

22-0074

No. \_\_\_\_\_

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

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FILED

JAN 20 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ALLEN PATTERSON,

*Petitioner,*

vs.

CITY OF NEW YORK, NEW YORK CITY  
CIVIL SERVICE COMMISSION, NEW YORK CITY  
ADMINISTRATION OF CHILDREN SERVICES,  
NEW YORK CITY DEPARTMENT OF CITYWIDE  
ADMINISTRATIVE SERVICES, NEW YORK CITY  
DEPARTMENT OF FINANCE, NEW YORK CITY  
TAXI AND LIMOUSINE COMMISSION,

*Respondents.*

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**On Petition For Writ Of Certiorari  
To The Appellate Division, Supreme Court  
Of New York, First Judicial Department**

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**PETITION FOR WRIT OF CERTIORARI**

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ALLEN PATTERSON, Pro se  
216 Milford Street  
Brooklyn, NY 11208  
Telephone: 347-693-0974  
Email: allnpttrsn@aol.com

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## **QUESTIONS PRESENTED FOR REVIEW**

1. Is it legal for a government agency in the United States of America to convert an already accepted immediate voluntary resignation into a termination for misconduct 34 days later, when prior they declared that the employee ended its employer to employee relationship and no longer works for the agency?
2. Is it legal for a government agency to lie that an employee is on a leave of absence to solely obtain and adopt a penalty recommendation from the Administrative Law Judge, when prior, the agency acknowledged, confirmed, and showed the employee's accepted, agency timestamped immediate resignation to the ALJ and stated that a penalty recommendation is now officially moot?
3. Does a quasi-judicial tribunal, such as a Civil Service Commission, have jurisdiction regarding a dispute of a resignation?
4. If the NY high court precedent was never changed or challenged and the lower courts didn't adhere to the binding ruling, should it be mandatory for the NY high court to hear the case if the lower court didn't follow precedent?
5. Did Patterson's accepted immediate resignation bring finality to his employment with the New York City Administration for Children's Service?
6. NY statute 4 NYCRR 5.3(b) states that only the appointing authority can disregard a resignation while misconduct charges are pending if the employee submits a resignation prior to prosecution

**QUESTIONS PRESENTED FOR REVIEW**  
– Continued

of those misconduct charges; if Patterson's accepted resignation occurred after prosecution for misconduct did the NY lower courts err in their respective decision that Patterson resigned while charges were pending?

7. When NY State statutes are not equally enforced, several compelling evidence in the record and common law cases are overlooked, and there are multiple clear errors of law in the NY lower court's decision, would it be in the interest of justice for the state's court of last resort to accept the case or in the alternative, send it back to the lower court to re-argue and address the multiple errors and correct the matter to show impartiality after a party showed overwhelming irrefutable errors with the decision?

## LIST OF PARTIES

1. City of New York
2. New York City Administration for Children's Service
3. New York City Civil Service Commission
4. New York City Department of Citywide Administrative Services
5. New York City Taxi and Limousine Commission
6. New York City Department of Finance/NYC Sheriff

## RELATED CASES

*Admin. for Children's Service v. Patterson*, OATH Index No. 0904/16 **New York City Office of Administrative Trials and Hearings. Decision entered September 2, 2016.**

Allen Patterson against Administration for Children's Services, CSC index No.: 2016-0856, **New York Civil Service Commission. Decision entered December 16, 2016.**

*Patterson v. City of New York*, index No. 100451/17, **New York State Supreme Court. Decision entered on August 23, 2018.**

*Patterson v. City of New York*, Appeal No. 9647, index No. 100451/17, **New York Supreme Court, Appellate Division, First Department. Decision entered June 18, 2019 and filed July 5, 2019.**

*Patterson v. City of New York*, M-3631, index No. 100451/17, **New York Supreme Court, Appellate**

**RELATED CASES – Continued**

**Division, First Department. Decision entered October 22, 2019.**

*Patterson v. City of New York*, index No. 2019-1183, **New York Court of Appeals. Decision entered June 11, 2020.**

*Patterson v. City of New York*, index No. 2020-509, **New York Court of Appeals. Decision entered October 22, 2020.**

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## **PETITION FOR WRIT OF CERTIORARI**

Allen Patterson, a former New York City government employee, who is representing himself Pro se, respectfully petitions this court for a writ of certiorari to review the judgment of the New York Appellate Division, First Department and the NY Court of Appeals or in the alternative refer it back to the NY Court of Appeals.

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## **OPINIONS**

The decision by the NY Court of Appeals to deny Petitioner Allen Patterson's appeal is reported as *Allen Patterson v. City of New York et al.*, Mo. No. 2020-509. The NY Court of Appeals denied Mr. Patterson's petition for a hearing on October 22, 2020. That order and Chief Judge DiFiore dissent is attached as appendix.

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## **BASIS FOR JURISDICTION**

As per Rule 13 of the United States Supreme Court, Court Review of Certiorari, Time for Petitioning: This court has jurisdiction to review judgment of this civil case entered by a state court of last resort within 90 days after entry and is considered timely.

The first address of jurisdiction is the dated NY Court of Appeals decision entered on October 22, 2020, (see appendix) thus this filing on January 20, 2021 is timely.

The second address of jurisdiction is when a petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order denying discretionary review.

This Court has jurisdiction under 28 U.S.C. § 1257(a).

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## **CONSTITUTIONAL PROVISIONS**

United States Constitution, Amendment XIV:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Under the 14th Amendment Patterson is not enslaved and is guaranteed the equal protection of the laws. Here, Patterson rights were violated and his equal protection of the laws was denied when his accepted immediate resignation was unlawfully and in bad faith converted to a termination 34 days later. Patterson is an at will employee of NYC ACS who severed the employer to employee relationship. Common law

and state law were unequivocally not applied to Patterson.

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## **STATEMENT OF THE CASE**

### **1. Background**

Petitioner Allen Patterson (from hereon “Patterson”) resigned effective immediately on August 19, 2016 from NYC Administration for Children’s Service (from hereon “ACS”) prior to the September 22, 2016 termination of his employment. ACS acceptance of Patterson’s immediate resignation on August 19, 2016 is irrevocable as per statute 4 NYCRR 5.3(c), therefore, ACS’s termination, NYC Civil Service Commission’s (from hereon “CSC”) affirmation thereof and NYC Department of Citywide Administrative Service’s (from hereon “DCAS”), NYC Taxi and Limousine Commission (from hereon “TLC”), NYC Department of Finance (from hereon “DOF”) reliance thereon were in excess of the agencies’ jurisdictions. Statute 4 NYCRR 5.3(c) states, “A resignation may not be withdrawn, canceled or amended after it is delivered to the appointing authority.”

### **2. The NY unified courts erred**

The NY Court of Appeals erred on October 22, 2020 by denying to hear Patterson’s case – a case of statewide importance, that conflicts with its own current ruling involving an accepted immediate resignation, that was illegally and in bad faith converted to a

termination 34 days later; a ruling by NY lower courts that also contradicts the NY Court of Appeals ruling of an accepted resignation. See *Doering v. Hinrichs*, 289 NY 29 (NY Court of Appeals 1942); see also *Harrington v. City of NY*, index No. 106075-2010 (NY Sup. Ct. 2013).

The Supreme Court erred in dismissing this action in holding that ACS, CSC and DCAS were lawfully entitled to disregard Patterson's resignation and record his termination as a dismissal pursuant to 4 NYCRR 5.3(b). Statute 4 NYCRR 5.3(b) states only the appointing authority is allowed to disregard the resignation and under what sequence of events to make it permissible. ACS, the appointing authority, never disregarded nor claimed anywhere in the record to have disregarded Patterson's resignation. Only CSC, who is not Patterson's appointing authority, cites statute 4 NYCRR 5.3(b) and disregarded the resignation, which is not permitted under 4 NYCRR 5.3(b) (see App. 78).

The proper analysis for the lower courts was whether ACS in bad faith lied that Patterson was on a leave of absence to obtain and adopt a penalty recommendation when he was already no longer an employee? Also, if ACS in bad faith and excess of its jurisdiction adopted the penalty recommendation to terminate Patterson despite under their own admission of acknowledging and declaring that a penalty recommendation is moot because Patterson had already resigned on August 19, 2016 and is no longer an employee of ACS.

There is absolutely no scintilla of evidence that ACS, the appointing authority, disregarded Patterson's resignation, nor is there record evidence that they claim to have done so. Only CSC, who is not the statute required appointing authority and is not permitted to disregard Patterson's resignation under 4 NYCRR 5.3(b), improperly, in bad faith and in excess of its jurisdiction made the election to disregard Patterson's resignation. The NY Supreme Court and Appellate Division, First Department erred in accepting Respondent's argument that this disregard for the resignation was permissible under 4 NYCRR 5.3(b).

### **3. Statute 4 NYCRR 5.3(b) doesn't apply to Patterson**

The NY Supreme Court and Appellate Court's reliance on 4 NYCRR 5.3(b) is reversible error as nowhere in the record does the appointing authority, ACS, explicitly state to have ever exercised it because they couldn't since Patterson resigned after prosecution of charges and not "while charges were pending" as erroneously ruled by the Appellate Division.

Contrary to the Respondents' argument and the Court's ruling that ACS prosecuted the charges to show that they had elected to disregard the resignation, and then using that assumption to justify affirming Patterson's termination from ACS, when factually, Patterson's accepted, effective immediately, resignation was tendered after the charges were

prosecuted against him; precisely on August 19, 2016, 4 months after the April 8, 2016 trial conclusion (see App. 88, App. 86, and App. 93). Therefore, it is indisputable that ACS did not prosecute the charges to show they disregarded the resignation as the Appellate Court ruled since Patterson did not submit his resignation, “when charges have been or are about to be filed,” as 4 NYCRR 5.3(b) reads,

Patterson’s resignation was submitted and accepted by NYC ACS after prosecution of misconduct charges and before ALJ made a ruling and before commissioner could issue a decision making penalty moot (see App. 95).

Patterson’s accepted, effective immediately August 19, 2016 ACS resignation letter has a submission date of August 19, 2016 making it irrevocable. The resignation was also stamped by ACS with a timestamp for proof of acceptance: “ACS Personnel Service, August 19, 2016.” Under its own admission, ACS, in its August 23, 2016 email, explicitly states, “Patterson tendered his resignation from the agency on August 19, 2016 and that he has obtained employment with the Taxi and Limousine Commission. As result, penalty recommendation is moot.” (See App. 86) See also *Admin. for Children’s Services v. Silva*, OATH Index No. 1275/15 (June 26, 2015).

ACS corroborating email of the date Patterson submitted his resignation further disproves Respondent’s sole argument reflected in the Appellate Court’s holding, that: “ACS

prosecuted the charges to show they disregarded Patterson's resignation." The admission by ACS, who is Patterson's appointing authority, unequivocally proves that Patterson was no longer an employee of ACS as of August 19, 2016 and ACS never disregarded Patterson's resignation. Furthermore, ACS exceeded its jurisdiction and ignored statute 4 NYCRR 5.3(c) by terminating Patterson on September 22, 2016 despite knowing Patterson was never on a leave of absence and had already immediately voluntarily resigned from the agency 34 days prior to the falsely recorded termination. Moreover, CSC, in bad faith and in excess of its jurisdiction elected to disregard Patterson's already accepted immediate resignation. Thus, the decisions of the lower Courts must be reversed.

Contrary to Respondents argument, ACS explicitly state Patterson was on a leave of absence that enabled them to adopt the penalty recommendation of termination, and stated it along with all of its steps to adopt the penalty recommendation in chronological order in their September 22, 2016 termination letter. Nowhere in the record of evidence has Respondent provided a signed and approved and dated leave of absence occurring on August 21, 2016, which was a Sunday and nobody from personnel is at work. Nowhere in the termination letter does ACS say 4 NYCRR 5.3(b) or make any reference to its reliance that Patterson's August 19, 2016 resignation was disregarded. CSC is the sole agency to cite and disregard Patterson's resignation.

Respondent in its reply to the NY Supreme Court (see App. 99) conceded that CSC, not ACS, elected 4 NYCRR 5.3(b) and that, “an agency may elect to disregard a resignation.” Statute 4 NYCRR 5.3(b) explicitly states the appointing authority may disregard a resignation; not that, “an agency may disregard a resignation.” CSC nor DCAS is Patterson’s appointing authority; the misinterpretation and erroneous ruling of this statute by the Supreme Court of NY is a legal issue that should have been addressed by the NY Court of Appeals. This case, if left unresolved, will have a chilling effect on other New York State Civil Service employees who have their immediate voluntary resignations accepted and, should this error not be corrected, will be subjected to the same fate of later having their already accepted immediate resignation unlawfully disregarded and converted to a termination by their appointing authority, CSC or the new agency that hired them due to this precedent violating their employee rights, 14th Amendment, and settled common law.

#### **4. ACS confirmed that Patterson resigned**

ACS allowed Patterson to resign effective immediately from the agency without resistance as shown by the record evidence in the form of the ACS stamped resignation letter and ACS email acknowledging and confirming that Patterson resigned and is no longer an employee and any penalty is now moot.

ACS under its own admission concedes and corroborates in its email that Patterson submitted his accepted effective immediately resignation to ACS on August 19, 2016. As statute 4 NYCRR 5.3(b) makes clear, Patterson's appointing authority, here ACS, is the only agency that could have disregarded the resignation only if Patterson had endeavored to resign while misconduct charges were pending or had been filed and have not yet been prosecuted. Respondent never provided proof nor submitted evidence of an attempted resignation by Patterson occurring while charges were pending to the court record because it never occurred and doesn't exist. That alone ultimately debunks NY lower court's ruling of statute 4 NYCRR 5.3(b).

"When Petitioner's resignation was accepted by Respondent, the employment relationship that existed between Petitioner and Respondent was terminated." See *Girard v. Board of Education*, 168 AD.2d 183 (NY App. Div. 1991). Similarly, when Patterson's effective immediately resignation was accepted by ACS, the employment relationship that existed between Patterson and ACS was terminated. In its email (see App. 86) ACS then cites cases where the respective agencies (FDNY and HRA) requested a decision on the merits for former employees, like Patterson, who resigned before a penalty recommendation that NYC Office of Administrative Trials and Hearings (from hereon "OATH") can no longer recommend and ACS cannot adopt. Fatal to Respondent's argument is when ACS

stated in their own email with keywords: "Respondent tendered his resignation from the agency on August 19, 2016; as result, a penalty recommendation may be moot; Respondent's resignation is annexed." (See App. 86).

As per New York Civil Service Law 4 NYCRR 5.3(a): every resignation shall be in writing; 4 NYCRR 5.3(c): A resignation may not be withdrawn, cancelled, or amended after it's delivered to the appointing authority. Therefore, Patterson resigned, and it was irrevocable, and he is not terminated.

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#### **REASONS FOR GRANTING THE WRIT**

- 1. To avoid erroneous violation of the Fourteenth Amendment when free at will employees' immediate resignations are accepted by the employer and penalty is moot**

The NY Supreme Court and the Appellate Court, first department erred by violating the 14th Amendment (equal protection of law) when they ignored the fact that Patterson already have an accepted immediate resignation that brings finality to his employment and can't be reversed under statute 4 NYCRR 5.3(c); overlooking settled case law, irrefutable evidence, misconstruing and misapplying statute 4 NYCRR 5.3(b) and adopting Respondent's argument that "NYC Administration for Children's Service prosecuted the charges to show they disregard the resignation" when it was the NYC Civil Service Commission who disregarded Patterson's resignation in excess of its jurisdiction

despite both Patterson and ACS acknowledging and confirming and showing proof that Patterson resigned on August 19, 2016 (4 months after the charges were prosecuted against him) (see App. 86). The NYC Office of Administrative Trials and Hearing report from the administrative law judge, which states the date of prosecution for misconduct charges, debunks the lower court's ruling that Patterson resigned while misconduct charges were pending (see App. 93).

The erroneous decision by the NY state lower courts ultimately hindered the reversal of the false ACS termination which would have reversed the subsequent termination for Patterson's employment with both the NYC TLC and NYC DOF.

The NY Supreme Court and Appellate Court, 1st department misapplied statute 4 NYCRR 5.3(b), primarily in when and who can exercise the right to disregard a resignation especially since there is nothing submitted in the record where ACS explicitly states they disregarded Patterson's August 19, 2016 immediate resignation (see App. 78). Patterson was allowed to resign immediately by ACS. The NY Supreme Court and Appellate Court erred by not holding that Patterson's accepted agency timestamped resignation is irrevocable as per statute 4 NYCRR 5.3(c) since it was not for a future date and there was an immediate break in his service (See App. 88).

Former President of the United States, Donald John Trump, left office before a decision for punishment was rendered, therefore any punishment is moot. As U.S. Senator Mitch McConnell stated: "We are not free to work backward from whether the accused party

might personally deserve some kind of punishment. “Justice Joseph Story was our nation’s first great constitutional scholar. As he explained nearly 200 years ago, the process of impeachment and conviction is a narrow tool for a narrow purpose. That is, to protect the country from government officers. “If President Trump were still in office, I would have carefully considered whether the House managers proved their specific charge. “But in this case, that question is moot.

Similarly, when Allen Patterson voluntarily resigned from ACS before any penalty decision was rendered by the administrative law judge, anything moving forward was moot, which was declared by ACS in their email to Patterson’s attorney and the administrative law judge (see App. 86).

### **Failure to State a Cause of Action**

On a motion pursuant to CPLR 3211(a)(7) to dismiss a complaint for failure to state a cause of action, “this court must afford the complaint a liberal construction, accept as true the allegations contained therein, accord the plaintiff the benefit of every favorable inference.” *Porco v. Lifetime Entertainment Servs., LLC*, 2017 NY Slip Op 0142 (3d Dept. 2017). Furthermore, Pursuant to CPLR § 3025(b), It is well settled that “[m]otions for leave to amend pleadings should be freely granted (CPLR 3025(b)) absent prejudice or surprise resulting therefrom unless the proposed Amendment is palpably insufficient or patently devoid of merit. See *MBIA Ins. Co. v. Greystone & Co.*, 74 AD.3d 499, 499 (1st Dept. 2010). Patterson was

entitled to amend the petition under the above standard and did so where he stated cause of action(s).

### **Excess of Jurisdiction by CSC**

The NYC CSC acted in bad faith and exceeded its authority as a quasi-judicial when ruling on this case once they were aware and had possession of Patterson's accepted voluntary resignation from the appointing authority, ACS. Furthermore, CSC, who is not Patterson's appointing authority, exceeded its scope of review when it unlawfully made the decision to disregard Patterson's resignation to affirm the ACS termination. Moreover, Patterson was instructed to appeal his decision to the CSC (see App. 83). See *Matter of Chacko v. New York City Dept. of Citywide Admin. Services*, 2008 NY Slip Op 52578 (U) [22 Misc. 3d 1102(A)] (the determination letter instructed Petitioner to make any appeals in writing to the Civil Service Commission) (R76-82) (NY County 2008).

CSC's election to disregard Patterson's immediate resignation was in bad faith and outside of its jurisdiction similar to the ACS bad faith lie that Patterson was on leave, and thus falls into the recognized exception to the general election-of-remedies rule. See *Matter of De Guzman v. State of New York Civ. Serv. Commn.*, 2015 NY Slip Op 04712 (3d 2015).

"It is clear beyond peradventure that a person has the right to resign his position . . . this right to resign a public office may even be exercised pending removal proceedings." *Vito v. DiCarlo*, 52 Misc. 2d 205 (1964).

See also *Doering v. Hinrichs*, 289 NY 29 (NY Court of Appeals 1942) (A resignation constitutes a complete break in the service and the absolute termination of relations); *Girard v. Board of Education*, 168 AD.2d 183 (NY App. Div. 1991) (The courts have recognized that a resignation submitted in response to being informed of dismissal is voluntary); see also *Harrington v. City of NY*, index No. 106075-2010 (NY Sup. Ct. 2013) (Thereafter, the person resigning has no rights or duties); *Arias v. City of NY*, index No. 101898/2019 (NY Sup. Ct. 2020).

### **ACS in bad faith exceeded its authority**

The ACS termination letter makes no reference to its reliance on statute 4 NYCRR 5.3(b) to terminate Patterson, ACS only states a false leave of absence (see App. 84). For example, in *Murray v. Town of North Castle*, Defendant Town responded with an email from Joan Goldberg, the Town Administrator, stating, “Please be advised the Town of North Castle is about to file disciplinary charges against this individual and the town board will determine whether to disregard his resignation for the purpose of retirement. See 2018 NY Slip Op 28317; see also *Devito v. DOE* 2012 NY Slip Op 32073 (NY Sup. Ct. 2012) (“The day before the effective date on which Petitioner’s letter said the resignation would become effective, the superintendent mailed Petitioner a stating that the superintendent would be considering whether or not Petitioner would be terminated.”) In the instant matter, ACS never notified Patterson in such a manner and

couldn't because Patterson's accepted voluntary resignation was effective immediately, and it occurred after misconduct charges were prosecuted against him and not before as required by statute 4 NYCRR 5.3(b). Therefore, Patterson never met the criteria for ACS to elect to disregard his resignation as per statute 4 NYCRR 5.3(b) and is why ACS never mentioned or referenced its reliance when they in excess of their jurisdiction, falsely terminated Patterson by claiming he was on leave; ACS solely claims in the termination letter that Patterson was on a leave of absence that enabled them to obtain and adopt the administrative law judge recommendation. Patterson withdrew the conditional leave, which is why it is not filled out nor authorized by ACS, and instead chose to voluntarily resign immediately. (See App. 89).

The record evidence does not support a finding that ACS, the appointing authority, disregarded Patterson's termination. Thus, the Supreme Court of NY and NY Appellate Court, First Department erred in their decisions. The NY Court of Appeals erred by not accepting this case despite it being of statewide importance, where there were clear errors of law made by the lower courts, conflicting rulings between 2 NY appellate divisions and contradicted settled law from NY Court of Appeals. See *Doering v. Hinrichs*, 289 N.Y. 29 (NY 1942) (see App. 97). Crucial evidence was overlooked and law misapprehended; 22 NYCRR 500.24(c) and 22 NYCRR 500.22(b)(4) of the New York Court of Appeals rules of practice.

**TLC bad faith termination**

The NYC Taxi and Limousine Commission (from hereon “TLC”) hired Patterson from civil service exam # 5046 as a Taxi and Limousine inspector on August 22, 2016 (See App. 91). In bad faith, Patterson was later terminated on October 12, 2016 (See App. 81) as the direct result of the false, bad faith, and in excess of jurisdiction September 22, 2016 termination by ACS.

Here, TLC’s decision to terminate Patterson is arbitrary and capricious and bad faith because it is unrelated to his job performance and Patterson was never terminated from ACS.

**DOF/Sheriff Office bad faith termination**

The NYC Department of Finance (from hereon “DOF”) hired Patterson from civil service exam # 3021 as a probationary deputy sheriff and trained him. Patterson’s appointment followed an investigation into his prior purported terminations, which Patterson fully disclosed to his employer. During Patterson’s tenure at the academy, no disciplinary action was ever taken against him. Patterson passed all of the requirements to complete his academy training and was scheduled to graduate on or about October 16, 2017. On October 11, 2017, Patterson received a letter informing him that his status as a probationary employee was terminated, effective immediately (see App. 79).

Patterson’s termination from the DOF was arbitrary and capricious and in bad faith as it was unrelated to his job performance. Patterson’s termination

from DOF directly arises from the false ACS termination and CSC's determination to uphold the false ACS termination, which continues the domino effect of Patterson being terminated after being employed by NYC Taxi and Limousine Commission and now NYC Department of Finance.

An agency's action is "arbitrary" if it is "without sound basis in reason and is generally taken without regard to the facts." *Pell v. Board of Education*, 34 N.Y.2d 222, 231 (1974). An employee's dismissal from probationary employment is arbitrary and capricious if it is unrelated to work performance. *Ramos v. Department of Mental Hygiene*, 311 N.Y.S.2d 538 (1st Dept. 1970). In Ramos, the Court held that "in the case of [a] petitioner [where] a substantial issue is raised that the termination of her services was not the result of the failure to perform her duties satisfactorily . . . a hearing is recommended as to the reasonableness of the determination." Id at 539. Termination of a satisfactory employee gives rise to an inference that the termination was arbitrary and capricious and in bad faith. See also *Matter of Castro v. Schriro*, 29 N.Y.3d 1005 (2016).

Although probationary employees may be terminated for almost any reason or for no reason at all, employees nevertheless have the right to challenge the termination when it appears to be based in bad faith or for an improper or impermissible reason. See *Swin-ton v. Safir*, 93 N.Y.2d 758, 763 (1999); see also *Matter of Castro v. Schriro*, 140 AD.3d 644 (2016).

Here, the DOF's decision to terminate Patterson is arbitrary and capricious because it is unrelated to his

job performance and Patterson was never terminated from ACS. During Patterson's time at the sheriff's academy, he was a model employee. He passed all requirements necessary to graduate from the training program and was not subject to any disciplinary charges. Thus, the DOF's decision to terminate an otherwise satisfactory probationary employee three days before he is scheduled to graduate from the program is without sound basis in reason. There is no basis for Petitioner's termination, making the decision arbitrary and capricious and in bad faith.

The proper analysis for the United States Supreme Court to undertake is whether Patterson's constitutional right under the Fourteenth Amendment as an at will employee, who is free and have equal protection under the law, was violated as a result of ACS exceeding its jurisdiction and acting unlawfully by falsely claiming to the administrative law judge that Patterson was on a leave of absence to justify obtaining and adopting a penalty recommendation of termination despite previously acknowledging and confirming to the administrative law judge that Patterson is no longer an employee and any penalty recommendation for termination is moot. Examining whether the lower courts overlooked common law and statute 4 NYCRR 5.3(c). Lastly, whether the NYC Civil Service Commission exceeded its jurisdiction, acted unlawfully, and in bad faith when they cited and disregarded Patterson's resignation when they had no jurisdiction to do so.

As result, Writ of Certiorari is necessary and proper for the United States Supreme Court to make

clear that common law and the Fourteenth Amendment under the United States of America constitution is equally applied to each and every black employee of NY and not arbitrarily applied where it becomes discrimination for those who are black; that the NY Unified Court System follow its binding precedent regarding accepted resignations; that black government employees rights are not violated or taken advantage of by local government, and that citizens are reassured checks and balances and judicial oversight are in place to prevent local and state government in NY from practicing lawlessness and creating a bad precedent that will have a chilling effect on other black civil service employees whose accepted resignation are unlawfully converted to a termination at personal whim.

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## CONCLUSION

For the foregoing reasons, Mr. Patterson respectfully request and prays that this Writ of Certiorari is accepted, and that the United States Supreme Court review the decision of the NY Appellate Division, First Dept. and NY Court of Appeals or in the alternative refer it back to the NY Appellate Division, First Dept. or the NY Court of Appeals for oral arguments.

Respectfully submitted,  
ALLEN PATTERSON, Pro se  
216 Milford Street  
Brooklyn, NY 11208  
Telephone: 347-693-0974  
Email: allnpttrsn@aol.com

**RELIEF REQUESTED**

Based on the indisputable facts, Patterson is entitled to the following relief:

Petitioner Allen Patterson requests a reversal of the Decision, Order and Judgment of the Supreme Court. Based on Appellant's oral arguments, brief and submitted evidence, Appellant is entitled to the following relief:

- a. An order adjudging and declaring that Respondents NYC Administration of Children's Services and its Commissioner, Gladys Carrion and its Counselor, Elvin V. Williams arbitrarily and capriciously, untruthfully, and in bad faith, intentionally lied that Allen Patterson was on a leave of absence despite acknowledging and confirming Allen Patterson resigned and was no longer an employee of NYC Administration for Children's Services since August 19, 2016;
- b. An order adjudging and declaring that Respondents NYC Administration of Children's Services and its Commissioner, Gladys Carrion, acted arbitrarily and capriciously, in bad faith, and in excess of its jurisdiction when they illegally claimed and recorded Allen Patterson's employment as a termination;
- c. An order adjudging and declaring that Respondents NYC Civil Service Commission and its Commissioner, Nancy G. Chaffetz, acted arbitrarily and capriciously, in bad faith, and in excess of its jurisdiction when they illegally elected to disregard Allen Patterson's already accepted voluntary resignation from

his appointing authority via 4 NYCRR 5.3(b) to circumvent reversing the illegally recorded termination by NYC Administration for Children's Services;

d. An order adjudging and declaring that CSC Chairman Nancy G. Chaffetz was bias in her decision and demonstrated gross dereliction of duty by not being impartial;

e. An order adjudging and declaring that Respondents NYC Department of Citywide Administrative Services and its Assistant Commissioner, Dawn Pinnock and NYC Taxi and Limousine Commission and its Commissioner Meera Joshi acted arbitrarily and capriciously, in bad faith, and in excess of its jurisdiction when they wrongfully terminated Allen Patterson's employment as TLC Police;

f. An order adjudging and declaring that Respondents NYC Department of Finance and its Commissioner, Jacques Jiha; Assistant Commissioner, Corinne Dickey; Sheriff, Joseph Fucito acted arbitrarily and capriciously, in bad faith, and in excess of its jurisdiction when they wrongfully terminated Allen Patterson's employment as a Deputy Sheriff;

g. A declaration that Allen Patterson voluntarily resigned effective immediately on August 19, 2016 from NYC Administration for Children's Services, and, as result, abolished his employee to employer relationship with NYC ACS;

- h. Ordering that Patterson's NYC ACS, NYC TLC, NYC DOF/NYC Sheriff terminations and NYC OATH decision be expunged in its entirety;
- i. An order reinstating Patterson to his Civil Service titles as a NYC Taxi and Limousine Inspector and as a NYC Deputy Sheriff as if he had not been terminated, with credit towards the completion of the respective probationary periods, and all related salary, benefits (including but not limited to health, and sick and vacation leave) and seniority, as well as back pay and pension credits lost;
- j. Ordering NYC DOF/NYC Sheriff to return all materials confiscated from Allen Patterson at the direction of Sergeant Fredric Davis: All original class 17-01 training material, Original Sheriff Patrol Guide, (8) Sheriff Patches, (1) Sheriff tie clip, (4) Sheriff collar pins, (1) handcuff, (1) OC spray, and Patterson's personal Radio holder and OC holder that was never returned;
- k. Ordering Respondent NYC DOF/NYC Sheriff to give Patterson a makeup gun and shield day ceremony, a makeup graduation at the exact venue and location within that venue as the 2017 Sheriff Academy graduation to take place on October 16, 2022 with his preferred guest, preferred choice of badge number and work command Kings County Sheriff's Office;
- l. Ordering Respondents to give Patterson a make-up Sheriff promotional examination if filing for the examination occurred during Patterson's wrongful termination;

- m. Ordering Respondents City of NY and NYC ACS to notify and inform all the names located at the bottom of the NYC ACS termination letter that: "Allen Patterson voluntarily resigned from NYC ACS and was not terminated from NYC ACS as untruthfully claimed and recorded on September 22, 2016";
- n. Attorney's fees;
- o. Such other and further relief as may be deemed just and proper.