

No. _____

In The
Supreme Court of the United States

◆◆◆

TOM DOMINGO, SR.,

Petitioner,

v.

DEPARTMENT OF THE ARMY, et al.,

Respondents.

◆◆◆

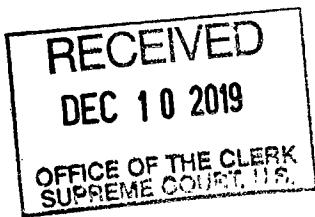
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Fourth Circuit**

◆◆◆

PETITION FOR WRIT OF CERTIORARI

◆◆◆

TOM DOMINGO, SR.
1004 Gilman Rd.
Elkins, WV 26241
304-636-3107



QUESTIONS PRESENTED

- 1) Did the U.S. Court of Appeals obstruct justice by ignoring or usurping the U.S. Supreme Court ruling of Kloeckner v. Solis Secretary of Labor federal courts hearing mixed cases.
- 2) Is the U.S. District Court exempt from using the Paper Reduction Act (PRA) by following federal rules of procedure by ordering that the U.S. agency or department get three certified copies of the case being appealed to district court even after agency sends email stating they do not need a copy thus complying with the PRA.
- 3) Does the U.S. District Court have jurisdiction to hear mixed cases of age discrimination and veteran's preference for Vietnam and Vietnam Era veterans the VRA.
- 4) Did the federal government have the right to have a Reduction in Force (RIF) and fire the plaintiff who was part of the Flight Service Air Traffic Controllers who were fired in 2005 and not use veterans preference.
- 5) Since both courts district and appeals courts obstructed justice by not following the ruling of the Kloeckner v. Solis case from the supreme court the filing fees should be returned.

LIST OF PARTIES

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:

SAMR-EO-CCR

Mr. Carlton M. Hadden
Director, Office of Federal Operations
U.S. Equal Employment Opportunity Commission
131 M Street, NE, Suite 5SW12G
Washington, DC 20507

TABLE OF CONTENTS

	Page
OPINIONS BELOW.....	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	2
STATEMENT OF THE CASE.....	2
REASONS FOR GRANTING THE WRIT.....	6
CONCLUSION.....	7

INDEX TO APPENDICES

APPENDIX A, Judgment U.S. Court of Appeals for the 4th Circuit	App. 1
APPENDIX B, Petition for Rehearing En Banc Denied.....	App. 4
APPENDIX C, Decision of District Court Dis- missing Case	App. 5
APPENDIX D, Email From Office of Federal Op- erations Statement No Need to be Served in Civil Action. Goes Along With the (PRA) Paper Reduction Act	App. 9
APPENDIX E, EEOC Office of Federal Opera- tions Court Ruling Right to File in U.S. Dis- trict Court.....	App. 10
APPENDIX F, Vet Guide for HR Professionals Dated 8/27/2018 (List order of Veteran's Pref- erence Laws and Rules)	App. 14

TABLE OF AUTHORITIES

	Page
CASES	
EEOC Office of Federal Operations, Thomas Domingo v. Ryan D. McCarthy Acting Secretary of Dept. of Army Request # 0520170515, Appeal # 0120160198, Hearing # 570-2014-00585X (Gives Right to File Appeal in the U.S. District Court).....	3
Kloeckner v. Solis Secretary of Labor (Jurisdiction for Mixed Cases)	3, 4, 6
STATUTES AND RULES	
28 U.S.C. § 1254(1).....	2
28 U.S.C. § 1916	1
FAA Order Emp. 1.1 Veteran's Preference Shall Be Used During Reduction In Force (RIF).....	2, 6
Vet. Guide For HR Professionals, Page 44-46 (Shows Timeline of Veterans Preference) VRA Enacted into Law 1974 Operation IRAQI Freedom 2006 passed into law	6

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

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

OPINIONS BELOW

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

The opinion of the United States district court appears at Appendix C to the petition and has been designated for publication but is not yet reported; or, not sure.

JURISDICTION

The date on which the United States court of appeals decided my case was 1/22/2019.

A timely petition for rehearing was denied by the United States court of appeals on 3/18/2019, and a copy of the order denying rehearing appears at Appendix B.

An extension of time to file the petition for a writ of certiorari was granted to and including May 16, 2019 on August 15, 2019 in Application No. 18A1177.

A seaman suing under 28 U.S.C. § 1916 may proceed without prepayment of fees or costs with Court leave.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

There are no relevant constitutional or statutory provisions involved.

STATEMENT OF THE CASE

I, Tom Domingo Sr., on or about the first week of April 2012 filed a federal job application open to all U.S. citizens for an airfield specialist job at GS10 (for myself) a step 10 position. I applied as a VRA Veterans Readjustment Act veteran serving during the Vietnam era and as a 30% or more disabled veteran. I am also a Riffed (RIF) federal air traffic controller from the RIF from the FAA of the Automated Flight Service air traffic controller in 2005. This gave me lifetime reinstatability for the position. I should have been placed at the top of the selection list. I was never told my position on the list and was never interviewed. I filed a reconsideration with human resources to find out why I was not selected to a job. I should have been number one on selection list. I was told another veteran got the job. I had to file an age discrimination complaint to get more in depth background of veteran hired. I found out he

was Iraqi war veteran some twenty or so years less my age. I went through all appeals and reconsideration processes and requested in person oral argument but all were denied. The last federal court to hear my appeal was the Office of Federal Operations and in final judgment I had no evidence of veteran's preference for the judge to look at. I, of course, highly disagreed because my job application package had to be submitted to the court for proper filing. I was told by the request number 05 2017 0515, appeal No. 0120160198, Hearing No. 570-2014-00585X, and agency No. ARMYER12SEP04017. I had the right to file an appeal in U.S. district court. So I did. Attached sheet. Additional information for statement of case for U.S. Supreme Court Writ of Certiorari.

The U.S. district court case No. 2:18-CV-4 heard by Judge Bailey, filed on 1/16/2018.

For the seven or so months that Judge Bailey had the case I tried to get him to accept the Paper Reduction Act (PRA) for not giving all three departments of the U.S. Government copies of my complaint and making me part of breaking the law and risking loosing my job if reinstated back in the Federal government by breaking the law of the PRA. He would not allow it and this government got 45 days extra for serving court papers and government lawyers a Miss Tison and Miss Tige got a 60 day extension per normal government regulations to put together a request for dismissal rather than gather information about the case. Government lawyers as well as Judge Bailey do not know about U.S. Supreme Court case Kloeckner vs. Solis

Secretary of Labor so Judge Bailey on 8/28/2018 dismissed my case and my case went to the U.S. Court of Appeals 4th Circuit on or about August 2018. I was hoping for good public relations from the appeals court to hear my case before Veterans Day of 2018. That needless to say did not happen.

Information on case while in the appeals court 4th Circuit Richmond, VA. I filed on or about September 2018 again trying to get a decision before Veteran's Day.

In the court filing documents to the appeals court I gave them copies of the Office of Federal Operations Court case and most important of all the U.S. Supreme Court case Kloeckner vs. DOL Solis Secretary of Labor that gives jurisdiction to U.S. district courts to hear mixed cases. The case got jammed in my copies and had to be sent later at a separate mailing to the court. The clerk Ms. Kathy Herb was very polite and helpful in getting that case into the files for me. On January 22, 2019 the case was affirmed by unpublished per curiam opinion by Circuit Judges Wilkinson and Duncan and Senior Circuit Judge Hamilton. No oral argument was given or material and legal fact not mentioned since all legal contentions were inadequately presented and would not aid the decisional process. Now this makes the second attempt to have appeals court look at the U.S. Supreme Court case Kloeckner vs. Solis, the third time I filed an en banc request or motion. On February 7, 2019 I timely filed a request for rehearing en banc. In the en banc I again mentioned the U.S. Supreme Court case Kloeckner vs. Solis and

possible obstruction of justice at both court levels. On March 18, 2019 the court denied my petition for rehearing en banc due to the fact that the 3 judges aforementioned did not request a poll. It is my understanding they ignored, or usurped the U.S. Supreme Court ruling by not following the court's ruling or even giving an opinion on it in their affirmed judgment on January 22, 2019. This makes me think that obstruction of justice and possible extortion (the filing fee) that these four judges plus the 2 U.S. attorneys had no intention of hearing this case to its completion. Even after waiting 5 or so days of making sure the clerk Patricia S. Connor had issued a mandate to stay the case I asked her to have Judge Bailey to stop hearing cases till this case was heard. The judge is still dropping mixed cases for lack of jurisdiction not following or abiding the ruling of the U.S. Supreme Court case. She told me she had to wait 45 days before en banc can move forward. I hope that if I reported a live active shooter or worse crime to her she does not wait 45 days to report it. You have to wait before a court case is done to report obstruction that does not seem like a good outcome can take years to finish. I have a veterans preference and age mixed case in DC district court now going into its 14th year with no idea of a completion date.

I also failed to mention the order granting summary judgment from Monique Ciuffalo Administrative Judge that she granted the motion without looking at veteran's preference order of being passed into law.

VRA is older than Iraqi Freedom Veteran. Miss Ciofalo is from EEOC OFO court.

REASONS FOR GRANTING THE WRIT

- 1) Media attention of fired air traffic controllers in 1981 were rehired in 1998 by President Clinton and were on duty on 9/11.
- 2) Flight Service Air Traffic Controllers were wrongfully reduced in force (RIF) in March of 2005 due to Veteran's Preference not being used in correct legal procedures. 2500 federal employees outsourced mostly veterans and now reduced to 700 private contractor employees 1/3 of air traffic controller department now discontinued big safety issue for our nation's air traffic transportation.
- 3) Possible class action suit going on now in U.S. district court for 14 years now. That could come to U.S. Supreme Court for appeal. This is also a mixed case of age, Veteran's Preference discrimination. FAA v. Breen ATC wrongfully rifed.
- 4) My case concerns veterans preference for VRA Vietnam and Era veterans. President Trump is trying to get our nation to remember and honor our Vietnam soldiers by having our flag lower to half mast for 30 days on Veterans and Memorial Day of 2018.
- 5) In part III Rule 10a, B, C all need to be addressed for this court to reinsert its power in the case of Kloeckner v. Solis (of the Supreme Court Rules). If

Supreme Court does not hear this case then U.S. district court and appeals court might as well be the highest court in the land.

6) You took oath to follow the law. If you do not judge your own case Richmond appeals court becomes new Supreme Court.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

THOMAS DOMINGO, SR.

Originally filed: June 25, 2019

Re-filed: December 6, 2019