

No. 20-1322

IN THE
Supreme Court of The United States

_____ § _____

MICHAEL NEELY,

Petitioner,

v.

THE BOEING COMPANY,

Respondent,

_____ § _____

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

_____ § _____

**PETITIONHERS' MOTION FOR LEAVE TO FILE
PETITION FOR REHEARING OUT-OF-TIME**

_____ § _____

Michael E. Neely
P.O. BOX 6252
Huntsville, AL 35813
(256) 679-2279
mneelycase@gmail.com

Pursuant to Rules of this Court, Petitioner respectfully Motions for Leave to File Petitioner for Rehearing Out-of-time.

1. On May 24, 2021 the court denied Petitioners Writ of *certiorari* where Petitioner identified serious public safety issues in Boeing's commercial aircraft, specifically 777x, that since the denial serious issues have been reported substantiating Petitioners six year old Safety issue claims¹ and contradict the lower court's decision[s] in this case. Petitioner evidenced the United States interest and intervention[s] into these interrelated safety issues to the 737 MAX; raising question[s] of whistleblower and EEOC rights violated that the mature circuit discretionary decisions conflict federal law[s] and standard review.
2. On June 21, 2021, Petitioner Petition the court for Rehearing of Writ of *certiorari* through U.S. commercial mail carrier (Attached).
3. On June 28. 2021, Petitioner received a letter from the court's clerk dated June 23, 2021 acknowledging that Petitioner sent his Petition for Rehearing on June, 21, 2021 through U.S. carrier furthering the clerk's office received it on June 23, 2021 herewith "out-of-time". The clerks letter sites Rule 44 "...*a petition for rehearing must be submitted within 25 days after the decision of the Court. As the petition for writ of certiorari was*

¹ <https://www.seattletimes.com/business/boeing-aerospace/citing-a-serious-flight-test-incident-and-lack-of-design-maturity-faa-slows-boeing-777x-certification/>

denied on May 24, 2021, the petition for rehearing was due on or before June 18, 2021 (Ex A).

4. On June 28, 2021, Petitioner respectfully responded to the clerk the deadline date per court Rules was June 21, 2021, not June 18, 2021 exhibiting commercial carrier stamp date and court receipt date (Ex B).

5. On July 6, 2021, Petitioner received a letter from the court clerk dated June 30, 2021 granting leave to the Petitioner to file this Motion for Leave to File a Petition for Rehearing if he so choose (Ex C). Petitioner submits this motion one day later.

6. Under Rule 44-2 states a petition for rehearing writ of *certiorari* “..shall be filed within 25 days after the date of the order of denial...”[emphasized]. Here the court did not consider the Memorial Day holiday that places the deadline date on June 19, 2021, which was on a Saturday, Under Rule 30 “*The last day of the period shall be included, unless it is a Saturday, Sunday, federal legal holiday listed in 5 U. S. C. § 6103, ... in which event the period shall extend until the end of the next day that is not a Saturday, Sunday, federal legal holiday....*”. The next business day which was not a weekend or holiday was June 21, 2021 which the court confirmed Petitioner “originally sent by commercial carrier” in its June 23, 2021 letter to the Petitioner (ref Ex A).

7. Under Rule 29-2 if the petitioner “...delivered on or before the last day for filing to a third-party commercial carrier for delivery to the Clerk within 3 calendar days.”. Petitioner delivered the petition to

the third-party commercial carrier for delivery on June 21, 2021 confirmed by the clerks letter[s]. Petitioner made good faith effort assuring the deliver to the clerk was within “one” business day meeting Rule 29-2 (ref Ex B exhibits). The court notes in its letter[s] that the clerk did not receive the petition until June 23, 2021, yet the carrier delivery receipt differs one day earlier. The Petitioner has no control of the time the court, and its agents, receive and deliver to the clerk. Therefore any time after the courts receipt should not disfavor the Petitioner.

8. The Court has the power, in its discretion and in the interests of justice, to consider a petition for rehearing filed outside the formal limits imposed by Rule 44.2. *United States v. Ohio Power Co.*, 353 U.S. 98 (1957) (granting certiorari out-of-time); *id.* at 99 ("We have consistently ruled that the interests in finality of litigation must yield where the interests of justice would make unfair the strict application of our rules."); Robert L. Stern, et al., Supreme Court Practice § 15.3 (8th Ed. 2002) ("But [it] is not necessarily the case [that petitions for rehearing must be filed in time or not at all], provided that the tardy petition is accompanied by a motion for leave to file the petition out of time." See also *Bowles v. Russell*, 551 U.S. 205, 212 (2007) ("[t]he procedural rules adopted by the Court for the orderly transaction of its business are not jurisdictional and can be relaxed by the Court in the exercise of its discretion") (quoting *Schacht v. United States*, 398 U.S. 58, 64 (1970)).

Justice is best served by granting leave to file the Petition for Rehearing. Most critically, the Supreme Court nine justice review should have the

opportunity to decide whether the mature circuit conflict[s] presented should be heard in light of the substantial additional grounds and intervening circumstances presented in the Petition for Rehearing.

CONCLUSION

The Petitioner respects the Rules of court and has made good faith effort to comply. For the foregoing reasons Petitioner respectfully request the court grant this motion and accept his filing Petition for Rehearing.

Respectfully submitted.

Michael E. Neely
P.O. BOX 6252
Huntsville, AL 35813
(256) 679-2279

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is
presented in good faith and not for delay.



Michael Neely
Michael Neely
Pro Se

July 7, 2021

MOTION FOR LEAVE TO FILE PETITION FOR
REHEARING OUT-OF-TIME

EXHIBIT A

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

June 23, 2021

Michael Neely
P.O. Box 6252
Huntsville, AL 35813

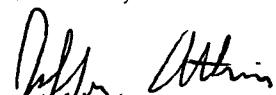
RE: Michael Neely v. The Boeing Company
No: 20-1322

Dear Mr. Neely:

The petition for rehearing in the above-entitled case was sent by commercial carrier June 21, 2021 and received June 23, 2021 and is herewith returned as out-of-time.

Pursuant to Rule 44 of the Rules of this Court, a petition for rehearing must be submitted within 25 days after the decision of the Court. As the petition for writ of certiorari was denied on May 24, 2021, the petition for rehearing was due on or before June 18, 2021.

Your \$200.00 check is herewith returned.

Sincerely,
Scott S. Harris, Clerk
By:

Jeffrey A. Atkins
(202) 479-3263

Enclosures

MOTION FOR LEAVE TO FILE PETITION FOR
REHEARING OUT-OF-TIME

EXHIBIT B

iii - FedEx Shipment 280620983182 Delivered



Michael Neely <mneelycase@gmail.com>

FedEx Shipment 280620983182 Delivered

1 message

TrackingUpdates@fedex.com <TrackingUpdates@fedex.com>
Reply-To: trackingmail@fedex.com
To: mneelycase@gmail.com

Tue, Jun 22, 2021 at 8:55 AM

This tracking update has been requested by:

Name: MICHAEL NEELY
E-mail: mneelycase@gmail.com

Our records indicate that the following shipment has been delivered:

Ship date: Jun 21, 2021
Signed for by: L.JOHNSON
Delivery location: Washington, DC
Delivered to: Shipping/Receiving
Delivery date: Tue, 6/22/2021 9:52 am
Service type: FedEx First Overnight®
Packaging type: FedEx® Small Box
Number of pieces: 1
Weight: 4.00 lb.
Special handling/Services: Deliver Weekday
Standard transit: 6/22/2021 by 8:30 am
Tracking number: 280620983182

Shipper Information	Recipient Information
Huntsville AL US	Washington DC US

MOTION FOR LEAVE TO FILE PETITION FOR
REHEARING OUT-OF-TIME

EXHIBIT C

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

June 30, 2021

Michael Neely
P.O. Box 6252
Huntsville, AL 35813

RE: Michael Neely v. The Boeing Company
No: 20-1322

Dear Mr. Neely:

The petition for rehearing in the above-entitled case, originally sent by commercial carrier June 21, 2021, and received again June 30, 2021, is herewith returned as out-of-time for the reasons stated in prior correspondence.

Pursuant to Rule 44 of the Rules of this Court, a petition for rehearing must be submitted within 25 days after the decision of the Court. As the petition for writ of certiorari was denied on May 24, 2021, the petition for rehearing was due on or before June 18, 2021.

If you are seeking to file a motion for leave to file a petition for rehearing, you may submit the motion with the petition for rehearing.

Your \$200.00 check is herewith returned.

Sincerely,
Scott S. Harris, Clerk

By:

Jeffrey Atkins
(202) 479-3263

Enclosures