

No. 20-1820

In the
Supreme Court of the United States

STEPHANE J. WANTOU SIANTOU,
Petitioner,

v.
CVS RX SERVICES, INC.,
Respondent.

On Petition for a Writ of Certiorari to the
Fourth Circuit Court of Appeals

PETITION FOR REHEARING

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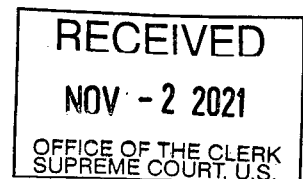


TABLE OF AUTHORITIES

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PETITION FOR REHEARING

Pursuant to Rule 44 of this Court, the petitioner, Stephane Wantou Siantou (hereafter “Wantou” or simply “Petitioner”) hereby respectfully petitions for re-hearing of this case, and as grounds thereto would respectfully show the Court the following:

1. Rule 44(2) of this Court stipulates that the grounds for the rehearing of an order denying a petition for a writ of certiorari “shall be limited to intervening circumstances of a substantial or controlling effect **or to other substantial grounds not previously presented.**”¹ Here, there is substantial ground not previously presented for this Court to grant re-hearing in the instant case. Namely, Petitioner failed to mention the violation of FRAP 34(a)(2) by the Fourth Circuit Court of Appeals, which constitutes substantial ground for this Court to grant re-hearing in the instant case, all the more so because said violation is compounded by: (1) the fact that the Fourth Circuit Court of Appeals failed to explain in any manner whatsoever, the factual and legal grounds for its decision, but simply rubber stamped the judgment and actions of the district court, and (2) the fact that the Fourth Circuit Court of Appeals itself refused to stand behind and be bound by its own decision in this case by making said decision (a cursory, generic, formulaic and perfunctory one with no accompanying analysis whatsoever) **unpublished and non-precedential.**

¹ Supreme Court Rule 44(2) (Emphasis added).

2. FRAP 34(a)(2) states (emphasis added):

“(2) *Standards.* Oral arguments **must be allowed in every case** unless a panel of three judges who have examined the briefs unanimously agrees that oral argument is unnecessary for any of the following reasons:

(A) the appeal is frivolous

(B) the dispositive issues have been authoritatively decided; or

(C) the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.”²

3. FRAP 34(a)(2) makes it clear that an appellant must be allowed oral arguments by default. Granting oral arguments is therefore not a matter of discretion for a federal Circuit Court of Appeals. FRAP 34(a)(2) enumerates the only exceptions under which it is permissible for a federal Circuit Court of Appeals to not allow oral arguments. In denying oral arguments in this case, the Fourth Circuit Court of Appeals failed to explain the basis of its denial under FRAP 34(a)(2); and therefore infringed on Petitioner’s default right to oral arguments without any explanation whatsoever. The Fourth Circuit Court of Appeals itself did not claim that any of the exceptions provided in FRAP 34(a)(2) applied to this case, and therefore, Petitioner should have been granted oral arguments.

² FRAP 34(a)(2) (emphasis added)

4. The Fourth Circuit Court of Appeals did not present nor explain, in any manner whatsoever, its understanding of the case and the issues pertaining thereto. Without this crucial presentation of its understanding of the case and the issues pertaining thereto, it is impossible to assess whether the Fourth Circuit Court of Appeals had misunderstandings of the facts of the case and the issues complained about by Petitioner. One of the key purposes of oral arguments is to clear ambiguities and misunderstandings that an appellate court (which obviously has not had the benefit of living the events pertaining to the case, of live attendance in the proceedings in the court below, and of knowledge on the case via prolonged exposure to the case) may have as to the case. The combination of the denial of oral arguments and the failure of the Fourth Circuit Court of Appeals to explain its decision makes the Fourth Circuit Court of Appeals' decision an opaque one for which it is impossible to determine what construing and/or interpretation of the facts of the case and issues complained about by Petitioner the Fourth Circuit Court of Appeals acquiesced to in its affirmance of the district court's judgment and actions.

5. While the Fourth Circuit Court of Appeals conclusorily alleged it reviewed the record of the case, there is no single evidence of such. The Fourth Circuit Court of Appeals did not cite, list or name any single part of the record allegedly reviewed. It is beyond question that by mandating oral arguments for all cases (with the exception of cases falling within the exceptions explicitly mentioned in FRAP 34(a)(2)), FRAP 34(a)(2) intended to: (1) insure that Circuit Court of Appeals met their duty and obligation of

thoroughly reviewing the entire record on each case, (2) insure that the Circuit Court of Appeals' understanding of the case after its thorough review of the entire record was confronted by the appellant, (3) make the Circuit Court of Appeals' thorough review, insufficient review or total lack of review (whichever applies) of the record apparent in the record through open court oral arguments and attending "Q&A" session.

6. Failing to grant re-hearing in this case would mean:

a. Petitioner was effectively denied his right to have the actions of a federal district court reviewed by a federal Circuit Court of Appeals, which includes his right to present oral arguments as to an appeal of a federal district court's judgment and/or actions³. The a cursory, generic, formulaic and perfunctory decision the Fourth Circuit Court of Appeals issued in this case (combined with the Fourth Circuit's tactic of making its decision **unpublished and non-precedential**) without even allowing Petitioner to rightfully present oral arguments can simply be copied and pasted by the Fourth Circuit Court of Appeals to stand as a decision for any case the Fourth Circuit Court of Appeals arbitrarily chooses not to review, without any consequence or liability on the Fourth Circuit Court of Appeals whatsoever as the Fourth Circuit Court of Appeals self-declares its decision **unpublished and non-precedential**. This effectively makes review at the Fourth Circuit Court of Appeals discretionary

³ See FRAP 34(a)(2)

instead of mandatory, and deprives appellants of their federal right to have the judgment and actions of a district court genuinely and effectively reviewed by federal Circuit Court of Appeals.

b. Federal Circuit Courts of Appeal are free to not review cases before them, and use the tactics described above (arbitrarily and peremptorily denying oral arguments with no justifiable basis under FRAP 34, issuing self-declared unpublished and non-precedential decisions using no more than "copy and paste" cursory, generic, formulaic and perfunctory decision with no explanation, no accompanying analysis whatsoever) to make review of federal district courts' judgments and actions effectively discretionary rather than mandatory.

To be sure, while the correctness of a judgment is of great importance, repose and finality of any case before this Court are also important. However, in a case such as this one that was effectively never reviewed at any stage, failing to grant re-hearing would be acquiescing to Circuit Court of Appeals deliberately failing to comply with their mandatory duty of reviewing each appeal from federal district courts, via the use of the tactics described above by federal Circuit Court of Appeals, and in this particular case by the Fourth Circuit Court of Appeals.

For the foregoing reasons, the petition for rehearing should be granted.

Respectfully submitted,

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Pro Se Petitioner

October 2021

RULE 44(2) CERTIFICATE:

Petitioner, Stephane Wantou Siantou, hereby certifies that the accompanying petition for the rehearing of the Court's order denying petitioner's writ of certiorari is restricted to the grounds specified in this Court's Rule 44(2) and that it is presented in good faith and not for delay.

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