No. 20-7760

IN THE SUPREME COURT OF THE UNITED STATES

JOHN WORTHINGTON— PETITIONER

vs.

ONDCP et al— RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO U.S COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

PETITION FOR WRIT OF CERTIORARI

BY: S/ JOHN WORTHINGTON

John Worthington Pro Se
90 S. Rhodefer Rd.E-101
Sequim WA. 98382
425-919-3910

QUESTION(S) PRESENTED

1. Whether the trial court erred by failing to apply local rule 7(b), the local "docket management tool", to keep a "level playing field."
2. Whether the trial court should be allowed to make arguments for litigants who have "backhanded" issues in the briefing.
3. Whether the trial court erred by taking APA jurisdiction without a final federal agency action.
4. Whether the trial court erred by ruling Worthington never made a tort claim.
5. Whether the trial court erred by ruling a federal agency was not part of WestNET.
6. Whether the trial court erred by ruling individuals served with summons and complaint could be acting in "official capacity" when functioning in an illegal capacity.
7. Whether Worthington could challenge public policy after it was applied to him and violated his statutory and constitutional rights.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[x] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

John Worthington Pro Se
90 S. Rhodefer Rd.E-101
Sequim WA. 98382
425-919-3910

Office of National Drug Control Policy
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Matthew George Whitaker, and
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530-0001
(202)-514-2000

Jeffrey Felton Green, and
Bureau of Justice Assistance
Office of Justice Programs
810 Seventh Street NW
Washington DC 20531

Jovita Carranza, and
Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220
(202) 622-2000

RELATED CASES

John Worthington v. United States Department of Justice: 1:2019cv00081

John Worthington v. IRS Commissioner: 9026-19W

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES

CITED CASES

STATUTES AND RULES

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the Petition and is unpublished.

The order denying panel rehearing and rehearing en banc appears at Appendix B to the Petition and is unpublished.

The order denying motion to publish appears at Appendix C to the Petition and is unpublished.

The order denying motion to recuse appears at Appendix D to the Petition and is unpublished.

The trial court orders appears at Appendix F.

JURISDICTION

The date on which the United States Court of Appeals decided my case was November 12, 2020. a copy of the order appears at Appendix A

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 15, 2020, and a copy of the order denying rehearing appears at Appendix B.

The order denying motion to publish appears at Appendix C to the Petition and is unpublished.

The order denying motion to recuse appears at Appendix D to the Petition and is unpublished.

The trial court rulings appear at Appendix F.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution - Amendment 14
18 U.S.C. § 983 (A) (1) (a) (vi)
18 U.S.C. § 1961(1)
18 U.S.C. § 1961(5)
18 U.S.C. § 1962 (A)
18 U.S.C. § 1962 (B)
18 U.S.C. § 1962 (D)
18 U.S.C. § 1964 (C)
21 U.S.C. 812 (c) (10)
21 U.S.C. § 881(
28 U.S.C. § 2401(a)
28 U.S.C. § 2401(b)
28 U.S.C. § 2675 (a)
28 U.S.C. § 2679
34 U.S.C. § 10228 (a)
34 U.S.C. § 10228 (4) (A)
42 U.S.C. § 1983

STATEMENT OF THE CASE

A. Background

1. Federal grants turned into Rico Act schemes and HIDTA Grant Policy to bypass State laws.

This case is about American governments using federal grants[1] to set up illegal revenue generating schemes to create funding mechanisms for non-entities. These state federal grants "contractors" get Duns numbers to set up a bank account, which is supposed to be used specifically for those federal grants only. The Prosecutor's assigned to the non-entity then sets up an illegal revenue collection scheme, using judgment and sentencing court templates, to request an award of fines, fees, victim restitution and court costs payable to the non-entity. The prosecutor's then also appear as the non-entity in seizure forfeiture cases and request properties and monies in the name of the non-entity. These funds are then sent to the non-entity bank account, which is not supposed to have co-mingled funds, for the non-entity to spend.

This case is also about using multi-jurisdictional drug task forces, leveraged by federal HIDTA grant contracts to work under command and control of the DEA to achieve executive branch policy and "summarily" destroy medical marijuana as contraband. This policy was placed into the federal register in 1998 and it remains in force today. The policy to use cross designated state and local law enforcement to seize medical marijuana and give it to the DEA so it could be

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[1] Bureau of Justice Assistance Bryne or JAG grants set up Multi-jurisdictional drug task forces and HIDTA grants leverage them into enforcing federal policy.

summarily destroyed, was applied on the petitioner. The Petitioner, without success, tried to find an official law enforcement agency that took his property.

2. **HIDTA Task Forces Claim they are not legal Entities.**

The task forces maintained they were not legal entities and did not respond to public records requests for information. The petitioner spent twelve years and thousands of dollars to find a culpable legal law enforcement agency that seized his property. None came forward. Public records were destroyed and purposely withheld.

3. **HIDTA Task Forces Get caught Operating as a Legal Entity.**

The task forces, while pretending not to legally exist, were caught functioning as a legal entity to obtain revenue to pay for employees. The petitioner discovers what he alleges is a Rico Act organization collecting revenue as an illegal entity to pay for employees. Tort claims were filed prior to filing suit.

4. **Petitioner brings complex suit.**

The petitioner filed a complex legal action alleging civil rico, statutory and constitutional violations. Petitioner also alleges he has rights to challenge public policy placed in the federal register and applied to him.

The federal government responded to with a motion to dismiss and Worthington ultimately filed 45 pages and over 2,000 pages of exhibits to prove his claims. The federal government employees did not file notices of appearance and were represented by the U.S. Attorney's office without substitution of the United States as

required by the WestFall Act, for actions while pretending to be a legal entity. The federal government filed a paltry three page reply brief ignoring many arguments.

5. Judge Amy Berman Jackson ignores Rule 7 b , then makes and rules on her own arguments not made by the litigants.

Rather than use the **"docket management tool"** Rule 7 b to keep a **"level playing field"**, Judge Jackson filled in as counsel and made new arguments not made by the federal government.

Judge Jackson also incorrectly reasoned there were no federal agencies in WestNET. When Judge Jackson realized there was a federal agency in WestNET, she made a new argument the employees were operating in official capacity. Judge Jackson impermissibly acted as counsel for the U.S.DOJ.

6. The Court of Appeals ignores Rule 7 b too.

When past litigant the State of Texas faced the **"level playing field"** and circuit duo of Judges Millard and Pillett[2], they felt the application of Rule 7 (b), the **"docket management tool,"** and the cold hard surface of the **"level playing field."** The State of Texas was informed that this has been precedence in the DC Circuit for **"decades."** Quote: "Rules are rules, and basic fairness requires that they be applied evenhandedly to all litigants. Rule 7(b) (or its materially identical predecessor, Local Rule 108(b)) has been in force for

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[2] The honorable Cornelia T.L. Pillard and Patricia A. Millet.

nearly three decades, see Graetz v. District of Columbia Public Schools, Civ. A. No. 86-293, 1987 WL 8527, at *1 (D.D.C. March 3, 1987)."

Furthermore, Judge Millet Wrote: "We have repeatedly held, moreover, that a material failure to follow the rules in district court can "**doom**" a party's case. See, e.g., Geller v. Randi, 40 F.3d 1300, 1303–1304 (D.C. Cir. 1994) ("When Geller failed to respond, he conceded a violation of Rule 11 under Local Rule 108(b) [Local Rule 7(b)'s predecessor]; he cannot now argue the merits of his Rule 11 defense."); Frito-Lay, Inc. v. Willoughby, 863 F.2d 1029, 1033–1034 (D.C. Cir. 1988) (failure to designate and reference triable facts under Federal Rule of Civil Procedure 56(c) and Local Rule 108(h) was fatal to appellant's opposition to motion for summary judgment. Judge Millet wrote further: Texas's tactical choice in district court has **"distinct appellate repercussions"** as well. We are "a court of review, not one of first view," United States v. Best, 961 F.2d 964, 1992 WL 96354, at *3 (D.C. Cir. 1992) (unpublished), so we rarely entertain arguments on appeal that were not first presented to the district court, see, e.g., Pettaway v. Teachers Ins. & Annuity Ass'n of America, 644 F.3d 427, 437 (D.C. Cir. 2011) (refusing to consider claim that district court violated a local rule because appellant failed to make that argument before the district court). And "**we can find no instance when we made an exception"** to that rule because the party's chosen strategy of "**backhanding"** the issues in district court "**backfired**."

Here, the litigant United States Department of Justice did not face the same application of Rule 7(b), the "**docket management tool"** and cold surface of the **"level playing field."** U.S.DOJ escaped accountability for horrible public policy and violations of Rico Act statutes, when its case should have been **"doomed."**

field." The United State Department of Justice escaped accountability and now WestNET can continue its Rico Act revenue collection scheme and the public looting policy can continue on Worthington and the public at large.

This unprecedented ruling compels the attention of the U.S. Supreme Court, because it is of public importance and would protect the precedence of the DC Circuit and the precedence of the U.S. Supreme Court

REASONS FOR GRANTING THE PETITION

In this case of exceptional importance, the U.S. Supreme Court should accept review to prevent the District Court for the District of Columbia and the panel from the U.S Court of Appeals for the District of Columbia, from abandoning long settled Circuit precedent, and U.S. Supreme Court precedent, just to erase government misconduct.

U.S. Supreme Court review is necessary to preserve circuit precedence and its own rulings, which were not upheld in this case.

The United States of America should not be funding and participating in Rico Act revenue schemes against the public, and the District of Columbia Circuit should not be allowed to bury this conduct in an unpublished ruling.

If there is going to be such a blatant and repugnant departure from DC Circuit and U.S. Supreme Court precedent, the SCOTUS should review that departure and publish that decision departing from Rule 7 (b) precedent, the **"docket management tool"** and protect the **"level playing field,"** A panel of the U.S Court of Appeals for the District of Columbia Circuit has traditionally maintained.

If federal agencies don't have to take final agency actions before a federal court can acquire jurisdiction, the SCOTUS, should make that the law of the land, not a judicial mechanism to flush Government misconduct.

I. The panel's decision impermissibly Overruled Circuit precedent based in Texas v. United States, 798 F.3d 1108 (2015), upholding Rule 7 (b).

The Court of Appeals for the District of Columbia Circuit precedent was not upheld in this case. The United States Department of Justice failed to answer legal arguments presented by Worthington. The Circuit panel in Worthington v. ONDCP et al, consisting of Judges Millet and Pillard, the same judicial enforcers of Rule 7 (d), the **"docket management tool"** and protectors of the **"level playing field"** in the cases above, broke from their previous pattern of enforcement and protection practices, and let the United States Department of Justice escape the **"docket management tool"** and **"level playing field"** of Rule 7 (b).

The panel ruling conflicts with previous rulings on August 18, 2015, in Texas v. United States, 798 F.3d 1108 (2015),(citing Wannall v. Honeywell, Inc., 775 F.3d 425, 428 (D.C.Cir.2014) (citing Hopkins v. Women's Div., Gen. Bd. of Global Ministries, 284 F.Supp.2d 15, 25 (D.D.C.2003), Union v. Johnson, 353 F.3d 1013, 1021(D.C.Cir.2004).

A panel of the U.S Court of Appeals for the District of Columbia may not abandon Circuit precedent unless a Supreme Court decision "'effectively overrules'" or "'eviscerate[s]'" that precedent. Nat'l Inst. of Military Justice v. Dep't of Def., 512 F.3d 677, 684 n.7 (D.C. Cir. 2008).

The Supreme Court has not overruled or eviscerated Texas v. United States, 798 F.3d 1108 (2015).

Here, the panel clearly abandoned the ruling in Texas v. United States, 798 F.3d 1108 (2015),(citing Wannall v. Honeywell, Inc., 775 F.3d 425, 428 (D.C.Cir.2014) (citing Hopkins v. Women's Div., Gen. Bd. of Global Ministries, 284 F.Supp.2d 15, 25 (D.D.C.2003), Union v. Johnson, 353 F.3d 1013, 1021 (D.C.Cir.2004), and the **"level playing field."**

This unprecedented ruling compels the attention of the U.S. Supreme Court.

II. The panel's decision impermissibly Overruled U.S. Supreme Court precedent Based in City of New Orleans v. SEC, 137 F.3d 638, 639 (D.C. Cir. 1998) and Pub. Citizen, Inc. v. FERC, 839 F.3d 1165, 1171 (D.C. Cir. 2016).

The U.S. Supreme Court's precedent must be upheld in this case. The United States Department of Justice did not answer Worthington request for a final federal agency action to invoke 28 U.S.C. 2401.Judge Amy Berman Jackson also did not answer that jurisdictional impediment either. Judge Jackson did not have jurisdiction to make a ruling on the federal APA ruling without a final agency action.

A panel of the U.S Court of Appeals for the District of Columbia may not abandon Circuit precedent, unless a Supreme Court decision "'effectively overrules'" or "'eviscerate[s]'" that precedent. Nat'l Inst. of Military Justice v. Dep't of Def., 512 F.3d 677, 684 n.7 (D.C. Cir. 2008)

The Supreme Court has not overruled or eviscerated City of New Orleans v. SEC, 137 F.3d 638, 639 (D.C. Cir. 1998) or Pub. Citizen, Inc. v. FERC, 839 F.3d 1165,

1171 (D.C. Cir. 2016), the other circuit rulings enforcing this decades old precedence.

The jurisdictional predicate of final agency action must exist at the time the petition is filed. City of New Orleans v. SEC, 137 F.3d 638, 639 (D.C. Cir. 1998) (per curiam).

Here, the only jurisdiction Judge Jackson possessed was jurisdiction to order a writ to require a final agency action[3], which is what Worthington was requesting. Instead of exercising the only jurisdiction the court had, the court took hypothetical jurisdiction under the federal APA and dismissed the case without a verified final federal agency action. Judge Jackson made a great glove save for the federal government on the **"level playing field"** and Worthington was denied justice.

III. The panel's decision impermissibly Overruled U.S. Supreme Court Precedent based in Nat'l Park Hosp. Ass'n v. Dep't of Interior, 538 U.S. 803, 808 (2003) and other SCOTUS rulings.

The U.S. Supreme Court precedent must be upheld in this case. U.S. Supreme Court review is necessary to ensure that this case is consistent with the Supreme Court ruling in Nat'l Park Hosp. Ass'n v. Dep't of Interior, 538 U.S. 803, 808 (2003), requiring a final federal agency action under the APA.

The trial court did not identify a final federal agency action to which jurisdiction could be claimed. The trial

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[3] Worthington made such a request but like most of his arguments, it was ignored by the United States Department of Justice and Judge Jackson.

court then ignored the requested writ to force a final federal or state final agency action, and improperly took jurisdiction to classify an act committed under state law as a final federal agency action.

"A court is not to substitute its judgment for that of the agency," FCC v. Fox Television Stations, Inc., 556 U. S. 502, 513 (2009) (internal quotation marks omitted), but instead to assess only whether the decision was "based on a consideration of the relevant factors and whether there has been a clear error of judgment," Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U. S. 402, 416 (1971).

It is a "foundational principle of administrative law" that judicial review of agency action is limited to "the grounds that the agency invoked when it took the action." Michigan v. Envtl. Prot. Agency, 576 U.S. (2015). If those grounds are inadequate, a court may remand for the agency to do one of two things: First, the agency can offer "a fuller explanation of the agency's reasoning at the time of the agency action." Pension Benefit Guaranty Corporation v. LTV Corp., 496 U. S. 633, 654 (1990) (emphasis added). See also Alpharma, Inc. v Leavitt, 460 F. 3d 1, 5–6 (CADC 2006) (Garland, J.) (permitting an agency to provide an "amplified articulation" of a prior "conclusory" observation (internal quotation marks omitted)). This route has important limitations. When an agency's initial explanation "indicate[s] the determinative reason for the final action taken," the agency may elaborate later on that reason (or reasons) but may not provide new ones. Camp v. Pitts, 411 U. S. 138, 143 (1973) (per curiam). Alternatively, the agency can "deal with the problem afresh" by taking new agency action. SEC v. Chenery Corp., 332 U. S. 194, 201 (1947) (Chenery II). An agency taking this route is not limited to

its prior reasons but must comply with the procedural requirements for new agency action.

The functional reasons for requiring contemporaneous explanations apply with equal force regardless whether post hoc justifications are raised in court by those appearing on behalf of the agency or by agency officials themselves. See American Textile Mfrs. Institute, Inc. v. Donovan, 452 U. S. 490, 539 (1981) ("[T]he post hoc rationalizations of the agency . . . cannot serve as a sufficient predicate for agency action."); Overton Park, 401 U. S., at 419 (rejecting "litigation affidavits" from agency officials as "merely 'post hoc' rationalizations").

Here, neither the United States Department of Justice nor Judge Jackson could take a position for the federal agency in Worthington v. ONDCP et al. Worthington's APA claims were not under the ambit
Of the APA until there was a final federal agency action.

The U.S. Supreme Court ruling in Nat'l Park Hosp. Ass'n v. Dep't of Interior, 538 U.S. 803, 808 (2003), and the other U.S. Supreme Court rulings did not permit jurisdiction without a final agency action and the precedence of that ruling needs to be protected by the U.S. Supreme Court.

CONCLUSION

The petition for a writ of certiorari should be granted. Respectfully submitted this 9th TH day of April 2021.

BY: 

JOHN WORTHINGTON
90 S.RHODEFER RD. E-101
SEQUIM WA.98382