

IN THE SUPREME COURT OF THE UNITED STATES

No. 22-660

TREVOR MURRAY, PETITIONER

v.

UBS SECURITIES, LLC, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION OF THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER
FOR LEAVE TO PARTICIPATE IN AND FOR DIVIDED ORAL ARGUMENT

Pursuant to Rules 21, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae supporting petitioner, respectfully moves that the United States be granted leave to participate in the oral argument in this case, and that the time be allotted as follows: 20 minutes for petitioner, 10 minutes for the United States, and 30 minutes for respondents. Petitioner consents to this motion.

The question presented in this case is whether an employee challenging his termination after reporting potential securities-

law violations must demonstrate that his employer acted with “retaliatory intent” to establish a claim under the whistleblower provision in 18 U.S.C. 1514A, which Congress enacted in the Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, § 806(a), 116 Stat. 802. The United States has a significant interest in that question.

The Department of Labor (DOL) enforces Section 1514A through agency adjudication, 18 U.S.C. 1514A(b), and DOL’s Administrative Review Board has long interpreted Section 1514A to require no “showing of retaliatory intent,” Menendez v. Halliburton, Inc., Nos. 09-2, 09-3, 2011 WL 4915750, at *20 & n.173 (ARB Sept. 13, 2011). In addition, the Securities and Exchange Commission (SEC) has an interest in the protection of persons who report potential violations of the federal securities laws and regulations that the SEC enforces, including the regulatory provision at issue in this case. The United States accordingly participated as amicus curiae in the oral argument in this Court’s only prior case concerning Section 1514A. Lawson v. FMR LLC, 571 U.S. 429 (2014); see also, e.g., Digital Realty Trust, Inc. v. Somers, 138 S. Ct. 767, 773, 778 (2018) (government participation in case involving different securities-law whistleblower provision). The United States’ participation in oral argument is therefore likely to be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

AUGUST 2023