

No. 23-7320

IN THE

Supreme Court of the United States

DARRIN ESPINOSA

*Petitioner*

v.

CONTRA COSTA COUNTY

SEAN M. RODRIGUEZ (SBN 286668)

*Respondent*

On Petition For Writ Of Certiorari  
To The United States Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

DARRIN ESPINOSA

193 Country Club Lane

Napa, CA 94558

707-254-9300

 July 10 2024

**CERTIFICATE OF COMPLIANCE  
PETITION PRESENTED IN GOOD FAITH, AND NOT FOR DELAY**

No. 23-7320

DARRIN ESPINOSA

*Petitioner*

v.

CONTRA COSTA COUNTY

SEAN M. RODRIGUEZ (SBN 286668) *Respondent*

As required by Supreme Court Rule 44., I certify that the petition for re-hearing  
is executed in good faith and not for delay.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on July 7, 2024



JULY 10 2024

### INTERVENING CIRUCMSTANCE

The original injury that occurred to Mr. Espinosa was a dog bite that happened while he was a temporary employee for Contra Costa County. He was working as a Building Inspector I and was attacked by a dog on his first day of work. This was the cause of the injury that was, after two years of performing all essential duties of his position, determined to be permanent and stationary injury. This determination was made by a doctor who never spoke, saw, nor examined Mr. Espinosa. The doctor stated that due to his permanent and stationary injuries he was not able to climb a ladder which was considered to be an essential part of the job of building inspector. At no time was Mr. Espinosa given the opportunity to perform a functional capacity examination by climbing a ladder.

### INTERVENING CIRCUMSTANCE

After receiving the determination that his injuries were permanent and stationary Contra Costa County withdrew his offer of permanent employment, and simultaneously terminated his temporary employment. A panel of building inspectors, to include Mr. Espinosa's supervisor, held an interactive meeting where they questioned Mr. Espinosa and reviewed his two-year record of satisfactory work performance and thusly determined that he was qualified and able to perform all essential functions of the job without accommodation. This determination was based on the fact that Mr. Espinosa had been climbing ladders regularly as part of his duties for the past two years wherein he performed thousands of inspections.

Mr. Espinosa was directly harmed by these actions:

1. Withdrawal of the conditional offer of employment which meant he was deprived of the opportunity to earn his retirement benefits, and
2. Was left unemployed and with a negative determination of employment termination negating his chances for future work in his chosen occupation.

These actions which occurred after the initial injury he suffered while in the performance of his duties, ultimately caused the long-term damage to Mr. Espinosa's life. He was labeled as being unfit to perform the work his spent years studying and being certified to do; and he was left with a scarlet letter labeling him as an unfit employee due to being terminated from employment. Neither of which is true and has adversely impacted his life gravely. The stress caused by this ongoing litigation with Contra Costa County has had negative impact on his mental and physical health.

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JULY 10 2024

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## REQUEST FOR A RE-HEARING

Based on Questions Presented and Constitutional and Statutory Provisions:

Mr. Espinosa was injured on the job (dog bite) while working as a Building Inspector I for the County of Contra Costa. He was treated for his injury and returned to work approximately two weeks later. He continued to work for Contra Costa County in the role of Building Inspector I (temporary) for the next two years.

Mr. Espinosa then applied for a permanent position as Building Inspector I. At that time Contra Costa County provided him with a Conditional Offer of Employment. During his physical the doctor determined that based on the limitations documented by his worker's compensation doctor that he could not safely climb a ladder. However, the worker's compensation doctor never stated that he couldn't climb a ladder. The doctor who stated that he couldn't climb a ladder never saw, spoke, nor examined Mr. Espinosa. At that point in time Mr. Espinosa had been climbing ladders in the performance of his duties as temporary Building Inspector I for two years with no accommodations, complaints, or safety violations. At no point was Mr. Espinosa ever asked to climb a ladder to prove his ability to.

An interactive meeting was held on 4/19/18 by a panel of Building Inspectors (some of which worked/supervised Mr. Espinosa over the last two years of his employment) in which it was determined that Mr. Espinosa could perform all essential functions of the job of Building Inspector I.

A second interactive meeting was scheduled for a time when Mr. Espinosa's union representative could not attend (Sept 20, 2018). Mr. Espinosa informed Contra Costa County that he wanted his union representative present for the meeting. Contra Costa County stated that he "refused to attend the meeting." Subsequently on October 2, 2018 Contra Costa County withdrew the conditional offer of employment and terminated his temporary employment conveniently stating that he had grossly exceeded the number of hours allowed for a temporary employment.

Ultimately, Contra Costa County denied permanent employment, and terminated temporary employment to Mr. Espinosa based on a disability he incurred while in their employ, that he needed no accommodation for, relative to a position that he had been performing all essential functions of for two years, and because he asked for union representation at a second interactive meeting. At no time was Mr. Espinosa informed that it was his responsibility to "reschedule the interactive meeting."

Mr. Espinosa is a man who only wants to work to earn his retirement. He was not asking for money or a settlement; only for the right to work and earn his own way. If the Supreme Court refuses to hear Mr. Espinosa's case they are allowing government to deny employment to a man with a disability that did not impair his ability to perform the job; based on a doctor's report who never saw, spoke, or examined Mr. Espinosa, and to terminate his employment based on requesting union representation. This empowers government to operate with no oversight; and strips the working class from the fundamental right to earn a living.

No. 23-7320

IN THE  
SUPREME COURT OF THE UNITED STATES

DARRIN R. ESPINOZA - PETITIONER  
(Your Name)

vs.  
CONTRA COSTA COUNTY, CA. - RESPONDENT(S)

PROOF OF SERVICE

I, DARRIN R. ESPINOZA

, do swear or declare that on this date,  
July 10, 2024, as required by Supreme Court Rule 29 I have  
served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*  
and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding  
or that party's counsel, and on every other person required to be served, by depositing  
an envelope containing the above documents in the United States mail properly addressed  
to each of them and with first-class postage prepaid, or by delivery to a third-party  
commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

SCOTT M. ROBERTS (SBN 286668) SHARON L. ANDERSON (SBN 94514)  
ANDREW MCNEIL MUNSON (SBN 115089) 1015 ESCOBAR, SUITE 3<sup>rd</sup> FL  
MONTGOMERY, CA 94553, CLERK, Supreme Court of the United States

Washington, D.C. 20543

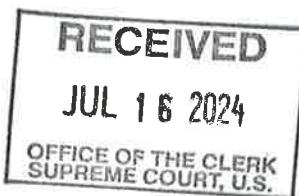
I declare under penalty of perjury that the foregoing is true and correct.

Executed on...

July 10, 2024

11-23

(Signature)



**Additional material  
from this filing is  
available in the  
Clerk's Office.**