

24 - 6213

NO. _____

In The
Supreme Court of the United States

Julien Simmons
Petitioner,

v.

Consumer Assistance Group et al
Respondents,

**On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Fifth Circuit**

**Supplemental Brief
For Petitioner**

Petitioner is *pro se*

Question(s) Presented

1. Wither the district courts have Jurisdiction to hear case against the United States government pursuant FTCA 28 U.S.C. 2401(b) and has the United States Court of Appeal for the 5th Circuit entered a decision in conflict with the decision of *Hughes v. United States* 263 F.3D 272, 278 (3rd Cir.2001), *Perez v. United States*, 167 F.3D 913, 915-17 (5th Cir 1999), and *United States vs Wong* 575 US 402 (9th Cir 2015) which are the decisions of other U.S. Court of Appeals on the same important matter, and reason for the U.S. Supreme Court to grant Writ of Certiorari pursuant to U.S. Supreme Court Rule 10 (a)(b)?

List of Parties

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:

Julien Simmons

Petitioner *pro se*

13423 Blanco Rd

Unit #3011

San Antonio, Tx 78216

Respondents PNC Bank

PNC Bank Houston Plaza Branch

2200 Post Oak Blvd.

Houston, TX 77086

Respondent Julie Sudduth

PNC Regional President of Greater Houston

PNC Bank Houston Plaza Branch

2200 Post Oak Blvd.

Houston, TX 77086

Respondents Brian J. Thomas

Managing Director of PNC Wealth Management

PNC Bank Houston Plaza Branch

2200 Post Oak Blvd.

Houston, TX 77086

Respondents Annie Thomas

PNC Bank Manager of Texas Houston Market Regional Headquarters Branch

PNC Bank Houston Plaza Branch

2200 Post Oak Blvd.

Houston, TX 77086

Melissa Gutierrez Alonso (Counsel for PNC Respondents)

Attorney

Bradley Arant Boult Cummings LLP

600 Travis Street

Suite 4800 Houston, Texas 77002

Lisa Luz Parker (Council for Federal Respondents)

Assistant United States Attorney

Southern District of Texas

1000 Louisiana, Suite 2300

Houston, Texas 77002

Related Cases

- *Hughes v. United States* 263 F.3D 272, 278 (3rd Cir.2001)
- *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir.1982) (en banc)
- *Perez v. United States*, 167 F.3D 913, 915-17 (5th Cir 1999)
- *Irwin v. Dep't of Veteran Affairs*, 498 U.S. 89, 93-96 (1990)
- *United States vs Wong* 575 US 402 (9th Cir 2015)
- *Douglas v. United Servs Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc)

Table of Contents

| | |
|---|-------------|
| Opinion Below..... | Page 8 |
| Jurisdiction..... | Pages 8,9 |
| Constitutional and Statutory Provisions Involved..... | Page 9 |
| Introduction | Page 9 |
| Statement of the Case | Pages 9-18 |
| Reason for Granting the Petition..... | Pages 18-22 |
| Conclusion..... | Pages 22-23 |
| Proof of Service..... | Pages 23-29 |

Index of Appendices

Appendix A: United States Court of Appeals for the Fifth Circuit Ruling filed on April 25th, 2024

Appendix B: United States District Court for the Southern District of Houston Texas Division

ROA 36 Memorandum and Recommendation

Appendix C: United States Court of Appeals for the Fifth Circuit Ruling filed on October 9th, 2024

Table of Authorities Cited

CASES

- *Hughes v. United States* 263 F.3D 272, 278 (3rd Cir.2001)Pages
1,10,11,12,15,16,17,18,19,21,22
- *Perez v. United States*, 167 F.3D 913, 915-17 (5th Cir 1999)Pages
1,13,14,16,17,18,21,22
- *Irwin v. Dep't of Veteran Affairs*, 498 U.S. 89, 93-96 (1990)Pages
9,13,14,17,18,21
- *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir.1982) (en banc) Page 16
- *United States vs Wong* 575 US 402 (9th Cir 2015)..... Pages
1,12,13,16,17,18,21
- *Douglas v. United Servs Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en
banc) Pages 15.16

STATUTES AND RULES

- Business Organization Code Title 2, Corporations Chapter 21, For Profit Corporations Sub-Chapter A, General Provisions. Section 21.218(b)(c) Pages 10,11,19,
- Federal Rules of Civil Procedure 12(b)(1)(6) Page 17
- (FTCA) 28 U.S.C. 2401 (b) Pages 1,9,11,12,13,14,16,17,18,19,21,22,23
- 28 U.S.C. 1346(b)(1) Pages 9,10,13,14
- FRCP Rule 26 Duty to Disclose, General Provisions Governing Discovery (c) Protection OrdersPage 14,15,16,20
- Penal Code Title 8. Offenses Against Public Administration Chapter 37. Perjury and Other Falsification Sec. 37.02 (a)(1) and Sec. 37.03..... Page 10
- 28 U.S.C 636 (b)(1)(c) Page 15
- 5th Cir. R. 42.2Pages 18
- Court Procedures Hon. Charles R. Eskridge III page 12, Section 15. Discovery and Scheduling Disputes (a) Page 14,15,16,20
- Penal Code Title 8. Offenses Against Public Administration Chapter 36. Bribery and Corrupt Influence Sec. 36.04 Improper Influence (a) (b Page 10,
- Federal Rules of Civil Procedure 12(b)(1)(6) Page 17
- Court Procedures of Magistrate Judge Christina A Bryan IV Discovery Disputes Page 4 paragraph 12 Page 15,16,20
- Rules of Supreme Court of the United States Rule 10 Considerations Governing Review on Certiorari(a)(b) Page 9,12,14,16,18,20,21,22,23
- Rules of Supreme Court Rule 29, Page 23

- 12 U.S.C. 1818(b) Notice to Primary Regulator Paragraph 3..... Page 10,11,19,
- 38 U.S.C. 1515(a)(b)(c)..... Page 19
- 28 U.S.C. 1746Page 23
- U.S. Supreme Court Rule 15(8)..... Page 9

**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

Supplemental Brief for Petitioner

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

Opinions Below

The opinion of The United States Court of Appeals for 5th Circuit appears at Appendix A to the petition and is unpublished.

Jurisdiction

Petitioner is seeking Writ for Certiorari for the judgement of his appeal dismissed in a document filed April 25th, 2024 by the United States Court of Appeals for the Fifth Circuit. The U.S. Supreme Court has jurisdiction to review this legal matter pursuant to Rules of the Supreme

Court of the United States Rule 10 Considerations Governing Review for Certiorari (a)(b) and Rule 13. Petitioner is filing a Supplemental Brief pursuant to U.S. Supreme Court Rule 15(8).

Motion to file out of time was granted, but Rehearing En Banc was denied 5th Circuit on 010/09/2024, and a copy of the order denying rehearing appears at Appendix C.

Constitutional and Statutory Provisions Involved

Introduction

Petitioner has prepared this supplemental brief to add in new factors of law that he did not comprehend for he is *pro se* in this legal matter. Petitioners new understanding of the paramount questions presented has provided him with a more focused question and hopes that he does not appear to be argumentative in the questions presented in his filed Petition for Writ of Certiorari. This is not a new question for it is the same question as question number 1, or fairly included therein. Petitioner has removed questions that they Courts might find argumentative or dismiss as chaff, although Petitioner proved a valid point in his answers to the original questions. Petitioner has uncovered the proper code for FTCA 28 U.S.C. 2401(b) and Title 28 U.S.C. 1346(b)(1). Petitioner forgot U.S. Supreme Court had heard *Irwin v. Dep't of Veteran Affairs*, 498 U.S. 89, 93-96 (1990), which is a related case, and reason for a reversed ruling.

Statement of the Case

The United States Court of Appeals for the 5th Circuit has entered a decision in in Appendix A that is in conflict of *Hughes v. United States* 263 F.3D 272, 278 (3rd

Cir.2001), which is decision of another U.S. Court of Appeals on the same important matter. The important matter in question is whether sovereign immunity is Jurisdictional or Non-Jurisdictional when sovereign immunity is the affirmative defense of the Federal Appellees when there is substantial evidence proving they are guilty. 5th Circuit has dismissed the Petitioners appeal as frivolous. In doing so 5th Circuit decision conflicts with *Hughes v. United States* for in (ROA 25 Finding Facts paragraphs 22, 23, 24, 25, 26, 28, 29, 30, 31,32, 33, Contested Issues of Fact 1-14, Finding Facts of Recorded Dialogue 1-7 and ROA 27 exhibit 68 and all exhibits mentioned in ROA 25) Petitioner presents solid evidence PNC Respondents are lying in (ROA 3) and guilty of perjury pursuant to Penal Code Title 8. Offenses Against Public Administration Chapter 37. Perjury and Other Falsification Sec. 37.02 (a)(1) and Sec. 37.03. Within the context of (ROA 25 sections mentioned in the last sentence) Federal Defendant acted negligently and out of lack of skill violated 12 U.S.C 1818 (b) and are guilty of perjury pursuant to Penal Code Title 8. Offenses Against Public Administration Chapter 36. Bribery and Corrupt Influence Sec. 36.04 Improper Influence (a) (b). Petitioner used Business Organization Code Title 2, Corporations Chapter 21, For Profit Corporations Sub-Chapter A, General Provisions. Section 21.218(b)(c) to perform an audit to search for his trust document and was denied his rights to as a minority shareholder. Petitioner also used Business Organization Code Title 2, Corporations Chapter 21, For Profit Corporations Sub-Chapter A, General Provisions. Section 21.218(b)(c) to detect that a crime has been committed, which was reason for Respondents CAG and Michelle Parham to send the Petitioners complaint to SEC pursuant 12 U.S.C 1818(b) Notice to Primary Regulator Paragraph 3 but refused to in their letters and phone conversations with Petitioner. The crime detected

was a criminal breach of trust. Since the Business Organization Code Sec. 21.218(b)(c) was an applicable law being violated by Respondent PNC, which was used to detect a crime has been committed Respondents CAG and Michelle Parham should have made Petitioners complaint a cease-and-desist order to SEC. Petitioner provided proof that he is a shareholder of PNC at the time of the examination in (ROA 27 exhibit 68). In (ROA 51) Appellant is asked by district court to prepare his Petitioner Appeal Brief using paginated record. Document contained in the CD was (ROA 27), which was exhibits for (ROA 25) proving Respondents are guilty and posed as nonfrivolous reasons for this case is to be reversed. Petitioner proved he needed enforcement from OCC but Federal Defendant would not send his case to OCC. This was out of a lack of skill and plain incompetents as an agency and is the same as Veteran Affairs in *Hughes v. United States*. Federal Defendants affirmative defense was FTCA Statue of Limitations, which is the same as *Hughes v. United States*. District Court also raised an Order and dismissed the Federal Defendants for lack of subject matter, which was also the same as *Hughes v. United States*. 5th circuit decision in Appendix A conflicts with the decision of another U.S. Court of Appeals and will cause confusion on how to interpret the law. If the District court rules the same as *Hughes v. United States*, then Statue of Limitations is Non-Jurisdictional same *Hughes v. United States*, and this case should have been reversed by 5th Circuit. The U.S. Supreme Court must grant the Petitioner Writ of Certiorari, for the Court must ensure that laws are applied equally across the nation for 5th Circuit has entered a judgement that conflicts with ruling of another United States Court Appeals decision pursuant to U.S. Supreme Court Rule 10 (a)(b).

It is mentioned in (ROA 29 paragraphs 1). Statues of Limitations FTCA as Jurisdictional Prerequisite and Implications of Equitable Tolling allows the Petitioner to sue for Respondent Michelle Parham did not act on Petitioners complaint about PNC Respondents out of Negligence. In Appendix B the district judge dismissed Respondents CAG and Michelle Parham after Petitioner files (ROA 29) presenting substantial evidence for the equitable tolling of the Statue of limitations. Petitioner filed an administrative claim with Respondent CAG on May 31st, 2024. Petitioner last letter from Respondent Michelle Parham and CAG was on June 8th, 2022. Petitioner also received his final response from The Office of The Ombudsman on August 15th, 2022. Both dates make Petitioner administrative claim timely filed pursuant to FTCA. Petitioner did not know, nor did he understand that he needed to file the Standard form 95 prior to placing the lawsuit at the time he filed it, but he needed to take legal action against Respondents. Petitioner had to file *pro se* without limited scope from an attorney. Petitioner searched for one on the bar but there were not any attorneys available for him. Standard 95 form has been timely filed after the start of this legal matter, but within 6 months after filing administrative claim sent to Respondent CAG via certified mail. Making this legal matter similar to *Hughes v. United States*, and *Wong v. United States*.

Like *Perez v. United States*, this legal matter has government employees acting out of negligence. In *Perez v. United States*, the National Guard was distracted while on guard duty. Due to their negligence and lack of skill Perez was knocked unconscious by the third party entering the APC disengaging their handbrake and striking the camouflage netting poles. Had the National Guard been more attentive she wouldn't not have been

rendered unconscious by the third party. In Petitioners case he has Respondents CAG and Michelle Parham acting out of negligence and lack of skill. Refusing to enforce Petitioners complaint against the PNC Respondents has led to this legal dispute, and so far, damages can't be calculated, but there are sure to be damages to Petitioner Trust Fund for he was not able to state claim without performing the audit. Perez in her legal matter used *In Irwin v. Dep't of Veteran Affairs*, 498 U.S. 89, 93-96 (1990) to undue the old rule that equitable tolling was never available for Statue of Limitations. FTCA 2401(b) was equitably tolled for congress does not enact 2401(b) and Jurisdiction is not discussed with in the text of 2401(b). However, it is found 28 U.S.C. 1346(b)(1) that district courts will have exclusive jurisdiction over civil actions on claims against the United States. Therefore 2401 (b) does not prohibit district courts from ruling on claims filed out of time due to a lack of Subject Matter of Jurisdiction and was not the intention of Congress to impose Jurisdictional bar. Petitioner is using related cases *Hughes v. United States*, *Perez v. United States*, *Irwin v. Dept. of Veteran Affairs*, and *Wong v. United States*, the same way Perez used *Irwin v. Dept. of Veteran Affairs* as the framework of her case. In *Irwin v. Dept. of Veteran Affairs*, Irwin argued with the district court and 5th Circuit that his untimely filing of his lawsuit was subject to equitable tolling. His case was dismissed by both courts having the district court raised it lacked Jurisdiction in the matter. Irwin was granted Writ of Certiorari by the U.S. Supreme Court and they reversed the judgment of the court of appeals. This was the primary case used by Perez to when her appeal with the 5th Circuit the following year. Like *Irwin v. Dept. of Veteran Affairs*, Petitioners legal matter lack of Subject Matter of Jurisdiction was raised by the district courts dismissing the federal employees and remaining the case back to the state court where it was

dismissed. 5th Circuit in its opinion dismissed the case as frivolous. Petitioner provided non frivolous assertions in his Appeal Brief for the 5th Circuit to reverse the case. The following paragraph will explain some of them. 5th Circuit has entered an opinion that conflicts with the ruling of its own in *Perez v. United States* and the ruling of the U.S. Supreme Court in the Writ of Certiorari in *Irwin v. Dept. of Veteran Affairs*. Petitioners case should not have been dismissed by the lower courts for lack of Subject Matter of Jurisdiction because the district courts had exclusive jurisdiction over civil actions on claims against the United States pursuant to 28 U.S.C. 1346 (b)(1). *Irwin v. Dept. of Veteran Affairs* is mentioned in Petitioner Appeal Brief to 5th circuit on pages 38,39,40,41, and 43, which was a non-frivolous reason for 5th circuit to reverse the district court's ruling. This is reason for U.S. Supreme Court to exercise its discretionary powers to see this legal matter and reverse the lower courts ruling same as *Irwin v. Dept. of Veteran Affairs*, and *Perez v. United States*.

Petitioner demonstrated nonfrivolous issues in his appeal on pages 9,14, and 15 about district court violation of procedure by both magistrate and district judge and the improper procedure of the district court are reasons to grant Writ of Certiorari pursuant to U.S. Supreme Court Rule 10 (a). Pursuant to their own court procedures "Court Procedures Hon. Charles R. Eskridge III Page 12, Section 15. Discovery and Scheduling Disputes (a), for it states in his court procedures "Good faith required", and "Court Procedures of Magistrate Judge Christina A Bryan IV Discovery Disputes Page 4 paragraph 12", Respondents document (ROA 24 pages 1,3,5) was a violation of Judges Eskridge, Bryan procedures, and FRCP Rule 26(c) for the Respondents raised Motions to Dismiss (ROA 4) and Motion for Judgement on The Pleadings(ROA 16) in discovery

case without attempting to disclose documents prior to filing (ROA 24), and did not make attempt to resolve dispute without court action. District Court filed an Order (ROA 28 page 1), which canceled pretrial conference and stayed the case. This Order was a violation of both Judge Bryans and Judge Eskridges court procedures. Respondents CAG and Michelle Parham were in bad faith in their Motion to Dismiss (ROA 4), and in discovery a matter the district courts violated FRCP Rule 26 Duty to Disclose, General Provisions Governing Discovery (c) Protection Orders, because motion for protection without any party making a motion included certification that movant has in good faith coffered of attempted to confer with any other affected parties to resolve the dispute without court action was made by the district courts by granting stay in (ROA 28). Therefore, they should not have been granted sovereign immunity. In combination with Court Procedures Hon. Charles R. Eskridge III Page 12, Section 15. Discovery and Scheduling Disputes (a) and affirmative defense being sovereign immunity *Hughes v. United States*. Petitioner does demonstrate a nonfrivolous issue about district courts improper procedure by both district judges residing over the case for it's some of the injustice stated in Petitioners Appeal Brief and (ROA 38) when magistrate judge attempts to dismiss and bar Petitioner pursuant to 28 U.S.C 636 (b)(1)(c) and case *Douglas v. United Servs Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc) in (ROA 36 pages 15-16). Mentioned on page 12 of Petitioner Appeal Brief and (ROA 36 pages 15-16) 28 U.S.C 636 (b)(1)(c) and case *Douglas v. United Servs Auto Ass'n* was to prevent Petitioner from attacking it upon plain error and manifest injustice in an appeal pursuant to *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir.1982) (en banc). This topic can be found on pages 8,9,11,12, and 15 of the Petitioners Appellant Appeal Brief. Discovery was quashed before documents that could be used as evidence to help assert Petitioners assertions against Respondents could be obtained. Respondents Attorneys held

pretrial conference by email, which was a violation of to Court Procedures of Magistrate Judge Christina A. Bryan Discovery Disputes Page 4, counsel must confer by telephone or video conference. A violation of FRCP Rule 26 (c) Protection Orders, for magistrate judge provided the Respondents protection with stay in the case without judgement of the case and quashed discloser of documents with the cancellation of pretrial conference which was vital for the salvation of the Petitioners Trust Fund. Without the documents requested for discloser Petitioner cannot state claim to his trust and is reason for the bad faith of the Respondents passing motions for dismissal which are in violation of Court Procedures Hon. Charles R. Eskridge III Page 12, Section 15. Discovery and Scheduling Disputes (a). The violations of rules, and procedure mentioned in this paragraph are sufficient reasons for The U.S. Supreme Court to grant Writ of Certiorari for the appeals court and the district court are to far outside of accepted judicial proceedings pursuant to U.S. Supreme Court Rule 10 (a) (b) “; or has so far departed from the accepted and usual judicial proceedings, or sanctioned by departure of the lower court, as to call for this Courts supervisory powers.”. 5th Circuit’s decision in Appendix A conflicts with *Hughes v. United States*, *Perez v. United States*, 167 F.3D 913, 915-17 (5th Cir 1999), and *United States vs Wong* 575 US 402 (9th Cir 2015) which are decisions made different state court of last resort or United States court of appeals.

In *United States v. Wong*, Wong failed file her FTCA claim in federal court within six months. She argued that the district court did require her to file till after the time period had expired. June failed to file a FTCA claim within two years she argued that her untimely filing should be excused, because the government concealed facts vital for her claim. In her case the district courts ruled FTCA Statue of Limitations could not be equitably tolled and Jurisdictional. Both cases appealed to 9th Circuit where it was reversed. Like *Perez v. United States*, *United*

States v. Wong used *Irwin v. Dept. of Veteran Affairs* as the framework of the two cases to have them both reversed by the 9th Circuit. In Petitioners case the Federal Respondents CAG and Michelle Parham where granted a motion to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1)(6) and the district courts raised lack of Subject Matter of Jurisdiction as in *United States v. Wong*. Since Petitioners case has similar ruling as *United States v. Wong* at the district level and was also dismissed by 5th Circuit same as *Irwin v. Dept. of Veteran Affairs*, which won certiorari with the U.S. Supreme Court for FTCA 28 U.S.C. 2401(b) could be equitably tolled. Petitioner also had legal documents he asked to have disclosed by the PNC Respondents, that he could have obtain without civil trial had Respondent CAG and Michelle Parham not been negligent in refusing to enforce Petitioners complaint to OCC. Which if he had obtained records and documents by the enforcement of OCC he would have begun a criminal lawsuit for damages against Respondent PNC. This is also like June as she needed facts vital for her claim that was concealed by the government. These pose as reason for the U.S. Supreme Court to grant Petitioner's Writ of Certiorari and reverse the lower court's decision for it conflict with the U.S. Supreme Court's decision in *Irwin v. Dept. of Veteran Affairs*, and *United States v. Wong* pursuant to U.S. Supreme Court Rule 10(a)(b).

To conclude the answers to all the questions stated above. With all the facts presented by the Petitioner thus far this case was dismissed outside the congressional intent of 28 U.S.C. 2401(b), 5th Cir. R. 42.2. The Courts erred and ignored the non-frivolous reasons why Petitioners appeal was adequate for the reversal of the district court decision and failed to see that the Petitioner was on the merits dismissing the case with prejudice. This case qualifies for Writ of Certiorari pursuant to U.S. Supreme Court

Rule 10 (a)(b) because the Petitioner has presented a substantial amount of evidence proving that the Respondents are quietly, district court's judgment Appendix B raised lack of Subject Matter of Jurisdiction as reason to dismiss, and Petitioner has timely filed a claim with the correct government agency. The facts presented above proves 5th Circuits opinion Appendix A conflict *Hughes v. United States* 263 F.3D 272, 278 (3rd Cir.2001) *Perez v. United States*, 167 F.3D 913, 915-17 (5th Cir 1999), and *United States vs Wong* 575 US 402 (9th Cir 2015) and *Irwin v. United States* provided the framework for this writ. Therefore, Federal Respondents do not qualify for Sovereign Immunity and Statue of Limitations is tolled, and this court's decision must be secured and maintained.

Reason for Granting Certiorari

The U.S. Supreme Court should grant the Petitioner Writ of Certiorari pursuant to U.S. Supreme Court Rule 10(a)(b). Petitioner has reason to be granted Writ of Certiorari pursuant to U.S. Court Rule 10(a)(b), because the U.S. Court of Appeals for the 5th Circuit entered a decision that conflicts with *Hughes v. United States* 263 F.3D 272, 278 (3rd Cir.2001), which was a decision made by the U.S. Court of Appeals for the 3rd Circuit. In *Hughes v. United States*, Hughes was unconscious while his attorney filed his lawsuit without first stating a claim with Veterans Affairs and the Federal Defendants in that case raised a motion for dismissal pursuant to FTCA Statue of Limitations and the case was dismissed by the district court. Same as Petitioners case the Federal Respondents are negligent in not enforcing the Petitioners claim against the PNC Respondents, which Federal Respondents were obligated to pursuant to SEC Order 12 U.S.C. 1818(b) Notice to Primary Regulator paragraph 3. Business Organization Code

Title 21, Corporations Chapter 2, For Profit Corporations Sub-Chapter A, General Provisions. Sec 21.218(b)(c), Sec 21.219, and Sec 21.354(a)(1)(b) was a law that was applicable to be enforced for it was used by the Petitioner to detect a crime had been committed. Federal Respondents out of negligence and the lack of detective skill pursuant to a federal law makes Petitioners case same as *Hughes v. United States*. In Petitioner case 12 U.S.C. 1818(b) is the same as 38 U.S.C. 1515 (a)(b)(c) in *Hughes v. United States* for it is the primary violation out of negligence and lack of skill of the Federal Respondents. District Courts dismissed Federal Defendants in (Appendix B) for lack of subject matter same as *Hughes v. United States*. In (ROA 5 paragraphs 2,3,4) Federal Respondents stated that removal was not based on diversity of jurisdiction therefore the district court had subject matter jurisdiction and the federal defendants should not have been dismissed for lack of subject matter jurisdiction by the district court. Petitioner timely filed for appeal and appeal was dismissed as frivolous by the appellate court. District Courts departure of accepted and usual judicial proceedings was sanctioned by the appellate court, which is reason for the calling of this Courts supervisory power. The district court quashed discovery of documents and granted motions of for dismissal and stay in a case before discloser of documents to protect the Respondents and violated court procedures pursuant to Court Procedures Hon. Charles R. Eskridge III page 12, Section 15. Discovery and Scheduling Disputes (a) and, Court Procedures of Magistrate Judge Christina A Bryan IV Discovery Disputes Page 4 paragraph 12. Federal Respondents violated these procedures by raising a Motion for Dismissal (ROA 4), and the PNC Respondent raised a Motion for Judgement on the Pleadings (ROA 16) in bad faith pursuant to Court Procedures Hon. Charles R. Eskridge

III page 12, Section 15. Discovery and Scheduling Disputes (a) and, Court Procedures of Magistrate Judge Christina A Bryan IV Discovery Disputes Page 4 paragraph 12, and FRCP Rule 26 (c) without attempting to disclose any information to the Petitioner. District Court quashed discovery by canceling the pretrial conference and granting a Motion of Stay in (ROA 28). By doing so they violated their own court procedures Court Procedures Hon. Charles R. Eskridge III page 12, Section 15. Discovery and Scheduling Disputes (a) and, Court Procedures of Magistrate Judge Christina A Bryan IV Discovery Disputes Page 4 paragraph 12 and FRCP Rule 26 (c). The district quashing of discovery and canceling pretrial conference was a violation of FRCP Rule 26(c) since the courts granted a motion to stay the case when the Respondents in bad faith would not confer with the Petitioner to resolve the dispute without court action. 5th Circuit sanctioned districts courts departure of accepted and usual judicial procedures by dismissing Petitioners facts presented in his appeal brief about the district court violation of judicial procedure as frivolous. Therefore, Petitioner has provided reason for the exercise of the Court's discretionary jurisdiction, and grant Writ of Certiorari and pursuant to U.S. Supreme Court Rule 10(a)(b).

Petitioner has reason to be granted Writ of Certiorari pursuant to U.S. Supreme Court Rule 10(b), because 5th Circuit has decided an important federal question in a way that conflicts with the decision of U.S. Court of Appeals for the 3rd, 5th, and 9th circuit. The question as stated in the Petitioners Appeal Brief was, "Did Appellees CAG and Michelle Parham qualify for sovereign immunity?" has national importance because the decision entered by 5th Circuit conflicts with the ruling of *Hughes v. United States* 263 F.3D 272, 278 (3rd Cir.2001). 5th

Circuit decision disagrees 3rd Circuit on how to interpret the law, which will lead to confusion for other court across the nation on legal matters concerning FTCA Statue of Limitations. This is reason for The U.S. Supreme Court open a precedent to take on this case, and ensure laws are applied equally across the Nation. The question raised by Petitioner in his Appeal Brief could be better worded to, "Did Appellees CAG and Michelle Parham qualify for sovereign immunity and can FTCA Statue of Limitations be equitably tolled.", or "Is FTCA Statue of Limitations jurisdictional or non-jurisdictional and may it be equitably tolled." Petitioner at the time of his appeal had less understanding of how to properly raise federal questions of law so please excuse is ignorance for Petitioner is only pro se and this legal matter is of national importance on how courts should rule in case pertaining to FTCA Statue of Limitations and equitable tolling. In (Appendix A) 5th Circuit states that the Petitioner did not present a cogent argument that the district court erred in determining his claims against the Federal Respondents the scope of FTCA and that discretionary function exception applied. Petitioner proves in his appeal that the FTCA Statue of Limitation should have been tolled pursuant to cases *Hughes v. United States* 263 F.3D 272, 278 (3rd Cir.2001), *Perez v. United States*, 167 F.3D 913, 915-17 (5th Cir 1999), *Irwin v. Dep't of Veteran Affairs*, 498 U.S. 89, 93-96 (1990), and *United States vs Wong* 575 US 402 (9th Cir 2015). Petitioner states in his Appeal Brief in summary of the argument on page 12 and 13, "The Appellant as provided sufficient evidence in the "Statement of Facts" with supporting exhibits in (ROA 27 Pages 1-80) in the Document being filed alongside this document, but not attached to it titled "Final Court Order" and has proven in "Conclusion" of the "Statement of Facts" that the Appellees are guilty of all assertions against them." The document that was filed along with Appeal Brief was thrown away by Fifth Circuit. Petitioner also states in Appeal Brief in paragraphs on pages 9-11 states the reasons why FTCA Statue of Limitations should be tolled

and the district courts order reversed. With this legal matter being so similar to *Hughes v. United States* as stated in the paragraph above and Petitioner presented nonfrivolous facts of why FTCA Statue of Limitations should have been tolled, and the 5th circuit has erred in dismissing this case as frivolous. 5th Circuit's decision in this case conflicts with the decision on the 3rd Circuit case *Hughes v. United States* making Petitioners case Nationally important because this disagreement can cause confusion, especially because 5th Circuit ruled the same as 3rd Circuit in *Perez v. United States*. Therefore 5th Circuit has decided an important question of federal law in a way that conflicts with another U.S. Court of Appeals pursuant to U.S. Supreme Court Rule 10(b), giving reason for the exercise of the Court's discretionary jurisdiction, and grant Writ of Certiorari.

Conclusion

The U.S. Supreme Court has reason for the exercise of the Court's discretionary jurisdiction and grant Writ of Certiorari for the 5th Circuit has decided an important question of federal law that has been heard, and should be, settled by this Court for it is in conflict with other U.S. Court of Appeals, the lower court has so far departed from the accepted and usual course of judicial proceeding, and this case is a national matter of importance because it will prevent confusion on how the courts are to rule on FTCA 28 U.S.C. 2401(b) in the matter wither or not the Courts have jurisdiction over civil matters against the United States government. This being an important question raised by the lower court's dismissal of Petitioner cases. I conclude that the U.S. Supreme Court has jurisdiction and reason to Petitioner Writ of Certiorari to reverse this case pursuant to Supreme Court Rule 10(a)(b).