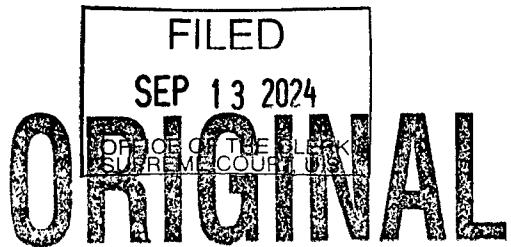


24-305

CASE NO. S24C0674

IN THE SUPREME COURT OF THE
UNITED STATES OF AMERICA



JUSTIN SAVAGE,
Petitioner

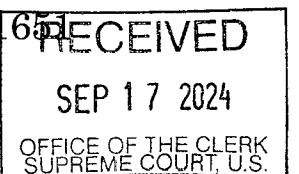
v.

GEORGIA OFFICE OF ADMINISTRATIVE
HEARINGS,
Respondent

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF GEORGIA

PETITION FOR WRIT OF CERTIORARI

Dr. Justin Savage
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QUESTION PRESENTED FOR REVIEW

Whether the failure of the Commission and subsequent courts to duly consider and address material evidence, including the absence of any criminal record and a corrected application affirming such, constitutes a violation of the Petitioner's due process rights under the Fifth and Fourteenth Amendments of the United States Constitution?

LIST OF PARTIES AND CORPORATE DISCLOSURE STATEMENT

(1) LIST OF PARTIES

Pursuant to Rule 14 (b) of the Supreme Court of the United States, Petitioner, Justin Savage provides the following information:

A complete list of all persons, associations of persons, firms, partnerships, guarantors, insurers, affiliates, parent or subsidiary corporations, or other legal entities that are financially interested in the outcome of the case.

1.) Petitioner: Dr. Justin Savage

2.) Respondent: Georgia Office of State and Administrative Hearings

*Justin Savage v. Georgia State of Office and Administrative Hearings, No. S24C0674, Georgia Supreme Court. Judgement entered July 2, 2024

*Justin Savage v. Georgia State of Office and Administrative Hearings, No. S24C0674, Georgia Supreme Court. Judgment entered June 11, 2024

*Justin Savage v. Georgia State of Office and Administrative Hearings, No. A24D1084, Court of Appeals of the State of Georgia. Judgment entered February 14, 2024

*Justin Savage v. Georgia State of Office and Administrative Hearings, No. A24D1084, Court of Appeals of the State of Georgia. Judgement entered January 10, 2024

*Justin Savage v. Georgia Office of State and Administrative Hearings, No. 2023-CV-1780, Superior Court of Rockdale County State of Georgia. Judgement entered November 14, 2023

*Justin Savage v. Georgia Office of State and Administrative Hearings-PSC, No. 2319166, Georgia Office of State and Administrative Hearings-PSC. May 2, 2023

(2) CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6 of the Supreme Court of the United States, Petitioner, Dr. Justin Savage, provides the following information:

For a non-governmental corporate party, the name(s) of its parent corporation and any publicly held corporation that owns 10% or more of its stock (if none, state "None"):
known to the Petitioner.

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INTRODUCTION

Petitioner, Justin Savage, *pro se*, submits this Petition for Writ of Certiorari before the Honorable Supreme Court of the United States of America following the final decision rendered by the Supreme Court of Georgia on June 11, 2024. The Georgia Supreme Court has denied judgment to the Petitioner. Petitioner seeks a review of the judgment of the aforementioned judgment of the Supreme Court of Georgia as it denies the constitutional right of due process to the Petitioner.

OPINIONS BELOW

In its order of June 11, 2024, the Georgia Supreme Court has denied judgment on the Petitioner's writ of certiorari filed to review the judgment of the state courts below (Annexure A). A remitter was issued by the Georgia Supreme Court reflecting that all judges

concurred to deny judgment to the Petitioner (Annexure B). Petitioner submitted a Motion for Reconsideration before the Georgia Supreme Court which was also denied on July 2, 2024 (Annexure C).

The Georgia Court of Appeals had earlier passed a judgment against the Petitioner on January 10, 2024 (Annexure D). The Court of Appeals had rejected the Petitioner's application for discretionary appeal without providing detailed reasons as to why the Appeal must be denied. A motion to reconsider was also rejected by this court.

The Administrative Law Judge had founded against the Petitioner on May 2, 2023, yet again disregarding all material evidence on record.

The Petitioner had appealed the judgment of the Administrative Law Judge in the Superior

Court of Rockdale County in the State of Georgia, which also upheld the same.

JURISDICTION

The final judgment of the Supreme Court of Georgia was rendered on July 2, 2024, denying the Motion for Reconsideration. The statutory provision conferring jurisdiction on the Supreme Court of the United States to review a Writ of Certiorari is 28 U.S.C. § 1257 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment of the United States Constitution
“No person shall... be deprived of life, liberty, or property, without due process of law.”

Fourteenth Amendment of the United States Constitution “...Nor shall any State deprive any person of life, liberty or property without due process of law...”

STATEMENT OF THE CASE

The cause of action is purported to have started from the denial of a Clearance Certificate by the Professional Standard Commission (hereinafter "the Commission"). Due to this denial, Petitioner was terminated from his job at the Henry County School district. The reality was, however, was very different. Petitioner was wrongfully denied the Clearance Certificate by the Commission which operated with malice since Petitioner had launched a harassment complaint against a higher official of the School.

The Commission did not produce compelling evidence against Petitioner concerning the allegations of a criminal history record made against him.

The decision of the Commission was later affirmed by the Administrative Law Judge through her final order dated May 2, 2023,

disregarding all the material evidence presented on record that established otherwise.

For instance, both the July 13, 2020 and the December 30, 2020, letter from the Office of Sheriff, Rockdale County of Georgia, stated that no criminal record of arrest, conviction, or accusation of criminal behavior in Georgia was found against Petitioner.

Being aggrieved by the decision of the Administrative Law Judge (“Final Order”), the Petitioner filed a petition for judicial review before the Superior Court of Rockdale County in the State of Georgia, which also upheld the aforementioned Final Order. The Superior Court reiterated that Petitioner was terminated from his employment because he had been untruthful throughout the application process and dishonest during the administrative hearing. The decision of the

court hinged upon Petitioner's alleged admission to the commission of a crime as well as a Clearance Application which was submitted to the commission directly by the former Certification Specialist-Pamela Stephens, who has since resigned. The commission maintains that the only completed Clearance Application received contained a checked box for an affirmative option in regards to number 7 of the personal affirmation questions which asked about a criminal history record followed by a brief, unsigned, type written explanation which the petitioner has denied composing. Petitioner has maintained that a second clearance application was submitted to the former certification specialist-Pamela Stephens on the same day, only moments apart from each other indicating-“No” in regards to the personal affirmation question:

7 and was notarized by the former certification specialist-Pamela Stephens. It is important to note that both Clearance Applications were clear of any criminal record finding and Page 1 of both Clearance Applications state; *"The fingerprint and background check did not reveal reportable problems."* Since the petitioner's termination, he has sought on multiple occasions to seek justice from superior courts. Furthermore, the Petitioner has asserted with evidence that there is no criminal record against him.

The Superior Court of Rockdale County has erred in upholding the Final Order as the petitioner had no criminal record and was truthful throughout the application process and during the administrative hearing.

The Petitioner also filed a complaint against the school before the Northern District Court of

Georgia (hereafter referred to as "Trial Court") and through an order dated October 11, 2023, the Trial Court dismissed Petitioner's complaint.

The Trial Court reproduced a final report and recommendation dated September 14, 2023. Appellant filed an objection to the same on 9/22/2023 which was overruled by the Court through an order dated 10/11/2023. On 11/06/2023 Appellant filed a Notice of Appeal against the Trial Court's order before the United States Court of Appeals of the 11th Circuit. This action was also dismissed with the details aforementioned.

Petitioner stands before the Honorable Supreme Court of the United States with the expectation of actual justice on account that all courts below have failed to sufficiently appreciate and address evidence on record that

speaks to the fact that the Petitioner does not have any criminal record. This is a violation of the constitutional right of due process of the Petitioner that must be protected and enforced by this Honorable Court.

MATERIAL FACTS

Petitioner is an ex-employee at the Henry County Schools (hereinafter “School”). On or about June 1, 2020, Petitioner had completed a Commission’s Clearance Application which had been notarized by Pamela Stephens and faxed by her directly to the Commission. Pamela Stephens is former a District System Representative and certification specialist.

On or about October 21, 2020, Petitioner filed a sexual harassment complaint against Ms. Sellers, who served as an administrator employed with Henry County Schools. Only six days after the filed complaint, Petitioner was

placed on administrative leave. Not to mention, Petitioner's complaint was dismissed without any investigation during this time. Petitioner's leave was extended for a period of 2 ½ months after which his employment was terminated on or about December 18, 2020.

During the time Petitioner was on administrative leave, he was emailed by Paul Philips for specific documentation to issue his Clearance Certificate. Petitioner had already provided all these documents through an email dated-July 23, 2020 confirming his application for clearance. On informing this to Mr. Phillips he became apologetic and specifically explained that Henry County Schools pressured him to denying/revoking Petitioner's Clearance Certificate.

In particular, Petitioner seeks to highlight the issue that has arisen as an error in regards to

the Clearance Certificate Application, which was later asserted as a ground for rejecting the Clearance Certificate. The answer to question no.7 in the first Application was an error, and the 'correct' Clearance Application, which is the second Clearance Application that was submitted on the same day, only moments apart, indicated "No" regarding the personal affirmation question 7. The second application which was notarized and presented during the Professional Standard Commission's hearing, but the Commission has not yet acknowledged this correct version of the Application.

No criminal history record was found against the Appellant, as the background/fingerprint check of the Appellant was clear before, during, and after the petitioner's termination. The letter dated-July 23, 2020, from the Georgia Bureau of Investigation clearly stated that "No

Georgia or F.B.I. National Criminal History record found" against the Appellant. Similarly, during the Commission's hearing, Walencia Monroe-the assistant attorney general at the time, also stated that the Appellant had no criminal record or criminal convictions. She also admitted that the Commission received a clear fingerprint/background check as of July 23, 2020 - the same day Paul Philips emailed and called Dr. Savage to finalize and approve all the documents requested. The clear fingerprint/background check was verified and received on July 23, 2020- prior to the Petitioner's start of employment which was on July 27, 2020-the same date listed on the Petitioner's separation notice. Similarly, the letter from the Attorney General's office states that the "Respondent holds a certificate in the

state of Georgia and has held a certificate at all times relevant to the matters asserted herein".

It is imperative to mention here that the Georgia Professional Standards Commission had in its final order noted clearly under the heading of "Findings of Fact" that Petitioner *"holds a certificate in the State of Georgia and has held a certificate at all times relevant to the matters herein asserted"* (See para 1 of PSC No. 20-6-1718).

Petitioner further asserts that recorded testimonies from former certification specialist Pamela Stephens, who has since resigned, verified the clearance application and stated that former investigator for Henry County Schools-Justin Cofer, who had also resigned, cleared the petitioner's background check for employment and clearance. Additionally, former school district director-Amy Spicer,

stated in a recorded deposition that the petitioner was a "certificated employee." All of this evidence was submitted to the court and verified as true and accurate. Despite this substantial and verified evidence, the petitioner asserts that the courts still did not acknowledge these facts in the final decision.

The Respondent has not responded to any of the Petitioner's previous submissions on each submission in both the Court of Appeals and Georgia Supreme Court; however, the courts have still insisted on making a denial with no explanation provided.

REASONS FOR GRANTING WRIT

In light of the aforementioned material facts, it is clear that the Petitioner's due process rights have been violated, and therefore, the Writ of

Certiorari must be granted by the United States Supreme Court.

First and foremost, the sequence of events demonstrates a troubling pattern of retaliation and procedural unfairness. The Petitioner filed a sexual harassment complaint against Ms. Sellers, an administrator at Henry County Schools, on October 21, 2020. Merely six days later, the Petitioner was punished and placed on administrative leave for over 2 $\frac{1}{2}$ months, and the complaint was dismissed without any investigation. This swift and punitive action strongly suggests retaliation rather than an unbiased administrative process.

Furthermore, the Petitioner's administrative leave was extended for 2 $\frac{1}{2}$ months, culminating in the termination of employment on December 18, 2020. During this period, Paul

Philips contacted the Petitioner for additional documentation to issue the Clearance Certificate, despite the Petitioner having already provided the necessary documents.

Paul Philip's subsequent apology and admission that Henry County Schools pressured him to deny or revoke the Petitioner's Clearance Certificate underscores the arbitrary and capricious nature of the actions taken against the Petitioner.

Additionally, the issue with the Clearance Certificate Application highlights further procedural irregularities. The error in the first application was corrected in the second application, which was notarized previously by Pamela Stephens—the former certification specialist and presented during the Professional Standards Commission's hearing. Despite this, the Commission has failed to

acknowledge the correct version of the application, raising serious questions about the fairness and thoroughness of the process.

Importantly, the Petitioner's background and fingerprint checks were clear, as confirmed by a letter from the Georgia Bureau of Investigation dated July 23, 2020, prior to employment with Henry County Schools and by statements from Walencia Monroe, the assistant attorney general, during the Commission's hearing. This clear background should have been a decisive factor in favor of the Petitioner, yet it appears to have been totally disregarded.

Decisions by the lower court also contravened O.C.G.A. 35-35(b). The statute stipulates that a criminal record must be found to deny a clearance certificate. However, the lower court denied the clearance certificate despite the

absence of a criminal record, thereby violating the explicit requirements of the Georgia statute. This petition seeks the United States Supreme Court's intervention to correct this misapplication of the law and ensure adherence to the statutory mandate.

In summary, the trial courts have failed to appreciate the weight of the evidence and recognize the significant procedural violations that have occurred. The denial of due process, evidenced by the lack of investigation into the sexual harassment complaint, the retaliatory actions taken against the Petitioner, the mishandling of the Clearance Certificate Application, and the disregard for multiple clear background checks, all point to a miscarriage of justice. Therefore, it is imperative that the United States Supreme Court grant the Writ of Certiorari to rectify

these violations and ensure that the Petitioner's due process rights are upheld.

ARGUMENT AND AUTHORITIES

I. THE EVIDENCE ON RECORD THAT HAS NOT BEEN ADDRESSED BY THE COURT IS MATERIAL AND RELEVANT.

The evidence in question is material in nature as it pertains directly to central issues crucial to the case's outcome. The Georgia Bureau of Investigation and Assistant Attorney General confirmed during the proceedings that no criminal history or convictions exist for the Petitioner. This evidence directly contradicts allegations and assumptions made against the Petitioner regarding his suitability for employment and the allegations of criminal behavior.

The Petitioner submitted a corrected Clearance Certificate Application, rectifying an initial clerical error. This corrected application, properly notarized and presented, affirmed the absence of any criminal record, which should have been acknowledged by the Commission and subsequent courts.

Due process mandates a fair and impartial hearing where all relevant evidence is considered. The failure to consider exculpatory evidence undermines this requirement and prejudices the Petitioner's ability to present a full defense.

The evidence, particularly the absence of a criminal record and external pressures on administrative decisions, goes to the heart of substantive justice. The courts need to ensure that justice is not only done but is seen to be done

by considering all available evidence that may impact the case's outcome.

**II. FAILURE TO ADDRESS EVIDENCE
ON RECORD IS A VIOLATION OF THE
DUE PROCESS RIGHTS OF THE
PETITIONER.**

The Petitioner's due process rights under the Fifth and Fourteenth Amendments have been violated due to the Commission's and subsequent courts' failure to duly consider all material evidence on record. The essence of due process is the right to a fair hearing, which includes the proper appreciation and consideration of the evidence presented by the parties.

The Petitioner presented an employment-issued fingerprint background check dated July 23, 2020, from the Georgia Bureau of Investigation and Federal Bureau of

Investigation, stating that “No Georgia or F.B.I. National Criminal History record found” against him. Additionally, letters from the Office of Sheriff, Rockdale County of Georgia, dated- July 13, 2020 and December 30, 2020, confirmed that no criminal record of arrest, conviction, or accusation of criminal behavior was found against the Petitioner. It is important to note that several of these clear background checks were conducted and accepted by the school district prior to the petitioner’s starting date of employment-July 27, 2020 as indicated in the petitioner’s official separation notice in which the school’s investigator also verified. Despite this clear evidence, the Commission and the Administrative Law Judge (ALJ) disregarded these documents, leading to a decision based on

incorrect assertions about the Petitioner's criminal history.

A clerical error on the Petitioner's Clearance Certificate Application indicated a checked box affirmative response regarding an alleged criminal record. This error was promptly corrected on the same day in a subsequent application which was notarized by the former certification specialist-Pamela Stephens, and later presented during the Professional Standards Commission's hearing. This rectification was ignored, with the Commission continuing to base its denial on the initial, erroneous application, accompanied by a brief, unsigned typewritten explanation that the Petitioner denies composing.

The Petitioner's filing of a sexual harassment complaint against Ms. Seller, an administrator at Henry County Schools, resulted in

retaliatory actions. Six days after filing the complaint, the petitioner was placed on administrative leave, and his complaint was dismissed without investigation. Furthermore, during his leave, Paul Philips, who was responsible for issuing the Clearance Certificate, admitted that Henry County Schools pressured him to deny the Petitioner's Clearance Certificate. This pressure, coupled with the lack of investigation into the harassment complaint, underscores the malicious intent behind the actions against the Petitioner.

The decisions of the ALJ, the Superior Court of Rockdale County, and the Supreme Court of Georgia all hinged on the incorrect belief that the Petitioner had a criminal record and had been dishonest. These decisions ignored the clear evidence to the contrary.

The ALJ's final order dated May 2, 2023, disregarded all material evidence, including the clear background checks and the corrected Clearance Certificate Application. This order was affirmed by the Superior Court, which erroneously stated that the Petitioner had a criminal record and was dishonest, despite the absence of any such records.

The Superior Court and the Supreme Court of Georgia upheld the ALJ's erroneous conclusions, perpetuating the due process violations. The courts failed to appreciate the weight of the exculpatory evidence and relied on unfounded assertions and clerical errors that had been rectified by the Petitioner.

The Supreme Court in *Mathews v. Eldridge* 424 U.S. 319 (1976) established the requirement for a fair process, which includes considering all relevant evidence. The failure to consider the

Petitioner's corrected application and the clear background checks violates the procedural due process standard set forth in this case.

While primarily a criminal case, the principles in *Brady v. Maryland* 373 U.S. 83 (1963) about the suppression of exculpatory evidence apply here. The disregard of exculpatory evidence, such as clear criminal history reports, is akin to the suppression of evidence favorable to the accused.

The repeated failure to consider substantial evidence demonstrating the Petitioner's lack of criminal history and the rectification of clerical errors has resulted in a violation of his due process rights. The retaliatory and malicious actions of the Henry County Schools and the Professional Standard Commission further compound this violation. Therefore, the Petitioner respectfully requests that this

Honorable Court grant the Writ of Certiorari to rectify these grave injustices and uphold the due process protections guaranteed by the Constitution.

In addition, the rule set forth Goldberg v. Kelly, 397 U.S. 254 (1970) about an evidentiary hearing before terminating welfare benefits also applies to this situation. Just like in the Goldberg Case, denial of a Clearance Certificate and termination of employment significantly affected the Petitioner's livelihood. The failure to consider exculpatory evidence deprived the Petitioner of a meaningful opportunity to be heard, violating due process, as the court found in Goldberg v. Kelly. To further emphasize this point, in Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123 (1951) the court had provided that due process includes the opportunity to confront and cross-examine

witnesses and to present their evidence. The Petitioner's inability to have his corrected Clearance Certificate Application and clear background checks duly considered mirrors the due process concerns highlighted in McGrath.

Similarly, in *Greene v. McElroy*, 360 U.S. 474 (1959), the Court held that due process requires the government to use fair procedures before depriving individuals of significant liberty or property interests, particularly when reputational harm is involved. In the situation at hand, the denial of the Clearance Certificate and subsequent termination from employment caused significant reputational and professional harm to the Petitioner. The failure to consider exculpatory evidence violates the procedural fairness mandated by Greene.

In extension to federal case law, there is extensive state case law that specifically

requires states to appreciate evidence available on the record. For instance, in *Harper v. Harper*, 303 Ga. App. 100 (2010), it was emphasized that due process requires courts to consider all relevant evidence presented by parties to ensure a fair and just outcome. Similarly, in *Smith v. Smith*, 292 Ga. 485 (2013), it was held that failure to properly consider material evidence in a family law matter constituted reversible error, highlighting the principle that parties are entitled to have all material evidence considered in civil proceedings. The Georgia Bureau of Investigation confirmed the absence of any criminal history for the Petitioner, a fact crucial to the case's outcome. Despite this, the Commission and subsequent courts failed to address or appreciate this material evidence,

which directly contradicted allegations against the Petitioner.

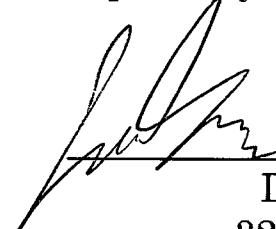
The APA mandates fair hearings and the consideration of all evidence in administrative proceedings. The failure of the Commission to address exculpatory evidence and subsequent courts to rectify this error constitutes a violation of both statutory requirements and constitutional due process rights.

Based on the compelling case law and the material facts presented, it is evident that the lower court's failure to consider critical evidence constitutes a significant violation of the Petitioner's due process rights. The Petitioner respectfully requests that this Honorable Court grant the Writ of Certiorari to address these due process violations and ensure justice is served.

CONCLUSION

It is submitted that the Court should grant this Petition for Writ of Certiorari when the Petitioner has been denied his constitutional due process rights.

Respectfully Submitted,



9/13/2024

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