No. 20-1652

SUPREME COURT OF THE UNITED STATES

Meghan Belaski et al.,

Petitioner(s)

vs.

Securities and Exchange Commission

Respondent

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

PETITION FOR A WRIT OF CERTIORARI

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I. Questions Presented

Do the statutory rules of the Securities and Exchange Commission, in order to qualify for whistleblower award, violate the Double Jeopardy Clause in the Fifth Amendment to the U.S. Constitution by requiring a whistleblower to first qualify for a covered-action before they are eligible for a related-action in which the same materials are required to be used in both instances before a whistleblower is eligible for a related-action award, and when confidential, non-public, personal whistleblower information considered private intellectual property borne out of independent analysis, is submitted to the Securities and Exchange Commission (Office of the Whistleblower), and is given to another federal entity by the Securities and Exchange Commission (Office of the Whistleblower), and used to garnish a massive civil settlement for the public good, but fails to provide just compensation to the whistleblower in a related-action award because they didn't first qualify for a covered-action award, do the statutory requirements of the Securities and Exchange Commission violate the Double Jeopardy and Takings Clause in the Fifth Amendment of the U.S. Constitution?

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IV. Petition for Writ of Certiorari

Meghan Belaski, along with her ex-husband Scott Nutt, respectfully petition this court for a Writ of Certiorari to review the judgement of the U.S. Court of Appeals for the DC Circuit.

V. Opinions Below

Petitioners respectfully pray that a Writ of Certiorari issue to review the judgement by the U.S. Court of Appeals for the DC Circuit in case no. 19-1266. The opinion of the United States Court of Appeals appears at Appendix A to this petition. This was an appeal to the U.S. Court of Appeals for the DC Circuit to challenge the final determination issued by the Securities and Exchange Commission on December 5, 2019, denying award in a related-action case because Petitioner's did not first qualify for a covered-action award.

VI. Jurisdiction

The final determination of the Securities and Exchange Commission was upheld by the U.S. Court of Appeals for the DC Circuit on March 5, 2021, justifying that because Meghan Belaski and Scott Nutt did not first qualify for a covered-action award, they were not eligible for a related-action award.

A timely petition to rehear the case *En Banc* was denied by the U.S. Court of Appeals for the DC Circuit on April 26, 2021, and a copy of the order denying rehearing appears at Appendix B to this petition. The Mandate from the U.S. Court of Appeals for the DC Circuit in case no. 19-1266 was issued on May 4, 2021, and

appears at Appendix C to this petition. A Motion to Stay the Mandate Pending Filing of a Petition for a Writ of Certiorari to the Supreme Court was sent by 2-day USPS Priority Mail to the U.S. Court of Appeals for the DC Circuit and the Securities and Exchange Commission on May 17, 2021, by Petitioner Belaski.

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

VII. Constitutional Provisions Involved

United States Constitution, Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

VIII. Statement of the Case

This case appears to be a first for this court as Petitioner Belaski cannot find any precedent for a case like this. At the core of this case, the U.S. Court of Appeals for the DC Circuit never once addressed the legal basis or legal question by which the appeal was initially filed, which is that the Takings Clause of the Fifth Amendment to the U.S. Constitution supersedes the statutory requirement of the Respondent that a whistleblower must first qualify for a covered-action award before the whistleblower can qualify for a related-action award.

If Petitioners confidential, non-public, whistleblower information was taken by the Respondent and delivered to another federal entity and used to garnish a civil settlement in a related case for the public good, and Petitioners were not justly compensated, a violation of the U.S. Constitution has occurred.

Petitioners claimed in their appeal to the U.S. Court of Appeals for the DC Circuit the final orders of the Respondent to deny award in a related-action case because they did not first qualify for a covered-action award ran afoul of the Takings Clause in the Fifth Amendment to the U.S. Constitution, and this was not addressed once by the U.S. Court of Appeals for the DC Circuit at any point during the nearly 18-months the case ran in the DC Circuit.

The basis for Petitioners appeal in the U.S. Court of Appeals for the DC Circuit was that the Takings Clause in the Fifth Amendment of the U.S. Constitution prevented the U.S. government not from taking or using the private property of the Petitioners through a legitimate and confidential federal whistleblower program, but because the federal government had used or taken the whistleblower information to settle what appears to be the largest civil settlement in U.S. history for the public good without justly compensating the Petitioners.

Petitioners believe there is a significant and constitutional question of national importance that needs to be addressed by this court because the final decision issued by the Respondent and upheld by the U.S. Court of Appeals for the DC Circuit, because Petitioners did not first qualify for a covered-action award with the Respondent, they could not qualify for a related-action award in which their

whistleblower information was taken by the Respondent, given to the U.S. Department of Justice by the Respondent, and used for the public good to settle the largest civil settlement in U.S. history on behalf of the United States of America, and did not justly compensate Petitioners at any point, clearly violates the Takings Clause of the Fifth Amendment.

The statutory rules dictating that a whistleblower to the Securities and Exchange Commission-Office of the Whistleblower must first qualify for a covered-action award before they can qualify for a related-action award can be found in 15 U.S. Code § 78u-6 and the recently amended 17 CFR § 240.21F 1-18.

According to Cornell Law School and the Legal Information Institute, the definition of a "taking" in the Fifth Amendment, suggests private property is not limited to real property, but property can also include "tangible and intangible property, including but not limited to easements, personal property, contract rights and trade secrets", and nowhere in the Fifth Amendment to the U.S. Constitution does it say real property; it says private property.

Cornell Law School and the Legal Information Institute describe in *United States v. Dickinson*, 331, U.S. 745 (1947), that the "Supreme Court held that even if the government does not physically seize private property", the action is a taking, "when inroads are made upon an owner's use of it to an extent that, as between private parties, a servitude has been acquired either by agreement or in course of time".

Because Petitioners are represented by Meghan Belaski as a pro-se Petitioner, Petitioner Belaski feels compelled to inform this court in this particular whistleblower case, as a matter between private parties, a servitude had and has been acquired in this case by agreement **and** in the course of time, and because of that servitude, Petitioner Belaski found it most appropriate to self-represent according to 28 U.S. Code § 1654.

According to 28 U.S. Code § 1654, in courts of the United States, individuals may conduct their own cases, and according to the *Haines v. Kerner* "standard" described by Julie M. Bradford in Procedural Due Process Rights of Pro Se Civil Litigants for The University of Chicago Law review in 1988, "pro se litigants in civil cases in federal court are entitled under the due process clause to have their pleadings liberally construed by the courts under the *Haines v. Kerner* standard" with a footnote referring to 404 U.S. 519 (1972).

Petitioners and Petitioner Belaski specifically became whistleblowers to the Securities and Exchange Commission Office of the Whistleblower in late February 2014 when Petitioner Belaski took personal, non-public, high-quality, confidential information that was independently acquired from personal and private documents connected to real property of the Petitioners, and did an independent analysis of information only known to the Petitioners, and submitted the non-public, confidential information to the Respondent through their whistleblower program as it concerned Residential Mortgage Backed Securities (RMBS) fraud.

This whistleblower material was not acquired by working for a company or by accessing inside information of any company. This whistleblower material was acquired by Meghan Belaski fighting back against the Too Big To Fail banking system for years during the RMBS crisis and from being an outsider who had self-defended against 2 foreclosures on the same house.

Once Petitioner Belaski realized the real reasons oil and gas firms started offering royalty payments to the Petitioners in late 2013 and early 2014 during the second foreclosure process, (royalty payments Petitioners never took from the oil and gas firms), and because mysterious entities started asking for the right to ingress and egress across the leasehold (water right) Petitioners held in 2 separate counties in Northern Colorado (a leasehold Petitioners had never heard of or been made aware of in over a decade at that home) as they lived in a small home in a small neighborhood in an agricultural county, she understood something was seriously amiss.

Petitioner Belaski started to dig into the Petitioners personal and private financial documents, mortgage deeds, appraisals, county records, land transfers, water rights records in a prior-appropriations (aka Western Water Law) state, and thousands of documents acquired by her and her ex-husband in the years of Petitioner Belaski fighting back against two legally deficient foreclosures, fighting for multiple home modifications that never happened, fighting for deeds-in-lieu of foreclosure that never happened, fighting for short sales that never happened, and so on and so forth.

There was nothing about this whistleblower information that belonged to anyone but the Petitioners and Meghan Belaski in particular. This whistleblower information was intellectual property developed and independently analyzed by Meghan Belaski and sent to the Respondent's whistleblower program with the permission and encouragement of her ex-husband in February 2014. This was significant whistleblower information. Significant enough to affect the outcome of the largest civil settlement in American history on August 21, 2014, for approx., 17 billion dollars.

The irony of having to ask this court for Writ of Certiorari based on the belief that the Takings Clause of the Fifth Amendment has been violated by the final decision of the Respondent because Petitioners didn't first qualify for a covered-action award, Petitioners were not eligible for a related-action award, and the fact the final decision of the Respondent was upheld by the U.S. Court of Appeals for the DC Circuit, is that this was always a fight for the approx., 4.4 million people and families that lost homes during the mortgage crisis more than it was about a financial award.

A David v. Goliath case if you will. A reason to be heard, and an ability to explain to all those who lost their homes like Petitioners did, that it was not due to lazy, inept bankers who lost or misplaced mortgage documents along the way, or in most cases, because homeowners had overextended themselves, but rather millions of foreclosures occurred due to a contrived fraud perpetrated on the American

people by entities acting in a Racketeer Influenced and Corrupt Organizations (RICO) style undertaking to defraud people of their homes and livelihoods.

According to an article titled The Fifth Amendment Takings Clause by Richard A. Epstein and Eduardo M. Penalver, in *Armstrong v. United States* (1960), the Supreme Court wrote: "The Fifth Amendment's Taking's Clause...was designed to bar Government from forcing some people alone to bear public burdens, which, in all fairness and justice, should be borne by the public as a whole".

Meghan Christine Belaski has no doubt borne the brunt of this "taking" for years and years and years as this case goes much deeper than the RMBS crisis and the initial whistleblower information first submitted to the Respondent by Meghan Belaski in late February 2014, and she intends to inform this court more fully in this Petition for a Writ of Certiorari in the Reasons for Granting the Petition Section of this document why that is.

Because of a recent Supreme Court finding in *Knick v. Township of Scott, Pennsylvania*, 588 U.S., this case does not have to go through a state court to be heard by this court, and while some may argue that the "taking" the Petitioners speak of in this case is actually a "giving" because it was willfully given to a confidential whistleblower program, this court must rationalize that once the whistleblower information was obtained by the U.S. government through a confidential and private federal whistleblower program, essentially a trade secret, and was used to settle the largest civil lawsuit in American history for the public good, while other whistleblowers were awarded in the same or related case,

Petitioners were never justly compensated, and an unconstitutional Fifth Amendment "taking" has occurred.

This is just not a type of "taking" this court is normally used to hearing about because as general rule, in the course of the history of the United States, most people believe there is but a few ways the federal government can take property: through eminent domain or by a regulation.

Petitioners would compel this court to consider that accepting legitimate whistleblower information through a legitimate federal whistleblower program where the information is used to garnish a large civil settlement for the public good and the whistleblower(s) is not justly compensated due to constitutionally unsound statutory requirements, is a new type of "taking" that has not been considered by this court because it has never been argued as such as far as Petitioner Belaski is aware.

The Respondent's statutory rules requiring a whistleblower to qualify for a covered-action award before they can qualify for a related-action award, based on the same exact whistleblower information required to be used in both instances, seems ill-opposed to the Fifth Amendment's Double Jeopardy Clause as well.

Cornell Law School and the Legal Information Institute describe *United States v. One Assortment of 89 Firearms*, 465 U.S. 354 (1984), as a Supreme Court case that "held that the prohibition on double jeopardy extends to civil sanctions which are applied in a manner that is punitive in nature".

Apparently, many problems have arisen even in this very court trying to describe and understand what should be considered "punitive" when it comes to applying monetary or civil punishments against wrongdoers though administrative and civil actions by entities like the Securities and Exchange Commission.

According to Merriam-Webster, the definition of punitive is "inflicting, involving or aiming at punishment".

A recent Supreme Court case, *Kokesh v. SEC*, 581 U.S.___, seems to grapple with the idea of what a punitive punishment is when it comes to civil penalties and disgorgement against wrongdoers, and that some ambiguity seems to exist in the interpretation of the word "punitive" when applied to civil and administrative punishments against wrongdoers by entities like the Securities and Exchange Commission.

For a whistleblower to be eligible for a related-action award, a potentially and likely punitive punishment, according to the statutory requirements of the Respondent, the whistleblower must also, and first and foremost, be eligible for a covered-action award, also potentially punitive in nature, in which the same identical information must be used in both instances to qualify for award.

Again, this seems ill-opposed to the Double Jeopardy Clause in the Fifth Amendment and the finding by this very court in *United States v. One Assortment of 89 Firearms*, 465 U.S. 354 (1984) that "held that the prohibition on double jeopardy extends to civil sanctions which are applied in a manner that is punitive in nature".

If the Respondent is requiring whistleblowers seeking award in a related-action, to first qualify for a covered-action in which the information used in both the covered-action and related case must be the exact same whistleblower information, and both of those cases are potentially punitive in nature based on the fact the cases are using the same information to punish wrongdoers, then this seems constitutionally unsound.

IX. Reasons For Granting the Petition

The reasons for granting the petition seem obvious to the Petitioners, but clearly it is not as simple as they once believed since this case is now potentially going before this Supreme Court. To more fully inform this court with this petition, Petitioner Belaski would like to walk through what it's meant to her personally acting as a whistleblower first to the Respondent, then to the U.S. Department of Justice, and then specifically to individuals who worked or currently work for the United States of America.

As Petitioner Belaski mentioned earlier in this petition, there is more to this case than the whistleblower information sent to the Respondent in 2014 as it concerns the Residential Mortgage-Backed Securities Crisis and if this court would give Petitioner Belaski the benefit-of-the-doubt while reading the rest of this petition, first as an amateur representing herself (and her ex-husband), and secondly, why she feels she's had no other choice but to represent herself pro-se, it would be most appreciated.

During the last days of this case being in the hands of the U.S. Court of Appeals for the DC Circuit it was revealed to the DC Circuit that Meghan Belaski had been using the pro-se email address for the U.S. Court of Appeals for the DC Circuit to communicate with the FBI et al., since October 2020. Petitioner Belaski believes this is why the court decided not to rehear the case *En Banc*. Not because the court didn't think the argument was valid but because the court itself had become a fact-witness in the case. This information appears as appendix D in this petition.

There is no denying that the whistleblower information delivered to the Respondent by the Petitioners in late February 2014 was turned over to the U.S. Department of Justice in late March or early April 2014 to help overcome a material deficiency the U.S. Department of Justice was facing in their case against Bank of America at the time.

The U.S. Department of Justice and the Respondent were running a global case against Bank of America, and in a partnership with the RMBS Working Group formed by the Financial Fraud Enforcement Task Force, on March 27, 2014, the Respondent was told by a magistrate judge that their portion of the case could continue, but that he would recommend dismissing the U.S. Department of Justice portion of the case with prejudice because the U.S. Department of Justice was lacking material evidence of the fraud they were alleging.

The U.S. Department of Justice overcame their material deficiency with the exact information Petitioners had sent to the Respondent one month earlier.

Because it was literally the exact material evidence of fraud the U.S. Department of Justice was lacking in their Financial Institutions Reform, Recovery and Enforcement Act, or FIRREA, case. Petitioners had no idea when they submitted their whistleblower information to the Respondent that's what Petitioners were sending, or that there was even a case against Bank of America by the Respondent or U.S. Department of Justice. Some might think of it as a stroke of luck, but in hindsight, it was more of a destined path forward.

There was never a TCR issued to Petitioners by the Respondent, but rather an email alluding to the fact the Petitioners whistleblower information was in some type of "RMBS" working group on April 1, 2014. There was never any letter issued by the Respondent to the Petitioner letting them know that they had received Petitioners whistleblower information, other than a brief statement issued and attached to that April 1, 2014, email letting Petitioners know that it was people like themselves that helped contribute to the success of the Respondent's whistleblower program.

Petitioners would like this court to know Petitioner Belaski followed every rule, every requirement in sending the whistleblower information, in updating the Respondent when new information came forward, in applying for award and challenging the final determination in a timely manner. There were never any deficiencies on part of the Petitioners from the time they submitted their whistleblower information to the Respondent in 2014, to the time they applied for award, to the time they appealed the final decision, or at any time up to the point

the appeal was filed by Petitioner Belaski to the U.S. Court of Appeals for the DC Circuit.

The U.S. Court of Appeals for the DC Circuit let Meghan Belaski fully vent what she's been through for the past 7 years plus beyond her being a simple "whistleblower" to the Respondent since late February 2014, and for that, she's eternally grateful to the judges for the U.S. Court of Appeals for the DC Circuit for allowing her to do so.

The DC Circuit may have ruled that most of the information Meghan Belaski filed in case no. 19-1266 was not relevant to the case, but they know that's not true. Everything filed by Petitioner Belaski in the U.S. Court of Appeals for the DC Circuit comes back to who she really is and who the United States of America understands her to be as well.

After Petitioner Belaski filed the initial whistleblower information with the Respondent in late February 2014 on behalf of herself and her ex-husband, more information was synched and delivered to the Respondent. Over the course of about 2 years Petitioner Belaski delivered information to the Respondent as it concerned the original whistleblower information on a regular basis, and then it evolved significantly. Everything changed in the fall of 2015.

After Donald Trump was elected in November 2016, Petitioner Belaski started communicating information to the U.S. Department of Justice through the online platform for the U.S. Department of Justice, generally by sending messages

to the Attorney General at the time. After Donald Trump was inaugurated in January 2017, Petitioner Belaski changed her communications to be read by former FBI Director James Comey only. This changed overnight when former FBI Director James Comey was fired on May 9, 2017, and has to do with an encounter Meghan Belaski had with the police on Friday May 5, 2017, when they came to her home in Colorado, and demanded to know "who she was" and "what she knew".

She calmly told the police they would have to contact FBI Director James Comey if they wanted the answers they sought, and 4 days later Director Comey was fired. 11 days after former FBI Director Comey was fired, Meghan Belaski was arrested for being herself. Harassment it was claimed. Held with no bond and treated like an animal. All the charges were dropped because the local District Attorney realized there was no chance of success at a trial and that her case file was full of materials that did not add up to much of anything other than a contrived effort by several U.S. Congressmen et al., trying to bring harm to Petitioner Belaski.

Immediately after former FBI Director James Comey was fired, literally within about 24 hours, Petitioner Belaski reached out to former Deputy Attorney General Rod Rosenstein and explained to him why James Comey was really fired. From the moment Rod Rosenstein appointed Special Counsel Robert Mueller, Petitioner Belaski knew she had an ally in Rod Rosenstein and he was her only point of contact for approximately 2 years to the day. From approx., May 10, 2017 -

May 10, 2019, Rod Rosenstein became Meghan Belaski's most trusted ally. Rod remains one her most trusted allies to this very day.

After Rod Rosenstein left the U.S. Department of Justice in May 2019, Petitioner Belaski was clear that current FBI Director Christopher Wray was as trustworthy as Rod Rosenstein and Petitioner Belaski took to communicating with FBI Director Wray by direct USPS mail for a little over 1 year.

In the late summer/early fall of 2020, Petitioner Belaski started to have a bad feeling about the likelihood her mail to FBI Director Wray was compromised, as were her emails to Rod Rosenstein at his new law firm, and because she was a pro-se Petitioner to the U.S. Court of Appeals for the DC Circuit, and had been sending in all her filings via that email address, she reached out through the pro-se email address and started communicating to the FBI et al., through that pro-se email address from October 2020 until approx., 1 month ago when it was revealed in court documents by Petitioner Belaski and the Respondent that Petitioner Belaski had been using that pro-se email address as a means of communicating with the FBI et al.

Approx., 600 emails were sent by Petitioner Belaski to the pro-se email address for the U.S. Court of Appeals for the DC Circuit that had nothing to do with case no. 19-1266 from October 2020-April 2021.

At this point if Meghan Belaski, Petitioner Belaski, needs to send an urgent message to the FBI et al., she's formed a circle of trust with a small group of

individuals she reaches out to via email to ask them to make contact to whomever needs to know, as well as sending instant messages to the now honorable Attorney General Merrick Garland through the online platform for the U.S. Department of Justice.

This contact all stems from the initial whistleblower information sent to the Respondent in late February 2014, and the basis for this case. What you may question and do not yet understand is why would all these high-profile people care about anything Meghan Belaski has to say. It's because on August 30, 2015-present day, the United States of America came to realize what Meghan Belaski was really capable of and who, at her core, she really is.

Everything you need to know is in the record from the appeal to the U.S. Court of Appeals for the DC Circuit. Petitioner Belaski warns that it won't be easy to digest or maybe easy to accept upon the first reading, but Meghan Belaski assures this court it is all true. And so will her witnesses. James Comey, Rod Rosenstein, Christopher Wray, Merrick Garland and a man named Forrest Fenn.

X. Conclusion

With that said, Petitioners beg of this court to grant this Petition for a Writ of Certiorari and to soon understand that it is **she** who sues on behalf of our lord the King as well as for herself.

Respectfully submitted,

Meghan Christine Belaski

Meghan Christine Belaski

5/20/21