

No. _____

In the Supreme Court of the United States



DAREK J. KITLINSKI; LISA M. KITLINSKI,
Petitioners,

v.

UNITED STATES DEPARTMENT OF JUSTICE, DRUG
ENFORCEMENT ADMINISTRATION; MERRICK B. GARLAND,
ATTORNEY GENERAL,
Respondents.

Motion for Leave to Proceed as a Veteran and for Relief From Filing Fee

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Counsel of Record

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Darek Kitlinski and Lisa Kitlinski are individuals.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254(1).

REQUEST FOR RELIEF FROM FILING FEE

Petitioners Darek J. Kitlinski and Lisa M. Kitlinski, in connection with the Petition for Certiorari filed to the Supreme Court of the United States on November 1, 2021, and pursuant to S. Ct Rule 40, and the Uniformed Services Employment and Reemployment Rights Act (“USERRA”) 38 U.S.C. § 4323(h)(1), respectfully request this Court waive the \$300 filing fee and other fees and costs associated with this Petition.

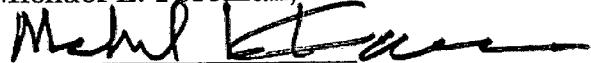
1. Darek J. Kitlinski is a veteran. Darek served eleven years in the Air Force Reserves and twenty years in the United States Coast Guard Reserves and has completed multiple periods of active-duty service and deployment. Darek’s periods of active-service and deployment include responding to the terrorist attacks on September 11, 2001, the Deepwater Horizon oil spill, and the Ebola virus disease response of 2014. *See* affidavit of Darek Kitlinski attached.
2. Under 13 CFR § 125.11, a veteran includes a member of the National Guard or a Reservist called to active duty.
3. Darek’s wife Lisa is not a veteran, but is a material witness in their USERRA complaints against the Respondent.

4. Darek and Lisa's lawsuit and present appeal are brought pursuant to the Uniformed Services Employment and Reemployment Rights Act ("USERRA") 38 U.S.C. § 4301, *et. seq.*, among other claims.
5. USERRA provides "[n]o fees or court costs may be charged or taxed against any person claiming rights under this chapter." 38 U.S.C. § 4323(h)(1).
6. Courts have explained that "[i]n light of the plain language of 38 U.S.C. § 4323(h)(1) and Congress's intent, in USERRA and elsewhere, to lessen the costs of litigation for veterans, . . . 38 U.S.C. § 4323(h)(1) permits a USERRA litigant to initiate suit without prepaying the filing fee." *Davis v. Advocate Health Ctr. Patient Care Express*, 532 F.3d. 681, 685 (7th Cir. 2008). *See also Bodine v. Cook's Pest Control Inc.*, 830 F.3d 1320, 1323 (11th Cir. 2016); *Tully v. Dep't of Just.*, 212 F. App'x 970, 970 (Fed. Cir. 2006); *Jordan v. Air Products and Chemicals, Inc.*, 124 F. App'x 537, 538 (9th Cir. 2005); *Hernandez v. Results Staffing, Inc.*, 677 F. App'x 902, 908 n. 7 (5th Cir. 2017).

Accordingly, Petitioners Darek J. Kitlinski and Lisa M. Kitlinski respectfully request this Court waive the \$300 filing fee requirement and other costs and fees associated with the Petition for Certiorari.

Dated: November 1, 2021

Michael L. Foreman,



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Counsel for Petitioner

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RESPONDENTS.

AFFIDAVIT

Comes now Darek Kitlinski, Petitioner in the above styled case and affirming under 28 U.S.C. § 1746 does state as follows:

1. I am a veteran. I served eleven years in the Air Force Reserves and twenty years in the United States Coast Guard Reserves. I have completed multiple periods of active-duty service and deployment including but not limited to responding to the terrorist attacks on September 11, 2001, the Deepwater Horizon oil spill, and the Ebola virus disease response of 2014.

2. I along with my wife Lisa have filed claims against Respondent alleging that my service and/or previous action under USERRA was a motivating factor in Respondent's decision to terminate our employment.
3. In those claims, Petitioner asserts rights guaranteed by USERRA.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.



S/
Darek Kithinski
Petitioner
10/27/21
Date