

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DANIEL NOVILLA — PETITIONER

(Your Name)

vs.

DEPARTMENT OF AGRICULTURE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DANIEL NOVILLA

(Your Name)

4827 NAPA RIDGE WAY

(Address)

LOUISVILLE, KY 40299

(City, State, Zip Code)

423-231-9043

(Phone Number)

QUESTION(S) PRESENTED

Questions presented-

I sent my petition to US Court of appeals on 10/22/2022. They accepted my petition on 11/12/2022. The court sent me a packet and stated my petition was compliant with the rules of the court, even though it was late due to fact my lawyer said he filed but he never did.

The court sent an order to show cause on 12/19/2022 why petition should not be dismissed, and if not dismissed it can be transferred to the appropriate district court. I sent my answer to show order on 12/27/2022 and so did the respondent. 4 months later the court dismisses it for it being untimely. Why? It is contradictory the court accepts my petition on 11/2022, says it is compliant and I paid the docket fee, but dismiss my petition. Why did the court accept my petition knowing it was late, they sent me a packet stating it was compliant with the rules of the court, it was processed, but they dismiss it?

I sent my answer to the order to show cause because I thought the court accepted my petition why it was late.

This is why I abandoned my discrimination claim, because I believed the Court would rule on my answer to the show order for cause. I don't think the court even reviewed my answer where it shows the MPSB judge was biased and upheld my removal using only 2 witness statements and not provide me with the Report of Investigation, a due process violation, in violation of the 5th amendment to the Constitution. What was the purpose of the order to show cause if the court was going to dismiss it anyway? Why didn't the court just reject my petition when they received it on 10/28/2022?

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

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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 _____ to the petition and is

- reported at _____; 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 MERIT SYSTEMS PROTECTION BOARD court appears at Appendix B 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 3/2/2023.

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: _____, 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. § 1254(1).

For cases from **state courts**:

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

STATEMENT OF THE CASE

Statement of the case-

The US Court of appeals first accepted my case, knowing full well it was late, but accept the petition, create a docket for it and sent a packet to me stating it was compliant with the rules of the court. They issue an order to show cause why it should not be dismissed, but dismiss it anyway.

In the MPSB decision, judge says I am not entitled to see the report of investigation, yet that is the document

were the false witness statements came from. It states in the Notice of proposed removal-

This proposal is based primarily upon evidence obtained in USDA, FSIS, Office of the Administrator, ICS Investigations, Report of Investigation(ROI) Case Number #MSC-SIR-18-002. The ROI produced evidence that you instructed inspection personnel to allow Southeastern Provision to process non-ambulatory cattle(downers), in violation of agency regulations. The deciding official used only those 2 witness statements from the ROI to remove me from my position of 22 years. She was able to view the report of investigation, but not me. I was never able to see the report of investigation, which I believe will show what truly happened to the downer cows.

REASONS FOR GRANTING THE PETITION

Reasons for granting the petition-

My petition should be granted because the US Court of appeals' actions are contradictory. I was made to believe the petition was good, and they accepted my reason why it was untimely. The court accepted the petition, created a docket for it, and even issued an order to show cause why it should not be dismissed. I thought the court was going to rule based on my answer to the order to show cause. This is why I abandoned my discrimination claim. But they dismiss it anyway. Why didn't the court just reject my petition when they received it on 10/28/22?

The petition should be granted because the USDA purposely hid the report of investigation from me. The report will show what investigators uncovered in 8/2017 during their investigation at Southeastern Provision.

It is against the law to pass downer cows for human food(9 CFR 309.3(e) Animals and Animal Products).

Yet this agency chose to hide this information from me. MSPB judge says in his decision, lack of corroborating evidence weakens the agency case, but lack of evidence of consumer harm does not undercut their case.

This is not true, because the USDA lawyer, Clif Lockett, during my deposition (page 6 my answer to order to show cause), asked me if I was aware James Brantley, owner of Southeastern Provision and other managers sold downer cow meat to White Castle Corporation.

It was then I knew, downer cows were released into the food supply. This is bigger than the discrimination I have been subjected to for years. The downer cow investigation contained in the report of investigation is of great national importance. The report will show how many downer cows were passed from 2014 on, and how many pounds were released into the food supply. This petition should be granted, and the report of investigation released to show I did not instruct the 2 inspectors to pass downer cows.

Racism and discrimination is alive and well, even in the federal government. And they used 2 false witness statements from the ROI to remove an employee of 22 years, without showing the accused the report of investigation.

What the USDA did to me is unlawful and grievous. But what they did by hiding the report of investigation is even more grievous. The release of downer cows into the food supply potentially contaminated with mad cow disease could affect many people.

The consuming public have a right to know what happened at Southeastern Provision during the 2017 downer cow investigation. I did not instruct inspectors to pass downer cows. I was already gone from Southeastern when the investigations began. I did not get the Notice of Proposed Removal until 16 months after I left Southeastern Provision, TN. This court is my last hope to vindicate my name and reveal the truth.

I hope and pray this petition is granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

DANIEL NOVILLA
[Signature]

Date: 5 / 9 / 2023