

No. 22-351

**In the
Supreme Court of the United States**

CHARLES SIMON,

Petitioner,

v.

UNITED STATES DEPARTMENT OF JUSTICE, ET AL.,

Respondents.

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

SUPPLEMENTAL BRIEF OF PETITIONER

CHARLES SIMON
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BOSTON, MASSACHUSETTS



SUPPLEMENTAL BRIEF OF PETITIONER

The Supplemental Brief under Rule 15 is advanced where the two-decade Administrative record of the Chief Operating Officer's final administrative Appeal Review under 28 C.F.R. Part 301 could not be found upon the filing of the Petition for Writ of Certiorari. Accordingly, the COO administrative Appeal record is Jermaine to this case, hence, significantly probative of specific facts.

Specifically, on the face of the Appeal Court's September 8th, 2022 ruling alleged in part, "Charles Simon challenging the amount of monthly compensation he was awarded in 1994 under the Inmate Accident Compensation Procedure 18 U.S.C. § 4126 Section 301.301."

Conversely, the Appeals Court assertion is contradicted by record of the Chief Operating Officer's fraud discriminatory final administrative Appeal Review pursuant 28 C.F.R. Part 301. More specifically, Judicial Notice the Chief Operating Officer administrative final appeal review is found under the Inmate Accident Compensation Procedure 18 U.S.C. § 4126 attending 28 C.F.R. § 301.313;

By contrast, the Appeal Procedure of the Chief Operating Officer's fraud discriminatory policy under 28 C.F.R. Part 301 mirror a fraud insidious scheme where the COO applies different terms and conditions imposing substandard compensation that frustrate the express will of Congress, thus conflict with the holding of the two controlling cases cited herein; *Granade v. United States*, 356 F.2d 837 (2nd Cir. 1966);

United States v. Demko, 385 U.S. 149 (1966); And in effect, effectively freeze[s] the entire IACP under 28 C.F.R. 301.314 et seq., benefits into discriminatory patterns that exist before the Act.



REASONS FOR GRANTING THE WRIT OF CERTIORARI

Petitioner turns to the Non Attorney/Chief Operating Officer's wholly distorted version of workers' Compensation legislation in the context of the Inmate Accident Compensation Procedure 18 U.S.C. § 4126 delineated in Section 28 C.F.R. 301.314 et seq., enacted by Congress; The substance of which states as follows: First, at Supp.App.5a, incorrectly claim Petitioner's award is "full and final settlement;" contrary to the patently false allegation, full and final settlement solely applies to lump sum awards under 28 C.F.R. § 301.314(1), for Body members found under 5 U.S.C. § 8107. Thus, 28 C.F.R. § 301.314(2) applies to Petitioner claim where body members not covered under Section 8107, awards will be paid on a monthly basis. Moreover, at Supp.App.2a the COO erroneously claim "5 U.S.C. § 8107 establishes the 66-2/3% compensation that was applied to your claim;"

By contrast, contrary to the patently false allegation, 5 U.S.C. § 8106 FECA reduces the award of compensation to 66-2/3%. Furthermore, nothing in the Federal Employee' Compensation statues allows reduction of compensation pursuant and additional 15% under permanent impairment. Lastly, at bottom page of Supp.App.2a, reveals "The FECA is only to be

used as a guide. You are not a “federal employee” for the purpose of the Act. Rather, your claim is subject to provision of 28 C.F.R. § 301 governing inmate employees of Federal Prison Industries.” Contrary to the COO distorted version of the Inmate Accident Compensation Procedure 18 U.S.C. § 4126 attending 28 C.F.R. § 301.313 reflect a fundamental unconstitutional misapprehension of The holdings in *United States v. Demko*, *supra* and *Granade v. United States*, *supra*, by virtue of the COO disregard of the holding the Courts’ version of the Inmate Accident Compensation Procedure 18 U.S.C. § 4126 delineated in Section 28 C.F.R. 301.304 et seq., enacted by Congress; The two controlling cases cited herein explicitly expound the equity of the LACP and how it operates in practice. Accordingly, the Declaratory Judgement and Preliminary Injunction should issue barring discriminatory practice impose by COO policy under 28 C.F.R. Part 301.

In Conclusion, for all the factual and legal reasons explained in the Supplemental Brief under Rule 15, the Supreme Court of United States should grant the relief requested.

Respectfully submitted,

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**UNICOR OFFER OF WORKERS
COMPENSATION AWARD
(JANUARY 26, 1995)**

U.S. DEPARTMENT OF JUSTICE
UNICOR Federal Prison Industries, Inc.
Washington, DC 20534

VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED

Mr. Charles Simon
3410 DeRiemer Avenue, #7I
Bronx, New York 10475

Re: Inmate Accident Compensation Claim,
Final Appeal
Charles Simon, Reg. No. 09820-050

Dear Mr. Simon:

This letter is in response to your appeal to the Chief Operating Officer of the initial determination of your award of Inmate Accident Compensation pursuant to the provisions of 28 C.F.R. Part 301. You alleged that you sustained a work-related injury to your back on October 13, 1987, while incarcerated at the Federal Correctional Institution, Oxford, Wisconsin. The initial determination of your claim was that you sustained a 15% permanent aggravation to your pre-existing condition. Therefore, your request for Inmate Accident Compensation was granted.

Your appeal, dated November 28, 1994, requests reconsideration of the Inmate Accident Compensation Committee's (IAC Committee) decision to affirm the initial determination that you are entitled to a

Supp.App.2a

monthly award of \$73.57 per month, for your 15% permanent impairment. I have conducted a further review of your claim and I find that the amount of the award was properly calculated and thus should be affirmed. Therefore, your request for an amendment to the initial determination of your award is denied.

As the IAC Committee explained in their letter, there is no evidence to justify an amendment to the initial determination in your case. Specifically, the Committee concluded that the monthly award amount was appropriately determined. I have thoroughly reviewed the applicable regulations regarding the calculation of compensation awards, including those sections referenced in your appeal, and I conclude that the monthly award granted was properly determined.

As you noted in your appeal, 28 C.F.R. § 301.314(b) requires that in determining the amount of Inmate Accident Compensation to be paid, the provisions of the Federal Employees' Compensation Act FECA) (5 U.S.C. 8101, et. seq.) "shall be followed when practicable." That section was followed with regard to your award and in fact, 5 U.S.C. 8107 establishes the 66-2/3% compensation rate that was applied to your claim. With regard to Inmate Accident Compensation, however, the FECA is only to be used as a guide. You are not a "federal employee" for purposes of that Act. Rather, your claim is subject to the provisions of 28 C.F.R. § 301 governing inmate-employees of Federal Prison Industries.

Under 23 C.F.R. §§ 301.314(a) & (c), all awards of Inmate Accident Compensation are to be based upon "the degree of physical impairment" and upon "the minimum wage." Part 301 does not provide for cost of living expenses. Again, these factors were evaluated

Supp.App.3a

in the determination of your award. As such, the minimum wage was used to calculate your monthly earnings. Then that figure was multiplied by FECA's 66-2/3% compensation rate. Finally, that figure was appropriately reduced consistent with the degree of your impairment—15%. Your award represents compensation for 15% permanent physical impairment. You are not entitled to compensation for 100% impairment because based upon both the medical documentation that you provided and upon our own medical files, that is not the degree of your impairment. Therefore, your request for the full 66-2/3% under FECA is improper.

For the reasons cited above, it is my final decision as Chief Operating Officer to uphold the determination of the IAC Committee denying your request for an amendment to the initial determination of your claim. I find that the amount of the award granted was appropriately determined pursuant to statute and regulation. This appeal constitutes your final appeal under the Inmate Accident Compensation Program, 28 C.F.R. Part 301.

If you now wish to accept the award, please sign the enclosed acknowledgment and return it to the Inmate Accident Compensation Office within 30 days of the date of this notice. Upon receipt of the acknowledgment and acceptance, payment by the U.S. Treasury will be authorized. Enclosed for your reference is a copy of the initial determination letter in your case which explains the basis for your award and explains how that figure was determined. Acceptance of this award constitutes full and final settlement of your claim for Inmate Accident compensation.

Supp.App.4a

Sincerely,

/s/ Steve Schwalb
Chief Operating Officer

cc: Karolyn Robinson
File

Supp.App.5a

**CHARLES SIMON AWARD
ACKNOWLEDGMENT AND ACCEPTANCE
(MARCH 1, 1995)**

U.S. DEPARTMENT OF JUSTICE
UNICOR Federal Prison Industries, Inc.
Inmate Accident Compensation
Washington, DC 20534

**AWARD ACKNOWLEDGEMENT
AND ACCEPTANCE**

I, Charles Simon, accept the award amount recorded below as full and final settlement of my claim for Inmate Accident Compensation pursuant to the provisions of 28 C.F.R. Part 301.

Impairment Rating—15%

Impaired Body Part—Back

Full and Final Monthly Compensation Amount
— \$73.67

/s/ Charles Simon

Date: 3/1/95

[Notice full & final settlement solely applies to lump sum awards under 28 C.F.R. § 301.314(1), Body members fond under 5 U.S.C. Section 8107 (FECA)]