtain such a hearing which the agency erroneously denied." *Auger v. District of Columbia Board of Appeals and Review*, 477 A.2d 196,

206 (D.C.1984); Debruhl v. District of Columbia Hackers' License Appeal Bd., 384 A.2d 421, 425 (D.C.1978) Transp. Leasing Co. v. Dep't of Emp't Servs., 690 A.2d 487, 489 (D.C. 1997).

The DCCA's Division Panel's Amended Order disregarded the Petitioner's assertions that she was adversely aggrieved by the lack of notice that the Board was making a Final Administrative Decision that directly affected her Constitutionally protected property interests. The DCCA has held that "[i]n general, an individual is entitled to fair and adequate notice of administrative proceedings that will affect his [or her] rights, in order that he [or she] may have an opportunity to defend his [or her] position."

It is undisputed that on April 5, 2019, the Petitioner timely filed a petition for review of the Board's March 7, 2019 order denying her motion for reconsideration and exercising her right to a hearing; which is implicitly tied to the board's underlying January 17 order excusing her from annual medical examinations. The Petitioner's Petition for Review asserted actual and/or threatened 'injury in fact' due to several violations of her constitutionally-protected procedural due process rights and an unconstitutional taking of her private property. The Fifth Amendment provides, in relevant part, that "[n]o person shall ... be deprived of life, liberty, or property, without due process of law." U.S. CONST. amend. V. To prevail on a constitutional due process claim, a plaintiff first must show the existence of an interest protected by the Due Process Clause, and then must establish the government's failure to provide her with the process that she was due. Terrell v. Dist. of Columbia, 703 F.Supp.2d 17, 22 (D.D.C.2010) (citing Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 538, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985)).

This Court; several United States Courts of Appeals; and the DCCA have asserted that "[p]roperty interests are not created by the Constitution, they are created and their dimensions

are defined by existing rules or understandings that stem from an independent source such as state law." Thompson v. Dist. of Columbia, 530 F.3d 914, 918 (D.C.Cir.2008) (quoting Cleveland Bd. of Educ. v. Loudermill, 470 U.S. at 538, 105 S.Ct. 1487). A property interest therefore will arise only when such rules or understandings "secure certain benefits and ... support claims of entitlement to those benefits." Gen. Elec. Co. v. Jackson, 610 F.3d 110, 119 (D.C.Cir. 2010) (quoting Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 569-70, 577, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972)). This Court has recognized that the Petitioner has a property interest, protected by the Due Process Clause of the Fifth Amendment, in her disability annuity. McNeal v. Police & Firefighters Retirement & Relief Board, 488 A.2d 931, 935 (D.C.1985); Goldberg v. Kelly, 397 U.S. 254, 262, 90 S.Ct. 1011, 1017, 25 L.Ed.2d 287 (1970); Board of Regents v. Roth, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972); Dodge v. Board of Education, 302 U.S. 74, 58 S.Ct. 98, 82 L.Ed. 57 (1937); American Postal Worker's Union v. United States Postal Service, 227 U.S.App.D.C. 351, 707 F.2d 548, cert. denied, ___ U.S. ___, 104 S.Ct. 1594, 80 L.Ed.2d 126 (1984);

This Court; several United States Courts of Appeals; and the DCCA have asserted that, the Fifth Amendment provides, in relevant part, that "private property [shall not] be taken for public use, without just compensation." In order to prevail on a takings claim, a plaintiff "must first establish that [she] had a protectable property interest cognizable under the Fifth Amendment." Ascom Hasler Mailing Sys., Inc. v. U.S. Postal Serv., 885 F.Supp.2d 156, 192 (D.D.C.2012) (quoting Foggy Bottom Ass'n v. D.C. Office of Planning, 441 F.Supp.2d 84, 89 (D.D.C.2006)). As with the due process claim, "[s]uch property interests are created and their dimensions are defined by existing rules or understandings arising from non-Constitutional

sources." *Id.* (internal quotation and quotation marks omitted). Nat'l Educ. Ass'n-Rhode Island ex rel. Scigulinsky v. Ret. Bd. of Rhode Island Employees' Ret. Sys., 172 F.3d 22, 30 (1st Cir.1999).

The Petitioner's assertions that the Board's Decision's and/or Orders have furthered and sustained the Board, and the DCCA's January 03, 2019 Judgment to AFFIRM, the earlier denigration of her professional competence and impugned her personal reputation in such a fashion as to effectively put a significant roadblock in her ability to obtain other employment. Kartseva v. Department of State, 37 F.3d 1524 (D.C.Cir.1994); Doe v. Cheney, 885 F.2d 898, 910 (D.C.Cir.1989); Alexis v. District of Columbia, 44 F.Supp.2d 331, 341-42 (D.D.C.1999); Holman v. Williams, 436 F.Supp.2d 68, 80 (D.D.C. 2006); Peter B. v. CIA, 620 F.Supp.2d 58, 72 (D.D.C.2009); Taylor v. Resolution Tr. Corp., 56 F.3d 1497, 1506 (D.C. Cir.), opinion amended on reh'g, 66 F.3d 1226 (D.C. Cir. 1995); cf. Cafeteria and Restaurant Workers v. McElroy, 367 U.S. 886, 895-96, 81 S.Ct. 1743, 6 L.Ed.2d 1230 (1961)

This Court has asserted that the due process clause of the 5th Amendment of the Constitution requires that the Petitioner have "an opportunity to clear her name." Codd v. Velger, 429 U.S. 624, 627, 97 S.Ct. 882, 51 L.Ed.2d 92 (1977). This Court; several United States Courts of Appeals; and the DCCA have asserted that the basic requirement in such a hearing is minimal: it must provide notice of the charges and an opportunity to refute them effectively. *Id.*; Doe v. DOJ, 753 F.2d 1092, 1112 (D.C.Cir. 1985). Segal v. City of N.Y., 459 F.3d 207, 216 (2d Cir.2006). Campbell v. Pierce Cnty., Ga., 741 F.2d 1342, 1345 (11th Cir.1984). A two-stage analysis applies to allegations that the government has deprived a person of life, liberty or property without due process of law. Ingraham v. Wright, 430 U.S. 651, 672, 97 S.Ct. 1401, 51 L.Ed.2d 711 (1977). The Court "must first ask whether the asserted individual interests are encompassed within the [Fifth Amendment's] protection of 'life, liberty or property';

if protected interests are implicated, [the Court] then must decide what procedures constitute 'due process of law.'" *Id.* "A cognizable liberty or property interest is essential because process is not an end in itself. Its constitutional purpose is to protect a substantive interest to which the individual has a legitimate claim of entitlement." *Roberts v. United States*, 741 F.3d 152, 161 (D.C.Cir. 2014) (internal quotation marks, citations and formatting omitted).

This Court; several United States Courts of Appeals; and the DCCA have asserted that Substantive due process protects against "government power arbitrarily and oppressively exercised," but "only the most egregious official conduct can be said to be 'arbitrary in the constitutional sense.'" *County of Sacramento v. Lewis*, 523 U.S. 833, 846, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). In order to make out a substantive due-process violation, a plaintiff must therefore establish that defendants' conduct "shock[s] the contemporary conscience." *Harvey v. District of Columbia*, 798 F.3d 1042, 1049 (D.C. Cir. 2015). The conduct the Petitioner asserts rises to the level of "malicious and sadistic" abuses of power by government officials. See *Johnson v. Newburgh Enlarged Sch. Dist.*, 239 F.3d 246, 252 (2d Cir. 2001). The legal basis for this argument is the Accardi doctrine, which holds that "government agencies are bound to follow their own rules, even self-imposed procedural rules that limit otherwise discretionary decisions." *Wilkinson v. Legal Servs. Corp.*, 27 F.Supp.2d 32, 34 n.3 (D.D.C. 1998) (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267-68, 74 S.Ct. 499, 98 L.Ed. 681 (1954)). Failure to do so arguably gives rise to a due-process claim. As required under the doctrine, the Petitioner is additionally able to demonstrate prejudice as a result of the Board and the PFC's deviations from internal policies and statutory regulations. *Brown v. Dept. of Employment Services*, 83 A. 3d 739 - DC: Court of Appeals 2014 (the agency is obligated to abide by its rules); *Vanover v. Hantman*, 77 F.Supp.2d 91, 106 (D.D.C. 1999), *aff'd*, 38

Fed.Appx. 4 (D.C. Cir. 2002) (noting that courts will not, under the Accardi doctrine, "void the result of the [agency] proceeding if the error was harmless"). See Morton v. Ruiz, 415 U.S. 199, 235, 94 S.Ct. 1055, 39 L.Ed.2d 270 (1974) (holding that "[w]here the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures. This is so even where the internal procedures are possibly more rigorous than otherwise would be required."); Abdi v. Duke, No. 17-721, 280 F.Supp.3d 373, 389, 2017 WL 5599521, at *9 (W.D.N.Y. Nov. 17, 2017) (noting that violation of "internal policy" implicates Accardi doctrine if it "pertains to individual rights"). Various Case law suggests that the doctrine has roots in the Due Process Clause, others have held that Accardi claims are better understood as arising under the APA or as stand-alone causes of action. Wilkinson v. Legal Services Corp., 27 F. Supp. 2d 32 at 58 - Dist. Court, Dist. of Columbia 1998 (concluding that a "substantive due process explanation" is best foundation for the doctrine), and Montilla v. INS, 926 F.2d 162, 167 (2d Cir. 1991) ("Accardi doctrine is premised on fundamental notions of fair play underlying the concept of due process"), with Tapp v. Washington Metro. Area Transit Auth., 2016 WL 7441719, at *6 n.8 (D.D.C. Sept. 30, 2016) (stating that Accardi claim is "distinct cause of action that differs from a claim brought under the Fifth Amendment's Due Process Clause"), and Vanover v. Hantman, 77 F.Supp.2d 91, 109 (D.D.C. 1999), aff'd, 38 Fed.Appx. 4 (D.C. Cir. 2002) (noting that plaintiff's claim of due-process violation from failure to follow internal regulations could be "considered as either a constitutional" or as separate "Accardi claim").

As the DCCA's Division Panel, in its April 23, 2019 Show Cause Order, had no problem taking notice of the Board's fraudulent assertion that the Petitioner had not attended her annual medical evaluation to assert that the Petitioner is statutorily required to attend an annual medical evaluation of the alleged medical disability for which she was retired. It is beyond reasonable

and fair discernment that the Board, in conjunction with the PFC are statutorily required to specifically perform an annual medical evaluation of the alleged medical disability for which the Petitioner was involuntarily retired when making determinations relevant to the Petitioner's Constitutionally protected property interests. The PFC and the Board acting in concert forced the Petitioner into Involuntary Non-POD Disability Retirement, citing psychological diagnosis inconsistent with ANY medically objective and documented diagnosis, after she had complained of sexual harassment when she was sexually assaulted by three firefighters, around midnight on May 30/31, 2013, while on duty. The Petitioner was a 15- year contract Firefighter/EMT of the DC Fire and EMS at the time of her Involuntary Non-POD Disability Retirement. The Petitioner expressly asserts that she has NOT been afforded her Constitutional Rights to Due Process, substantive and procedural, as pertains to several of her property interests, while in involuntary disability retirement. Morgan v. United States, 298 US 468 - Supreme Court 1936; McNeal v. Police & Firefighters Retirement & Relief Board, 488 A.2d 931, 935 (D.C.1985)(citing American Postal Worker's Union v. United States Postal Service, 227 U.S. App. D.C. 351, 707 F.2d 548 at 553-554, *cert. denied*, ____ U.S. ____, 104 S.Ct. 1594, 80 L.Ed.2d 126 (1984)); Goldberg v. Kelly, 397 U.S. 254, 262, 90 S.Ct. 1011, 1017, 25 L.Ed.2d 287 (1970); Board of Regents v. Roth, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972); Dodge v. Board of Education, 302 U.S. 74, 58 S.Ct. 98, 82 L.Ed. 57 (1937); Bloch v. Powell, 348 F. 3d 1060 at 1068 - 1070 Court of Appeals, Dist. of Columbia Circuit 2003; Roberts v. United States, 741 F.3d 152, 161 (D.C.Cir. 2014).

B. The DCCA's July 03, 2019 Order of dismissal for lack of standing/jurisdiction, as it pertains to contested cases conflicts with the precedence of this Court, several United States Courts of Appeals, in addition to its own precedence.

The DCCA's Division Panel refused to analyze the briefing presented in response to its Orders questioning whether the Petitioner was aggrieved by the Board's Order(s) and/or Decision(s) pertaining to the continuance of the Petitioner's Involuntary Non-P.O.D. Disability Retirement and the calculation of her annuity for an alleged psychological disability. In addition, the Petitioner asserts that the DCCA's Division Panel's Amended Order disregarded the fact that the Petitioner was aggrieved by the Board's denial of her request for a hearing within her Petition for Reconsideration to the Board, objecting to the PFC's unsubstantiated and fraudulent reports; the Board's findings in reliance on the PFC's unsubstantiated and fraudulent reports; and the Board's Sua Sponte determinations affecting the Petitioner's Constitutionally protected property interests, asserting that they were a violation of her Constitutional right to Substantive and Procedural Due Process. The Petitioner's assertion of violation of Constitutional Rights and expressly seeking the relief of a hearing implicates a contested case, compelling Judicial Review before the DCCA. *Dist. Intown Props., Ltd. v. D.C. Dep't of Consumer & Reg. Affairs*, 680 A.2d 1373, 1377 (D.C. 1996).

The DCCA has asserted that the standard for substantial controversy as, this Court has reiterated in its affirmation of a Superior Court Judgment is "[b]asically, [...] whether the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interest, of sufficient immediacy and reality [...]. *McIntosh v. Washington*, 395 A.2d 744, 755 n.24 (D.C. 1978). The Petitioner asserts that substantial controversy exists between the parties as pertains to the statutory requirement that the Petitioner receive an annual medical evaluation of the alleged medical disability for which the Petitioner was involuntarily retired.

Under D.C. Code § 11-722 (1995), the DCCA has jurisdiction to review orders and decisions of the Mayor and any agency of the District of Columbia "in accordance with" the District of Columbia Administrative Procedure Act (APA). *See* D.C. Code §§ 1-1501 to 1510 (1999). The APA in turn provides that "[a]ny person suffering a legal wrong, or adversely affected or aggrieved, by an order or decision of the Mayor or an agency in a contested case, is entitled to a judicial review thereof" upon filing a written petition for review in the District of Columbia Court of Appeals. *See* D.C. Code § 1-1510(a) (emphasis added)." The DCCA has further held that the provision of such a hearing does not satisfy the "contested case" requirement if it is merely discretionary with the agency; the hearing, we have said, must be compelled, at least "implicitly," by the Constitution or by other law (typically, by statute). (emphasis added) *Id.*; *Francis v. Recycling Solutions, Inc.*, 695 A.2d 63, 69 (D.C.1997); *Timus v. District of Columbia Dep't of Human Rights*, 633 A.2d 751, 756 (D.C. 1993) (en banc); *Powell v. District of Columbia Hous. Auth.*, 818 A.2d 188, 192-93 (D.C. 2003) (explaining that a "contested case" is a "controversy involving a 'trial-type' hearing that is required either by statute or by constitutional right," that "is an adjudicative, as opposed to a legislative, determination" (citing *Rones v. District of Columbia Dep't of Hous. & [Cmty.] Dev.*, 500 A.2d 998, 1000 (D.C.1985))). The DCCA has asserted that "[t]he principal manifestation of a 'contested case' is its character as a quasi-judicial process based upon particular facts and information, and immediately affecting the interests of specific parties in the proceeding." *Timus*, 633 A.2d at 756 (quoting *Citizens Ass'n of Georgetown v. Washington*, 291 A.2d 699, 702 (D.C.1972))).

The pertinent statutory provision is D.C. Code § 5-721 (a) (2012 Repl.). Section 5-721 (a) requires that proceedings before the Board "involving the retirement of any member, or *any application for an annuity*," shall be "reduced to writing [emphasis added]." With respect to

other procedural entitlements, however, section 5-721 (a) focuses more narrowly on retirees. Specifically, section 5-721 (a) provides that members under consideration for retirement are entitled to "written notice" to "appear" and "give evidence under oath." The DCCA has construed section 5-721 (a) to afford such members the right "to appear and give evidence," Relying on those procedural entitlements, we further held that *proceedings before the Board involving such members are contested cases reviewable directly in this court.*" [Emphasis added] Farrell v. D.C. Police & Firefighters Ret. & Relief Bd., 151 A.3d 490, 492 (D.C. 2017)(citing Johnson v. Board of Appeals & Review, 282 A.2d 566, 568 (D.C. 1971).

This Court; several United States Courts of Appeals; and the DCCA have asserted that when a plaintiff contests a stigmatizing report about the circumstances of their termination, the due process remedy "is 'an opportunity to refute the charge.'" Codd v. Velger, 429 U.S. 624, 627, 97 S.Ct. 882, 51 L.Ed.2d 92 (1977) (per curiam) (quoting Roth, 408 U.S. at 573, 92 S.Ct. 2701).

It is evident that the Board's determinations regarding the Petitioner's annuity benefits are adjudicatory in nature. Farrell v. D.C. Police & Firefighters Ret. & Relief Bd., 151 A.3d 490, 492 (D.C. 2017). The Petitioner exercised her constitutional right to a trial-type hearing when she objected to the Board's *Sua Sponte* actions and compelled a hearing in her Motion for Reconsideration to further contest its alleged factual findings. In accordance, within the meaning of § 1-1502(8), the Petitioner's Motion for Reconsideration of the Board's findings, asserting her Constitutional right to due process as concerning her statutory rights to a medical examination of the alleged psychological disability for which she was involuntarily retired; a statutory right to for re-employment in the department from which she was retired; and a statutory right to for the fair calculation of her annuity and/or ability to earn wages while in disability retirement to the Board and the Board's subsequent denial of her request for a hearing

was a contested "proceeding before the Mayor or any agency". The DCCA has stated that for a proceeding to constitute a "contested case," the "trial-type" hearing must be "*statutorily or constitutionally* compelled." *Timus*, 633 A.2d at 756 (quoting *W.C. & A.N. Miller Dev. Co. v. District of Columbia Zoning Comm'n*, 340 A.2d 420, 422 (D.C.1975) (emphasis added)); see also *Donnelly Assoc.*, 520 A.2d at 276 (stating that a hearing must be "implicitly required by either the organic act or constitutional right") (quoting *Chevy Chase Citizens Ass'n*, 327 A.2d at 314).

This Court; several United States Courts of Appeals; and the DCCA have held that "[i]n general, an individual is entitled to fair and adequate notice of administrative proceedings that will affect his [or her] rights, in order that he [or she] may have an opportunity to defend his [or her] position." *Carroll v. District of Columbia Department of Employment Services*, 487 A.2d 622, 623 (D.C. 1985); *Ridge v. Police & Firefighters Retirement and Relief Bd.*, 511 A.2d 418, 424 (D.C.1986) (alterations in original) (quoting *Carroll v. District of Columbia Dep't of Employment Servs.*, 487 A.2d 622, 623 (D.C. 1985)); *Abia-Okon v. District of Columbia Contract Appeals Bd.*, 647 A.2d 79, 84 (D.C.1994) (quoting *Ammerman v. District of Columbia Rental Accommodations Comm'n*, 375 A.2d 1060, 1062 (D.C. 1977)); *Arthur v. District of Columbia Nurses' Examining Bd.*, 459 A.2d 141, 145 (D.C.1983) (citing *Rodale Press, Inc. v. Federal Trade Comm'n*, 132 U.S.App. D.C. 317, 321, 407 F.2d 1252, 1256 (1968)); *Watergate Improvement Association v. Public Service Commission*, 326 A.2d 778, 786 (D.C.1974); see also *Babazadeh v. District of Columbia Hacker's License Appeal Board*, 390 A.2d 1004, 1008-09 (D.C.1978); *Brown v. Dept. of Employment Services*, 83 A. 3d 739 - DC: Court of Appeals 2014 (quoting *NLRB v. Harding Glass Co.*, 500 F.3d 1, 7 (1st Cir. 2007) (refusing to consider whether an agency erred in injecting an issue sua sponte where the complaining party "never

raised a word of protest about the sua sponte nature of the ruling to the [agency], though it could have sought reconsideration on this basis.")). In addition, 7 DCMR § 2517.5 is the applicable regulation that entitles retirees to a trial-type hearing, if they compel a hearing before the Board. 7 DCMR § 2529, directs all persons seeking judicial review of the Board's Decisions and/or Orders to petition this Court directly. The Petitioner has a right to appeal the Board's March 7, 2019 order denying her motion for reconsideration asserting her Constitutional Rights and a compelling a hearing. It is undisputed that the Petitioner's Motion for Reconsideration asserting Constitutionally protected property rights focused on the Board's January 17, 2019 Certificate of Compliance; compelling a hearing on her statutory and Constitutional property rights.

The DCCA has established that it has jurisdiction not only when a contested case (trial-type) hearing has taken place, but also when a party has made "an effort to obtain such a hearing which the agency erroneously denied." Auger v. District of Columbia Board of Appeals and Review, 477 A.2d 196, 206 (D.C.1984); Debruhl v. District of Columbia Hackers' License Appeal Bd., 384 A.2d 421, 425 (D.C.1978) Transp. Leasing Co. v. Dep't of Emp't Servs., 690 A.2d 487, 489 (D.C. 1997).

It is undisputed that on January 3, 2019, the DCCA affirmed the Board's decision involuntarily retiring the Petitioner for, a Psychological Disability, an illness incurred other than in the performance of duty. McCrea v. D.C. Police & Firefighters Retirement & Relief Bd., 199 A.3d 208 (D.C. 2019). It is also undisputed that the DCCA denied the Petitioner's petition for rehearing or rehearing en banc of the Board's decision involuntarily retiring the Petitioner for, a Psychological Disability, on February 25, 2019.

As asserted to the Board, as well as before the DCCA, the Petitioner has a statutory right to a medical examination of the alleged psychological disability for which she was involuntarily retired DC Code §5-571(b)(2); 7 DCMR § 2519.1 a statutory right to for re-employment in the department from which she was retired 7 DCMR §2519.2; 7 DCMR §2515.2 ; 7 DCMR §2515.3(a); 7 DCMR §2515.4 ; DC Code §5-714(a)(1) ; DC Code §5-714(b) and a statutory right to for the fair calculation of her annuity and/or ability to earn wages while in disability retirement 7 DCMR §2515.3(a) ;7 DCMR §2515.3(d); 7 DCMR §2515.4 The DCCA's Division Panel also disregarded the Petitioner's persistent and repeated arguments contesting the skewed record presented by the PFC and relied on by the Board as being fraudulent and adversely affecting her constitutionally protected interests. Courts have long recognized their own inherent power to protect themselves and other parties from various forms of bad faith litigation, including the falsification of evidence. Where falsification occurs in the midst of ongoing judicial proceedings, and is specifically directed at affecting those proceedings, it often is termed "fraud on the court." Hazel Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 246 (1944); Breezevale Ltd. v. Dickinson, 879 A.2d 957, 964 (D.C. 2005); Synanon Found., Inc. v. Bernstein, 503 A.2d 1254, 1263 (D.C. 1986); Tyler v. Central Charge Service, Inc., 444 A. 2d 965 - DC: Court of Appeals 1982; Pope v. Fed. Express Corp., 974 F.2d 982, 984 (8th Cir. 1992) (affirming sanction of dismissal for plaintiff's forgery of, and reliance on, a single document); Aoude v. Mobil Oil Corp., 892 F.2d 1115 (1st Cir. 1989) (affirming dismissal where plaintiff concocted a single document); Tramel v. Bass, 672 So. 2d 78, 82 (Fla. Dist. Ct. App. 1996) (affirming default judgment against defendant who excised damaging six-second portion of videotape before producing it during discovery); Nichols v. Klein Tools, Inc., 949 F. 2d 1047 - Court of Appeals, 8th Circuit (1991) (dismissal of a products liability action based on plaintiff's

attempt to defraud the court); Oliver v. Gramley, 200 F. 3d 465 - Court of Appeals, 7th Circuit 1999 (dismissal due to plaintiff's submission of a false affidavit); Holmes v. Amerex Rent-A-Car, 710 A.2d 846, 854 (D.C. 1998); Smith v. Howard Johnson Co., 615 N.E.2d 1037, 1038 (Ohio 1993) (intentional interference with prospective adjudication through altered evidence with the specific purpose of depriving an opposing party of its use.) Morgan v. Graham, 228 F.2d 625 (10th Cir. 1956). (one party is forced to give up a claim because of another party's falsification); Tyler v. Central Charge Service, Inc., 444 A. 2d 965 - DC: Court of Appeals 1982 (the defendant instituted the prior action with knowledge that his or her claims could only be supported with fabricated evidence).

The PFC's willful and unlawfully constructed, maintained, and released inaccurate, fraudulent and untimely Reports to the Board, Reports that are relied on by the Board, resulted in the November 2016; November 2017; December 13, 2018; January 17, 2019; and March 07, 2019 repeated denials of the Petitioner's statutory rights to a medical examination of the alleged psychological disability for which she was involuntarily retired; a statutory right to for re-employment in the department from which she was retired; and a statutory right to for the fair calculation of her annuity and/or ability to earn wages while in disability retirement; the execution of its statutory duties to the Petitioner while she is in disability retirement. DC Code §5-571(b)(2); 7 DCMR § 2519.1 7 DCMR §2515.2 ; 7 DCMR §2515.3(a); 7 DCMR §2515.4 ; DC Code §5-714(a)(1) ; DC Code §5-714(b) . As asserted to the Board, as well as before the DCCA, the PFC willfully and unlawfully constructed, maintained, and released inaccurate, fraudulent and untimely Reports to the Board, Reports that are relied on by the Board, and are adverse to the Petitioner and her statutory right to a medical examination of the alleged psychological disability for which she was involuntarily retired; statutory right to for re-

employment in the department from which she was retired statutory right to for the fair calculation of her annuity and/or ability to earn wages while in disability retirement. Morall v. DEA, 412 F.3d 165, 176 (D.C.Cir.2005); In re APA Assessment Fee Litigation, 766 F.3d 39, 55 (D.C.Cir.2014); Chambers v. U.S. Dep't of Interior, 568 F.3d 998, 1007 (D.C.Cir.2009)(the existence of an adverse agency determination *resulting from inaccurate agency records*); Dick v. Holder, 67 F.Supp.3d 167, 185 (D.D.C.2014) (quoting Lee v. Geren, 480 F.Supp.2d 198, 210 (D.D.C.2007)); Chambers v. U.S. Dep't of Interior, 568 F.3d 998, 1006 (D.C. Cir. 2009).

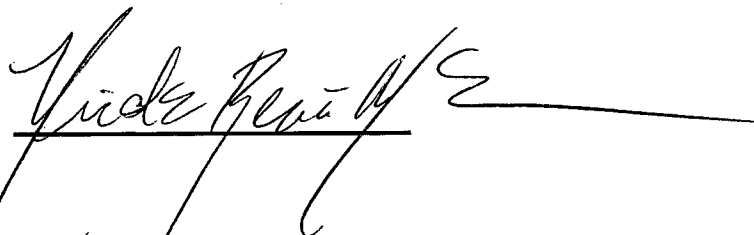
The Board's January 17, 2019 Certificate of Compliance asserting "the low likelihood of recovery *based on previous examinations*", is contrary to DC Code §5-571(b)(2); 7 DCMR § 2519.1 7 DCMR §2515.2 ; 7 DCMR §2515.3(a); 7 DCMR §2515.4 ; DC Code §5-714(a)(1) ; DC Code §5-714(b) and is not based on substantial evidence in any records at the PFC or the Board as the Petitioner has NEVER received a medical examination for the alleged psychological disability for which she was involuntarily retired and AFFIRMED by the DCCA on January 03, 2019.

The Petitioner asserts that as established by this Court; several United States Courts of Appeals; and the DCCA she met this DCCA's threshold question concerning her standing/jurisdiction, in that she has been adversely affected and aggrieved; she has suffered repeated injury in fact; and she will sustain further injury in fact due to the Board's actions in concert with the PFC to violating her Fifth Amendment Right to a hearing as pertains to her property interest in the calculation and/or adjustment of her annuity; her property interest in a disability review for recovery back to reemployment and her ability to obtain employment in any profession.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vicki Peña", is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Date: November 25, 2019