

Supreme Court, U.S.
FILED

JAN 06 2022

OFFICE OF THE CLERK

No.

21-7205

IN THE

SUPREME COURT OF THE UNITED STATES

Lee Holland, pro se

— PETITIONER

(Your Name)

vs.

United States

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Federal Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lee Holland

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SUPREME COURT, U.S.

ORIGINAL

QUESTION(S) PRESENTED

Whether or not the United States Supreme Court should permit or allow the United States Navy to violate and disregard its own naval procedures; navy regulations; the United States Code; and, the Constitution of the United States?

Whether or not the United States Supreme Court should exercise "jurisdiction," under "Tucker," when petitioner did not wait "six years" until after "navy retirement;" but, began immediately attempting to correct this "injustice," after the navy took him off of the navy's temporary disability retired list, and the Secretary of the Navy placed him back on "active duty." (It was only, then, that petitioner discovered "all of the adverse material," placed into his "record," after his being transferred to the Long Beach Naval Hospital; and, his placement upon the navy's "temporary disability retirement list, the TDRL).

Whether or not the United States Supreme Court wishes to establish jurisdiction, based upon the United States' Constitutional "Due Process Clause;" or, the conspiracy of my administrative officer, Mr. Wolff, and his co-conspirators? In 1983, the Board of Corrections for Naval Records (BCNR), removed all of the "adverse-material," from my "service-jacket," but refused to consider" restoring my thirteen-year, hard, earned "Ensign-promotion" to the Medical Service Corps.

LIST OF PARTIES

- All parties appear in the caption of the case on the cover page.
- 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:

RELATED CASES

Lindsay v. United States, 295 F.3d 1252, 1257 (Fed. Cir. 2002)

Tolar v. United States 140 Fed. Cl. 659, 661 (2018)

Stoddard v. Carlin, 799 F. Supp. 2d 57, 60 (D.D.C. 2011)

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Rehearing denied, October 14, 2021
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No. 1:20-cv-00119-MBH
APPENDIX C Board for Correction of Naval Records, No. 4661-18
APPENDIX D Appointment/Promotion Document, approved by U.S. Senate, 1974
Department of the Navy/Recruitment Command, dated, 15 Feb 1983
APPENDIX E JAG Corps, May, 1980 Telegram R1315800Z Qualified
APPENDIX F Member, St. Bar, Texas, since May 26, 1980 (10 yr. Good Standing
Cert., dated, January 25, 1990)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Lindsay v. United States, 295 F.3d (Fed. Cir. (2002)	1252, 1257
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STATUTES AND RULES

10 U.S.C., sect. 1201, 1202, 1205, et seq.

10 U.S.C., sect. 1374(4), before its repeal by the Nat'l Def. Auth. Act, 1995,
Pub. L. No. 103-337, 108 Stat 2663 (1994).

Bureau of Naval Personnel Manual, Art. 3860400.2.d.

Bureau of Naval Personnel Manual, Art. 1110

Navy Regulations, 1973

OTHER

42 U.S.C. sect. 12101 et seq. Americans with Disabilities Act

5 U.S.C., sect. 552 Freedom of Information Act (FOIA)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at No. 1:20-cv-00119-MBH _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 1, 2021.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: October 14, 2021, and a copy of the order denying rehearing appears at Appendix A.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

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

For cases from **state courts**: N/A

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 U.S.C., sect. 1983, Due Process Clauses, of the 5th and 14th Amendments

28 U.S.C., sect. 1491, (2018)

404 U.S. 519, 520-21, Haines v. Kerner

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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404 U.S. 519, 520-21; Haines v. Kerner

10 U.S.C. 1201, 1202, 1205, et seq

STATEMENT OF THE CASE

In the late-sixties, I returned from Vietnam and the Island of Okinawa, to Twenty-Palms, California, still attached to the 1st Medical Battalion, 1st Marine Division. Immediately, upon returning, I began to experience joint-pain, and skin problems, which later developed into squamous and basil cell cancer, but "treatable." My joint-pain was first diagnosed as "reiter's syndrome; later, by the rheumatologist at the Long Beach Naval Hospital, as rheumatoid arthritis; and, is now treated by a rheumatologist, as psoriatic arthritis. Still, I persevered with my naval-career, and evening education; and, in 1973, recommended by my CO, Capt(06) Chudzinski, for the Medical Service Corps. That October, 1973, I passed the Officer-Selection-Battery Examination; two months later, passed the "physical-examination;" one month, later, the Medical Service Corps "interview, and professional examination;" and, in May of 1974, selected by a Washington D.C., based "Recruitment Board;" and, issued Commissioning Documents, for Ensign, in the Medical Service Corps. My CO, and I, went through the ceremony-rehearsal, shortly before my right knee swelled-up, and I was admitted to the Long Beach Naval Hospital, in Long Beach, California.

My rheumatologist, Capt(0-6) Freeman, recommended that I be placed on the Navy's Temporary Disability List (TDRL). However, rather than placing me on the TDRL, at the grade of Ensign, MSC, in accordance with the United States Code, and, for which I worked and studied more than thirteen years for; my administrative officer, Mr. Wolff, accused me of "malingering," making accusations to the Executive Officer, (my CO was ill, at that time). Later, my Executive Officer stated, on the bottom of page, SAppx17 and the top of SAppx18, that he would have never taken the "adverse action," had Mr. Wolff, not have been accusing me of "malingering," for which I never received "Due Process," and my "nexus" under "Tolar vs US," page, -10- of DOJ's argument to the United States Appeals Court.

When President Trump referred my "case," to the Board for Correction of Naval Records (BCNR); both the BCNR and, subsequently, the DOJ, (page -2-) of their "U.S. Appeals Argument," maintain that I was never issued "Commissioning Documents." This "argument," is refuted by myself, and disproved by Mr. Brack's letter (Department of the Navy's Recruitment Command) to one of my attorneys, Mr. Klimaski, dated, February 15, 1983, and stating that the "Commissioning document" was destroyed.

REASONS FOR GRANTING THE PETITION

This Petition for Certiorari, should be granted, firstly, in "The Interest of Justice."

Secondly, to promote a "sense of recourse," within the armed services. The only avenue, often perceived to be open to a service man/woman is simply "a letter to one's congressional representative." These letters are often ignored, because the congressional staff always has what they consider, "more pressing matters" to deal with, on a daily and often, hectic schedule.

A positive outcome, in my case, will also promote a more "attention to detail," and a better "sense of justice," in the adherence to procedures; regulations; and, the laws of the United States, as they apply to the armed services. For example, my Long Beach naval dental command should not have felt "free to surreptitiously place adverse material into my service-jacket," after petitioner was transferred (admitted) to the Long Beach Naval Hospital, and no longer attached to the dental command; nor, should they have been capable of continuing to place adverse material into my service record, between the years, 1975-79, after I had been placed on the navy's temporarily, disabled retirement list (TDRL). After I spent a great deal of money on two Washington, D.C. attorneys, Mr. Mike Gaffney and Mr. James R. Klimaski, the Under Secretary of the Navy, Mr. Chapman Cox, noting that the Chief, of the Bureau of Medicine and Surgery, stated, "all of my medical-treatment at the Long Beach Naval Hospital was needed and appropriate;" recommended, "all of the illegally-placed material" be removed from my personnel-record. However, by then, the irreparable damage had been done. Although I have, in my possession, a telegram, stating that I was "highly qualified" for the JAG Corps; Commander King, who was, at the Recruitment Command, at that time, passed me over.

In conclusion, The Supreme Court of the United States, a few years ago, returned Muhammad Ali-Clay's years of hard work, study, and success-in-achieving his goals-in-life, (essentially, his "life,") back to him; granted, petitioner, is on the other, "side-of-the-coin," in that he always followed his President's (Commander-in-Chief's) orders. This sailor/marine (1st FMF Division, 1st Medical Batt.) went to Vietnam, to help combat the spread of communism, as many are poised to do now, in Europe. Petitioner, Lee Holland, is not seeking "monetary-enrichment," rather, he is simply attempting to recover his hard, fought "promotion," and the grade-advancements, that a highly, educated person, would have achieved in his/her last twelve years of "active-duty," had the United States Navy placed him, (the selected Ensign), on the Temporary Disabled Retired List, in compliance with the Bureau of Navy's Personnel and the United States Code. In petitioner's "humble opinion," that grade would have been Commander or Captain, (O-5, or O-6).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Lee Holland, pro se

Date: January 6, 2022