

No. 20-529

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IN THE  
**Supreme Court of the United States**

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Richard E. Boggs,  
*Petitioner,*

v.

UNITED STATES OF AMERICA, INTERNAL  
REVENUE SERVICE, PETER RAE (coworkers, et al...  
as individuals)  
*Respondent.*

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

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**PETITION FOR A WRIT OF CERTIORARI**

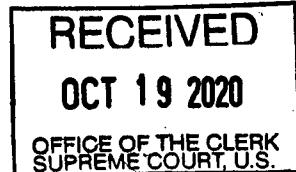
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October 10, 2020

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## **QUESTIONS PRESENTED**

- 1) Does 26 U.S.C. §7608 (Authority of internal revenue enforcement officers) establish the relevant requisite authority of IRS agents and did Special Agent Peter Rae violate the scope of that authority as alleged?
- 2) Did the lower court(s), the Internal Revenue Service (IRS), and the Department of Justice (DOJ) ignore the operation of 26 U.S.C. §7608 in order to deprive the petitioner his Fourth and Fifth Amendment Rights as provided by the Constitution of the United States of America?
- 3) Did the United States District Court of the District of South Carolina (USDC) and the United States Court of Appeals for the Fourth District (USCA4) fail to provide the petitioner review as required by 5 U.S.C. §706?

## RELATED CASES

- *Boggs v. UNITED STATES, et al*, No. 3:18-cv-3506, U.S. District Court for the District of South Carolina. Judgement entered Sept. 4, 2019. See Appendix A1 – 12.
- *Boggs v. UNITED STATES, et al*, No. 19-2090, U.S. Court of Appeals for the Fourth District. Judgment entered March 4, 2020 and Petition to Rehear denied on June 9, 2020. See Appendix A13 – 15.
- *Boggs v. UNITED STATES, Peter Rae*, No. 3:19-cv-0551, U.S. District Court for the District of South Carolina. Judgement entered January 16, 2020. See Appendix A16 – 26.
- *Boggs v. UNITED STATES, Peter Rae*, No. 20-1672, U.S. Court of Appeals for the Fourth District. Judgement pending. See Appendix A27 – 37.

## RULE 29.6 DISCLOSURE STATEMENT

Petitioner is not a corporation.

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## **PETITION FOR A WRIT OF CERTIORARI**

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Petitioner Richard E. Boggs (“Boggs”) respectfully petitions for a writ of certiorari to review a judgment of the United States Court of Appeals for the Fourth Circuit (“USCA4”).

### **OPINIONS BELOW**

The opinion of the court of appeals is unpublished and appears in the Appendix at page A12.

### **JURISDICTION**

The judgment of the court of appeals was entered on March 4, 2020. (Appendix at page A12). A timely petition for rehearing was filed but denied on June 9, 2020. (Appendix at page A13). The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

### **CONSTITUTIONAL AMENDMENTS, STATUTES AND REGULATIONS INVOLVED**

Provisions of the United States Constitution involved include Amendments IV and V.

Provisions of the U.S. Code, Title 26 involved include 5 U.S.C. § 706, 26 U.S.C.

§§ 7608 and 7803.

Provisions of the Code of Federal Regulations, Title 26 involved include 26 C.F.R. § 70.33.<sup>1</sup>

## **INTRODUCTION**

Petitioner Richard Boggs (“Boggs”) petitioned the United States District Court (“USDC”) to contest the legitimacy of issuance of summonses regarding Subtitle A Income Taxes by Special Agent Peter Rae (“Rae”) under the guise of a “criminal investigation”, and the authority of Rae required to do so under 26 U.S.C. § 7608.

## **STATEMENT OF THE CASE**

### **1. Factual Background and Proceedings in District Court.**

On December 10, 2018 Rae issued seven administrative summonses to the Petitioner’s past and present employers and the Petitioner’s home security provider requiring them to produce a plethora of information regarding Petitioner’s employment, compensation for services, “any and all” correspondence, etc., etc.

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<sup>1</sup> The pertinent text of these provisions is set forth verbatim in the Appendix, beginning at A36.

An eighth summons was issued to the Petitioner's spouse on February 15, 2019 to produce "any and all information used to support the preparation of tax returns for tax years 2012 through 2017", even though she was not the target of any investigation. This interrogation turned out to be nothing less than an intentional attempt by the respondent(s) to use scare tactics, intimidation, and harassment against the Petitioner's spouse according to her and her attorney who was present. The meeting was entirely focused on the Petitioner's spouse's home and nothing regarding documentation of her "tax years 2012 through 2017".

On December 19, 2018 the Petitioner filed suit in USDC to quash the illegally issues summonses, as well as Petitions for a Bill of Particulars, Writ of Mandamus and damages.

On July 26, 2019 the Magistrate issues her Report and Recommendation ("R&R") to dismiss citing only a vague, inconclusive mention in footnote 3 of the R&R stating IRC § 7608 "appears" to provide the requisite authority required by Rae to issue summonses for "other than subtitle E"<sup>2</sup>.

On August 2, 2019 Petitioner filed an Opposition to the Magistrate's R&R citing the failure to properly sustain her vague, inconclusive "review" of IRC § 7608 as well as reiterate the fact that IRC § 7608(b) lacks an implementing regulation as opposed to IRC § 7608(a)<sup>3</sup>.

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<sup>2</sup> See Appendix A6.

<sup>3</sup> See 27 CFR § 70.33 (A40)

On August 8, 2019 the USDC issued judgement to dismiss for reasons other than those presented for review. The lower court failed to address ANY of the foundational issues brought before it by the Petitioner – most importantly those relating to IRC § 7608.

On August 12, 2019 the Petitioner filed a timely Motion for Reconsideration, which was subsequently denied on September 4, 2019.

## **2. Proceedings in Appeals Court.**

On October 25, 2019 Petitioner filed a timely appeal to USCA4 seeking review of the lower court's failure to review the issue(s) presented regarding Rae's authority per 26 U.S.C. § 7608 to issue summonses, carry firearms, or engage in any way the enforcement of "other than Subtitle E".

On December 12, 2019 the Appellee's entered their reply brief. The brief made a single mention of the controlling statute 26 U.S.C. § 7608 calling it "irrelevant" and "wrong" and instead skipped over this initial authority-granting statute<sup>4</sup> all together and instead sought to extract authority from I.R.C. § 7602. The Appellee sought to purport that the statute titled "Authority of internal revenue enforcement officers" is "irrelevant" but failed to rebut Appellant's claim to the contrary.

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<sup>4</sup> See IRM 9.1.2.2(09-06-2013)(1) – states emphatically § 7608 "...provides the initial authority for investigating crimes arising under the Internal Revenue laws."

On March 4, 2020 the USCA4 granted the Defendant's motion to dismiss citing "no reversible error" despite having been alerted to the obvious authority question and the failure of the USDC to properly address it.

On March 25, 2020 the Petitioner filed a timely Petition to Rehear which was routinely denied on June 9, 2020.

## **REASONS FOR GRANTING THE WRIT**

### **1. Supervisory action is needed to reign in lower court's refusal to provide review of relevant statutes presented which restrain the actions of federal agents/agencies and provide protection to persons and property in tax cases.**

At the heart of this case is IRC § 7608 entitled "Authority of internal revenue enforcement officers ". The lower courts blatant refusal to enforce, or even provide a definitive interpretation of, this statute among others which restrain the actions of federal agents/agencies is astounding. As the record in this case shows, the lower courts neglected their duty demanded under 5 U.S.C. § 706 to review the relevant questions of law raised by the petitioner or make any effort to render a definitive interpretation. The best the lower courts could muster was a single vague, inconclusive mention in a footnote<sup>5</sup> - "...26 U.S.C. § 7608(b)(2)(A) appears to provide

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<sup>5</sup> See USDC Magistrate's R&R (3:18-cv-03506 (EN 36)) page 6, footnote 3 and

for Rae's authority...". This alone is grounds for reversal by the USCA4.

It is clear and unambiguous that 26 U.S.C. § 7608(b)(2)(A) restrains any IRS agent or investigator's authority to Subtitle E enforcement only unless they are "any criminal investigator of the Intelligence Division of the Internal Revenue Service..." and charged with such duty by the Secretary. According to Rae's own declaration<sup>6</sup>, he does not meet the explicit requirements to enforce any Subtitle other than Subtitle E. This statute is explicit and provides no leeway to interpret the requirement to enforce any Subtitle other than Subtitle E as does § 7608(a) and its corresponding regulation<sup>7</sup> - which is lacking for § 7608(b).

According to this court, the laws simply mean what the words used in them say, and nothing more can be read into the law or assumed about it into existence. The following U.S. Supreme Court cases below clearly reveal these irrefutable facts:

In *Demarest v. Manspeaker*, 498 US 184, 112 L Ed 2d 608, 111 S Ct. 599, (1991), the court held: "In deciding a question of statutory construction, we begin of course with the language of the statute."

In *Connecticut National Bank v. Germain*, 503 US 249, p. 253-254, 117 L.Ed 2nd 91(1992), the court identifies that: "... courts must

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Appendix A6.

<sup>6</sup> See USDC EN 28-2 page 1 and Appendix A42

<sup>7</sup> See Appendix A40.

presume that a legislature says in a statute what it means and means in a statute what it says there. When the words of a statute are unambiguous, then, this first canon is also the last: "judicial inquiry is complete."'"

In *McNary v Haitian Refugee Center*, 498 US 479, 112 L Ed 2d 1005, 111 S Ct. 888, (1991), the court invokes these basic standards of statutory construction again: "It is presumable that Congress legislates with knowledge of our basic rules of statutory construction...".

In *Reiter v Sonotone Corp.*, 442 US 330, 337, 60 L Ed 2d 931, 99 S Ct. 2326 (1979), the court again recognizes its duty to begin with the specific words of the statute: "As is true in every case involving the construction of a statute, our starting point must be the language employed by Congress."

"(A) statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law." – *Connally v. General Construction Co.*, 269 US 385, 391 (1926).

The IRS, DOJ, and lower courts have intentionally either ignored the plain, unambiguous language of this restraining provision (among others), or perverted, or attempt to guess at, its clear meaning in order to support an unconscionable, biased predetermined position of authority.

## **2. Supervisory action is needed to preserve due process in tax**

**cases.**

By ignoring clear statutory language, the judiciary has routinely deprived this Petitioner fair and impartial review of relevant provisions of law presented that protect his person and property, as well as properly restrain an ever more aggressive federal bureaucracy in tax cases.

The lower courts must be reminded again and again by this court of their duty to review all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action as required by 5 U.S.C. § 706 in tax cases. Both the USDC and the USCA4 have deprived the Petitioner of this fundamental due process right in this case.

## **CONCLUSION**

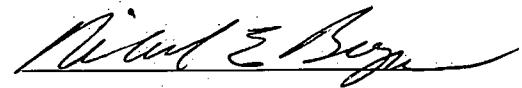
This case exposes a clearly willful, intentional abuse of authority by the IRS for the sole purposes of exacting Petitioner's property not owed in violation of the Petitioner's Fourth and Fifth Amendment rights as provided by the Constitution of the United States.

The USDC and USCA4 courts neglected their duty as "reviewing courts" per 5 U.S.C. § 706 to make a decision regarding the relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action.

The lower court's refusal to restrain the unlawful activities of the IRS and show even a minuscule amount of concern for the rights of the Petitioner has perpetuated

itself into a Constitutional crisis that requires the supervisory intervention of this court.

Respectfully submitted,



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