

No. 19-943

IN THE
Supreme Court of the United States

ALIREZA VAZIRABADI,

Petitioner,

v.

DENVER HEALTH, et al.,

Respondents.

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

PETITION FOR REHEARING

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Constitutional Provisions Involved

- The Fifth Amendment to the United States Constitution, in relevant part:
 No person shall “*be deprived of life, liberty, or property, without due process of law.*”
- The Fourteenth Amendment to the U.S. Constitution, in relevant part:
 “... nor shall any State deprive any person of life, liberty, or property, ***without due process of law;***”
- The Fourteenth Amendment to the U.S. Constitution, in relevant part:
 “nor shall any State [...] deny to any person within its jurisdiction ***the equal protection of the laws***”

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PETITIONER'S REHEARING CERTIFICATION
Pursuant to U.S. Supreme Court Rule 44.2
Under 28 U.S.C. § 1746

Pursuant to U.S. Supreme Court Rule 44.2, Petitioner, Alireza Vazirabadi, *pro se*, certifies that the grounds described in the following, for this petition for rehearing are properly restricted under Supreme Court Rule 44.2 that previously not presented in the petition for writ of certiorari No. 19-943.

Petitioner, hereby certifies that this petition for rehearing is presented in good faith and not for any delay.

Based on the following encompassing grounds, with substantial controlling effect that previously not presented in the petition for writ of certiorari, Petitioner incorporated the following new grounds in his Petition for Rehearing.

**1. The Lower Courts' "Abuse of Discretion"
Incorrectly Stated as "error" and "overlook".**

This *pro se* Petitioner admits his lack of assertiveness, motivated in sincere attempt to be respectful to the lower courts, caused him *incorrectly avoid* using the word

“abuse” in context of lower courts ***“abuse of discretion”***; instead, Petitioner resorted to express—incorrectly—lower courts ***“abuse of dispositions”*** as ***“overlook”*** and ***“error”***.

2. Repeatedly, Petitioner Failed to Invoke Denial of his Due Process and Equal Protection under the Fifth and Fourteenth Amendments of U.S. Constitution.

Petitioner failed to present the lower courts repeated abuse of dispositions in rulings that caused serious denial of Petitioner’s Due Process and Equal Protection under the Fifth and Fourteenth Amendments of U.S. Constitution.

Under 28 U.S.C. § 1746, I, Alireza Vazirabadi, Petitioner, *pro se*, declare under penalty of perjury that his foregoing statement is true and correct.

Executed on April 15, 2020



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I. PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44.2, Petitioner, Alireza Vazirabadi, respectfully petitions the Court for rehearing of his March 30, 2020 denied petition for writ of certiorari (No. 19-943).

II. REVISED QUESTION PRESENTED

Based on corrected lower courts' findings and rulings in this Rehearing Petition, was the Petitioner denied his Due Process and Equal Protection under the Fifth and Fourteenth Amendments of U.S. Constitution, by the lower courts abuse of discretions.

III. GROUNDS FOR REHEARING

Petitioner seeks rehearing based on new reasons supported under two amendments of U.S. Constitution that were not invoked in the petition for writ of certiorari. The presented reasons reinforce review under the U.S. Supreme Court Rule 10(a) that:

“only for compelling reasons..[a] petition for a writ of certiorari will be granted...[(A) when] a United States court of appeals...has so far departed from the accepted and usual course of judicial proceedings, or [(B)] sanctioned such a departure by a lower court [that] call for an exercise of this Court’s supervisory power.” (Id.)(emphasis added).

Petitioner presents arguments and references to his petition for writ of certiorari, where he did not invoke denial of his Due Process and Equal Protection under the Fifth and Fourteenth Amendments of U.S. Constitution that purely caused by lower courts *abuse of discretion*

THE ENCOMPASSING REASON FOR REHEARING**1. Courts “*Abuse of Discretion*” Incorrectly
Stated as “*Error*” and “*Overlook*”.**

This *pro se* Petitioner admits his lack of assertiveness, motivated in sincere attempt to be respectful to the lower courts, caused him *incorrectly* avoid using the word “**abuse**” in context of courts “*abuse of discretion*”; instead of stating court’s “*abuse of discretion*” he incorrectly used the words “*overlook*” and “*error*”.

“A district court by definition abuses its discretion when it makes an error of law”. *Fox v. Vice*, 563 U.S. 826, 131 S. Ct. 2205, 2216, 180 L. Ed. 2d 45 (2011), quoting *Koon v. United States*, 518 U.S. 81, 100, 116 S. Ct. 2035, 135 L. Ed. 2d 392 (1996). “A trial court has wide discretion when, but only when, it calls the game by the right rules.” *Fox*, 563 U.S. at 832. The lower courts applied none of “*the right rules*” and laws to Petitioner’s arguments and evidence. None.

**2. Disqualification Question Not Referred to another
Judge, under Invoked 28 U.S.C. § 144 Recusal
Motion. The District Judge Abused his Discretion
Not Referring Question of his Disqualification to
another Judge for Review, Causing Serious Denial
of Petitioner’s Due Process and Equal Protection
under the 5th and 14th Amendments.**

In petition for writ of certiorari (p. 9, ¶6), Petitioner described genesis of his motion for the district judge recusal, under invoked 28 U.S.C. § 144. He attached his recusal motion as App. 97. Petitioner erred not stating the district judge abused his discretion, by not referring question of his disqualification to another judge. This abuse of discretion caused total loss of Petitioner’s Due Process and Equal Protection under the Fifth and Fourteenth Amendments of U.S. Constitution.

2(a) The Panel Did not Review Failure to Refer under 28 U.S.C. § 144. By not Reviewing District Judge *duty to Refer* Question of his Disqualification to another Judge: (A) the Appeals Panel Abused its Discretion that also (B) “*sanctioned such a departure by [the] lower court*”. (U.S. Supreme Court, Rule 10(a)).

In pages 10-11 of petition for writ of certiorari, with legal precedence, Petitioner argued Panel’s irrelevant legal analysis of district judge recusal motion, under 28 U.S.C. § 144. The Appeals Panel could not succeed in its abuse of discretion, without denying existence of Petitioner’s Due Process and Equal Protection under the Fifth and Fourteenth Amendments of U.S. Constitution.

“As a judge I came to realizing the real world impact of muddling up the separation of powers on your liberty...What happens when judges act as legislatures and *instead of following the law they begin to make things up*. [In *Dred Scott v. Sandford*, 60 U.S. 393, 15 L. Ed. 691, 15 L. Ed. 2d 691 (1857)] they thought that they were helping and making it up was worthwhile.” Justice Gorsuch, “A Republic, If You Can Keep It”, hosted at the National Archives, September 16, 2019. (C-SPAN, Uncorrected transcript)(emphasis added).

3. Consequential: Second Quashed Subpoena

Quash of 2nd Forensic Pursuit Subpoena was Attainable *Only* by Court’s Abuse of Discretion, Manifested in its Contradictory Ruling.

In page 12-13 of petition for writ of certiorari, Petitioner dissected district court capricious analysis in quashing his 2nd Forensic Pursuit subpoena. *Only* by relinquish of Petitioner’s Due Process and Equal Protection under the Fifth and Fourteenth Amendments, the district court was able to grant quash of 2nd Forensic Pursuit subpoena.

3(a) No Review of 2nd Quashed Subpoena Ruling. The Appeals Panel Abused its Discretion by simply Not Reviewing Petitioner's Challenge to his 2nd Quashed Subpoena Ruling.

The Appeals Panel did not review Petitioner's challenge against the district court Forensic Pursuit 2nd quashed subpoena. Therefore: (A) the Panel abused its discretion that "*departed from the accepted and usual course of judicial proceedings*", and (B) that also "*sanctioned such a departure*" by the district court abuse of discretion. (U.S. Supreme Court, Rule 10(a)).

4. Job Applicants' Test Scores and *Over-age-40 Integrated-Reporting* Evidence Proved: CEB Fully Integrated within the Respondents' Recruitment Software, in Violation of ADEA and UGESP.

In his petition for writ of certiorari, pages 10, 14, 15, 16 and 19, Petitioner referred to few examples of his lower court evidence and arguments that prove CEB job applicants' testing scores and *over-age-40* confirmations were **fully integrated within** the Respondents' recruitment software. The district court abuse of discretion allowed it to ignore Petitioner's numerous evidence presented *before and after* Respondents' Motion for Summary Judgement. Petitioner's Fifth and Fourteenth Amendments' Due Process and Equal Protection failed to protect him, against the district court abuse of discretion.

4(a) The Appeals Panel Did not Consider Petitioner's Evidence Either.

In page 23-24 of writ of certiorari, Petitioner itemized numerous evidence that makes it plausible: CEB Job Applicants Assessment Testing **reported** test scores and *over-age-40* confirmations as **fully integrated within** the

Respondents' recruitment software, in violation of ADEA and UGESPA. The Appeals Panel abused its discretion by disregarding Petitioner's evidence that denied his Due Process and Equal Protection under the Fifth and Fourteenth Amendments.

5. Title VII National Origin Discrimination

Abuse of Discretion: Lower Courts did not consider Language Fluency Questioning, as *Direct Evidence* of Petitioner's National Origin Discrimination, invoked under Title VII Cause of Action.

In petition's pages 4,5,6,25, and 26, Petitioner referred to *direct evidence* of Respondents violation of Title VII that subjected Petitioner and thousands of other job applicants to language fluency questioning, identifying Petitioner's Iranian national origin and religion, for purpose of his discrimination. Lower courts abused their discretion in not considering Petitioner's evidence and arguments for his cause of action, under Title VII. Petitioner was denied his Due Process and Equal Protection under the Fifth and Fourteenth Amendments of U.S. Constitution.

6. Over-age-40 Age Discrimination

Abuse of Discretion: Lower Courts Did Not Consider Petitioner's *Are You Over Age 40?* Questioning, Its Confirmation and Integration *within* Respondents' Recruitment software, as *Direct Evidence* of Petitioner's Age Discrimination Cause of Action, invoked under ADEA and UGESPA.

In his petition for writ of certiorari pages 5, 6, 7, 9, 10, 14, 15, 23, 24, 25 and 26, Petitioner referred to direct evidence of Respondents and third party CEB subjecting Petitioner and thousands of other job applicants to *Are you over age 40?* questioning, in violation of ADEA and UGESPA. First, the district court abused its discretion by ignoring Petitioner's evidence and arguments; then, the Appeals

Panel abused its discretion and *sanctioned* the lower court ruling, again, denying Petitioner's Due Process and Equal Protection under the Fifth and Fourteenth Amendments of U.S. Constitution.

7. Contradictory Affidavits Statements

The Appeals Panel Abused Its Discretion Stating Petitioner did Not Raise Respondents' Contradictory Affidavits Statements in the District Court.

Against the MSJ, Petitioner filed evidence of Respondents' contradictory affidavits statements *in the district court*; the Appeals Panel abused its discretion, with no basis or proof ruled Petitioner did not raise Respondents' contradictory affidavits statements in the district court. The Appeals Panel, only by detouring Petitioner's Due Process and Equal Protection under the Fifth and Fourteenth Amendments, was able to make such evidence-free determination.

8. Twice Denied Amending His Complaint

The District Court, *Twice*, Abused its Discretion Denying Petitioner to Amend his Complaint.

1. In his writ of certiorari petition (pages, 9 ¶7, 11 ¶B and 14, ¶10) Petitioner argued the district court twice denied his motions to amend his Complaint.

As a *pro se* Petitioner, the district court abused its discretion by (a) not reading his motion to amend *liberally* that referred to his Complaint containing the evidence and legal basis for amending his Complaint; and (b) not granting Petitioner the opportunity to make correction to his motion.

2. In second attempt to amend his Complaint, the district court again abused its discretion, by not accepting Petitioner's *corrected motion* to amend.

**8(a). Abuse of Discretion: the Appeals Panel
Sanctioned District Court of *Twice* Denying
Petitioner's Motion to Amend.**

The Panel abused its discretion in reviewing Petitioner's two legally justified attempts to amend his Complaint. The Panel denied Petitioner's Due Process and Equal Protection under the Fifth and Fourteenth Amendments that also sanctioned lower court's denial rulings.

IV. SUMMARY-CONCLUSION

In the petition for writ of certiorari, *pro se* Petitioner mistakenly used incorrect words of "overlook" and "error" in describing lower courts' *abuse of discretion*. The lower courts *repeated* denial of Petitioner's Due Process and Equal Protection under the Fifth and Fourteenth Amendments, literally plowed, flattened and fertilized the ground for abuse of discretion.

Under the U.S. Supreme Court Rule 10(a):

Two of "*the character of the reasons* the Court considers...[a] petition for a writ of certiorari will be granted *only for compelling reasons...*" that "*call for an exercise of this Court's supervisory power*" are:

1: "*a United States court of appeals...has so far departed from the accepted and usual course of judicial proceedings...*"

2: "*a United States court of appeals...sanctioned such a departure by a lower court...*"

Based on the foregoing Rehearing reasons, the “United States court of appeals...” [meets the two above] “**compelling reasons**...[that] the Court considers...[a] petition for a writ of certiorari...” (*Id.*).

Therefore, Petitioner respectfully calls for the Court to reconsider his petition for writ of certiorari to review the judgment and opinion of the Tenth Circuit Court of Appeals.

Respectfully submitted,



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