No. 24-7447 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

GILBERT AGUIRRE — PETITIONER
(Your Name)

vs.

DEPARTMENT of DEFENSE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

GILBERT AGUIRRE
(Your Name)

6060 39TH AVE
(Address)

SACRAMENTO, CA, 95824
(City, State, Zip Code)

(229)444-0959
(Phone Number)

QUESTION(S) PRESENTED

8. Who may appeal an adverse action to the Board?
• Veterans preference-eligible employees with at least one year of continuous employment in the same or similar positions outside the competitive service;
Source: https://www.mspb.gov/appeals/appellantqanda.htm

Is a RULE 60 Motion, Fraud upon the court, sufficient basis for judicial intervention, review and decision on its merits? Yes. However, this court provided no meaningful review, response and decision on its merits.

Did the Appeals Court extend deference to agency resolutions of questions of law? Yes, erroneously. See; No. 22–1219, Relentless, Inc., et al. v. Department of Commerce, et al., on certiorari to the United States Court of Appeals for the First Circuit. Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc., 467 U. S. 837. Loper Bright Enterprises et al. v. Raimondo, Secretary of Commerce, et al. "The Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous; Chevron is overruled. Pp. 7–35. (a) Article III of the Constitution assigns to the Federal Judiciary the responsibility and power to adjudicate "Cases" and "Controversies"—concrete disputes with consequences for the parties involved. The Framers appreciated that the laws judges would necessarily apply in resolving those disputes would not always be clear, but envisioned that the final "interpretation of the laws" would be "the proper and peculiar province of the courts." The Federalist No. 78 p. 525 (A. Hamilton). As Chief Justice Marshall declared in the foundational decision of Marbury v. Madison, "[i]t is emphatically the province and duty of the judicial department to say what the law is." 1 Cranch 137, 177. In the decades following Marbury, when the meaning of a statute was at issue, the judicial role was to "interpret the act of Congress, in order to ascertain the rights of the parties." Decatur v. Paulding, 14 Pet. 497, 515. Corner Post, Inc. v. Board of Governors of the Federal Reserve System

Does Thunder Basin Coal Co. v. Reich, 510 U. S. 200 (1994) require courts to ask whether a "comprehensive review process' exists for Veteran Preference Eligibles and VRA Eligibles in MSPB adjudications? Yes.

Does the longstanding solicitude of Congress for veterans and its special regard for veterans' pro-veteran canon, as the U.S. Supreme Court has explained, stems from Congress's intent to help veterans when enacting legislation providing them benefits, provide a right to MSPB and court hearings where veteran benefits are at issue? Yes. Boone v. Lightner, benefits statutes must be "liberally construed" in favor of veterans and veterans law must be read as what Fishgold v. Sullivan Drydock & Repair Corp. terms "an organic whole" with each individual statute given "as liberal a construction for the benefit of the veteran as harmonious interplay of the separate provisions permits." Furthermore, under Henderson ex rel. Henderson v. Shinseki, Rudisill argues, any ambiguities in such statutes should be in favor of veterans and against "harsh penalties" for veterans. Thus, although Rudisill argues that there are no ambiguities in the statute and that the statute must be read in their favor, Rudisill posits that even if there were ambiguities in the statute, the pro–veteran canon dictates that such ambiguities must be resolved in veterans' favor. Rudisill v. McDonough. John Jay's opinion in Hayburn's Case in 1792.

Does Muldrow v. City of St. Louis, Missouri, et al, the U.S. Supreme Court ruling ("discrimination" simply means to "treat worse" The law contains no "significance" requirement or other hurdle for how large the harm must be. Any harm to a term or condition of employment will suffice.) implicate USERRA's antidiscrimination provisions? Yes. The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), U.S. Code, Chapter 43, Part III, Title 38. Sec. 2. Federal USERRA Guidance. (d). Sec. 3. Ensuring USERRA Employment Protection. (b)
Does violating Wounded Warriors Federal Leave Act of 2015 implicate USERRA's protections? Yes.

Is Department of Defense-Defense Logistics Agency required to prove the elements of "DUI"? Yes: "because the phrase "driving under the influence" is a term of art which the agency's employee handbook does not define, the agency was required to prove the elements of driving under the influence as defined by California law. ID at 10-12." Chad Clayton, Appellant v Department of Homeland Security, Agency, MSPB Docket Number SF-0752-13-0576-I-1 Final Order Nonprecedential dated January 15, 2015. See Hoofman v. Department of the Army, 118 M.S.P.R. 532, ¶ 9 (2012), aff'd, 526 F. App'x 982 (Fed. Cir. 2013). See also ID at 12.

Does appellant's assertion of his fifth amendment privilege during the MSPB proceedings risking his property right in his employment and criminal and civil penalties implicate the right to trial by jury and core Article III powers? Yes. Securities and Exchange Commission v. Jarksey et al.

Petitioner Aguirre hereby incorporates by reference all his questions presented, defenses, motions, arguments, cases cited, statutes and constitutional issues raised in this matter to MSPB and Court of Appeals for the Federal Circuit as though fully set forth at length herein.

LIST OF PARTIES

[X] 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

Memorandum of President of the United States, July 19, 2012, 77 F.R. 43699, provided: Memorandum for the Heads of Executive Departments and Agencies. "The Administration strongly believes that every man or woman who has served in our country's uniformed services deserves the full protection of our employment laws, including USERRA. No discrimination or unfair treatment based on one's service will be tolerated. We must do our utmost to ensure that all service members' employment and reemployment rights are respected." POTUS Barack Obama. https://www.govinfo.gov/link/fr/77/43699

§4302. Relation to other law and plans or agreements
(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.
(b) This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit. (Added Pub. L. 103–353, §2(a), Oct. 13, 1994, 108 Stat. 3150.)

20 CFR § 1002.41 Does an employee have rights under USERRA even though he or she holds a temporary, part-time, probationary, or seasonal employment position?
USERRA rights are not diminished because an employee holds a temporary, part-time, probationary, or seasonal employment position. However, an employer is not required to reemploy an employee if the employment he or she left to serve in the uniformed services was for a brief, nonrecurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period. The employer bears the burden of proving this affirmative defense. Part 1002 Authority: Section 4331(a) of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. 4331(a) (Pub. L. 103-353, 108 Stat. 3150). Source: 70 FR 75292, Dec. 19, 2005, unless otherwise noted. https://www.ecfr.gov/current/title-20/chapter-IX/part-1002/subpart-C/subject-group-ECFR3f468fbc6fd4546/section-1002.41

MSPB must apply the regulations under USERRA pursuant 38 U.S.C. 4331(a) (2)(A) (Pub. L. 103-353, 108 Stat. 3150).
20 CFR § 1002.40 Does USERRA protect against discrimination in initial hiring decisions? "the employer would be liable if it denied initial employment on the basis of the individual's action taken to enforce a protection afforded to any person under USERRA, his or her testimony or statement in connection with any USERRA proceeding, assistance or other participation in a USERRA investigation, or the exercise of any other right provided by the Act. The hearing testimony DLA management official Warrington illustrates violatin his area of USERRA when he states he would not have hired Appellant Aguirre on the basis of his service-connected disability – PTSD, among other things. This violation of USERRA alone constitutes reversible error that this court should recognize and enforce upon the government, which has a higher standard of being a model employer where USERRA is at issue.

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES CITED

CASES PAGE NUMBER

Petitioner Aguirre hereby incorporates by reference all his defenses, motions, arguments, statutes and constitutional issues raised in this matter to MSPB and Court of Appeals for the Federal Circuit as though fully set forth at length herein.

STATUTES AND RULES

) CFR § 1002.40 Does USERRA protect against discrimination in initial hiring decisions? "the employer would be liable if it denied iitial employment on the basis of the individual's action taken to enforce a protection afforded to any person under USERRA, his or er testimony or statement in connection with any USERRA proceeding, assistance or other participation in a USERRA investigation, the exercise of any other right provided by the Act. The hearing testimony DLA management official Warrington illustrates violating iis area of USERRA when he states he would not have hired Appellant Aguirre on the basis of his service-connected disability – TSD, among other things. This violation of USERRA alone constitutes reversible error that this court should recognize and enforce on the government, which has a higher standard of being a model employer where USERRA is at issue.

) CFR § 1002.213 How can the employee demonstrate a reasonable certainty that he or she would have received the seniority right or enefit if he or she had remained continuously employed during the period of service?

3 U.S.C. §4303. Definitions:
or the purposes of this chapter— (2) The term "benefit", "benefit of employment", or "rights and benefits" means the terms, onditions, or privileges of employment, including any advantage, profit, privilege, gain, status, account, or interest (including wages o ilary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice...

1002.18 What status or activity is protected from employer discrimination by USERRA? An employer must not deny initial nployment, reemployment, retention in employment, promotion, or any benefit of employment to an individual on the basis of his or er membership, application for membership

SERRA: § 1002.40, Section 4311, . 5 C.F.R. § 315.806. VRA appointees, . 5 U.S.C. 3309, 3313 and 5 CFR 332.401, 337.101.

OTHER

. final written decision, and an appeal right to the Merit Systems Protection Board. 5 U.S.C. 2108 (4) chapters 43 and 75; 5 CFR Parts 32 and 752. A willful violation of a provision of law or regulation pertaining to Veterans' preference is a Prohibited Personnel Practice ub. L. 105-339; Title 38 U.S.C. 4103(c)(13) and (14); Interagency Advisory Group memo of 1/18/94 from OPM to Directors of ersonnel, subject: Special Employment Complaint Procedure for Veterans under 38 U.S.C. 4103.

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

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[X] reported at Document 41, Pg 1-2; [ECF No. 39] _____; 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 _____ 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.

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 01/29/2025.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 01/29/2025, and a copy of the order denying rehearing appears at Appendix Document 41, Pg 1-2

[ ] 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

President Roosevelt wrote in endorsing the Veterans Preference Act of 1944, "I believe that the Federal Government, functioning in its capacity as an employer, should take the lead in assuring those who are in the armed forces that when they return special consideration will be given to them in their efforts to obtain employment. It is absolutely impossible to take millions of our young men out of their normal pursuits for the purpose of fighting to preserve the Nation, and then expect them to resume their normal activities without having any special consideration shown them."

The President, as " 'Commander in Chief of the Army and Navy of the United States,' U.S. Const., Art. II, § 2," has the "authority to classify and control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position * * * that will give that person access to such information." Department of the Navy v. Egan, 484 U.S. 518, 527 (1988). Executive Order 12,968 also establishes internal agency procedures designed to provide meaningful review of agency decisions to deny or revoke security clearances, while still protecting the interests of national security. See Exec. Order No. 12,968, § 5.2(a) and (d), 3 C.F.R. 399-400 (1996). Employees must also be given the opportunity to respond in writing to the denial or revocation and to obtain counsel. Id. § 5.2(a)(3) and (4), 3 C.F.R. 399-400 (1996). In addition, the agency must permit the employee to appeal an adverse decision to "a high level panel, appointed by the agency head, which shall be comprised of at least three members, two of whom shall be selected from outside the security field." Id. § 5.2(a)(6), 3 C.F.R. 400 (1996).

"the approach set forth in" Rattigan v. Holder, 689 F.3d 764 (D.C. Cir. 2012). Pet. App. 11a. In Rattigan, the D.C. Circuit had held that a federal employee could pursue a Title VII claim alleging that a security-clearance review, in which the agency had allowed the employee to keep his clearance, had been triggered by the raising of "knowingly false" security concerns in retaliation for his protected activity. 689 F.3d 770; see id. at 766. The court of appeals explained that "the 'knowingly false' requirement of Rattigan has been met here. Nicholas Jay Wilson v. Department of the Navy, SCt. No. 16-1400. In the case of appellant Aguirre, witness Harrison wrote and testified that appellant's security was at issue. Moreover, he falsely lead the appellant to believe as a proximate cause of the arrest for DUI that the appellant could no longer participate in required law enforcement training while also not properly affording an opportunity to meaningful review of an alleged impending decision to revoke the required security clearance of the appellant. Witness Warrington – Decision maker, Chief Ali & Maj Harrison, Chief Ali upon reviewing pertinent information and corresponding with Labor Relations Specialist Judy Brown made the recommendation for termination then briefed his chain of command Mr. Warrington (Witness). Reference Appellant's Motion to Compel Appellant Interrogatory #16 (SF220026I1-IA-18). Witness Harrison states he received an email from the CHP contain the "police report" after email the CHP to request said report. Reference Pleading Title Agency File Document Tab 4C – Email – Cancellation of Academy, page 20 of SF220026I1-IA-4 submission.

In the matter before this high court petitioner alleges the President and Congress together, and not MSPB or the Court of Appeals, can define or determine the scope and breadth of rights, privileges, benefits, and immunities bestowed upon veterans. And such rights cannot be curtailed or otherwise modified administratively by MSPB or Court of Appeals without explicit instruction or directive of the President of the United States or its Congress. In this case both MSPB and the court has redefined such benefits in violation of USERRA, and completely ignored violations of the Wounded Warrior Act in defiance of congressional mandate

Petitioner Aguirre hereby incorporates by reference all his defenses, motions, arguments, statutes and constitutional issues raised in this matter to MSPB and Court of Appeals for the Federal Circuit as though fully set forth at length herein.

STATEMENT OF THE CASE

Petitioner, Mr. Gilbert Aguirre appeals the Department of Defense, Defense Logistics Agency (DLA), Notice of Termination during Probationary Period, U.S. Merit System Protection Board (MSPB) initial and final decisions. Further, Mr. Aguirre prays for reversal of such decisions as stated below.

Mr. Aguirre, a U.S. combat veteran, suffers from Post-Traumatic Stress Syndrome (PTSD) as a direct result of his military service in combat. During his employment with DLA, he submitted requests to be absent from work to attend psychiatric appointments with the U.S. Department of Veterans Affairs (VA) medical facilities to address his medical and mental health needs which were approved by DLA.

Leave Restriction:

The leave restriction letter is a covered action for purposes of USERRA because it required the appellant to take special steps when requesting sick leave that did not otherwise apply to employees, and thus impacted the benefits of employment. 38 U.S.C. § 4303(2). Additionally, the agency specifically considered it in the notice of termination.

As stated above, contrary to what was stated in the leave restriction letter, the December 2021 LAR showed that the appellant only used sick leave twice during the identified period, not six times. When shown the December 2021 LAR and questioned about this, the witnesses appeared very confused and could not explain the discrepancy between the leave restriction letter and the LAR regarding the number of sick days the appellant used. HAR, Barone and Thompson. However, the audit referred to in the leave restriction letter was not included in the record of this appeal, and it is the audit that was purported to show the amount of sick leave the appellant had used. The witnesses were not asked whether the December 2021 LAR accurately reflected the audit or whether any of the appellant's leave designations had been changed after the audit.

MSPB Judge: "Thus, while it is possible that the agency issued the leave restriction letter to the appellant in error, the appellant did not show that it was more likely than not that his military service (as a combat veteran or otherwise) was a substantial or motivating factor in that error."

Petitioner Aguirre hereby incorporates by reference all his defenses, motions, and arguments raised in this matter to MSPB and Court of Appeals for the Federal Circuit as though fully set forth at length herein.

REASONS FOR GRANTING THE PETITION

The panel decision is contrary to the foregoing decision(s) of the Supreme Court of the United States or the precedent(s) of this court (specific decisions cited above).

Based on my professional judgment, I believe this appeal requires an answer to one or more precedent-setting questions of exceptional importance:

Appellant Aguirre had respectfully motioned and requested the appellate court provide a reasonable opportunity for the President and President-Elect Donald J. Trump to clarify the benefits of veterans on the matters presented in this appeal via amicus brief or other communication to the court. 4311 of title 38, United States Code, (2) The term "benefit". The appellate court did not rule on this motion specifically.

The Merit Systems Protection Board (MSPB or Board), "an independent Government agency that operates like a court." 5 C.F.R. 1200.1; see Pet. App. 13a. The Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. 1101 et seq., provides that certain removal actions against certain federal employees are appealable to the MSPB. 5 U.S.C. 7513(d). USERRA separately provides that claims under its antidiscrimination provision may be submitted to the MSPB in certain circumstances. See 38 U.S.C. 4324.

Given the agency has finally acknowledged that it is likely its employees supervising petitioner knew that the petitioner was a veteran, petitioner submits that it is more likely than not that such supervising employees were reasonably aware that he was a combat veteran. This is further evidenced by the reasonable availability of such information within the employer itself – Department of Defense, including the petitioner's use of "Wounded Warrior Leave Act" for his PTSD which is only available to veterans and as a pre-condition to receive treatment at a Veterans Affairs Hospital. Even without the status of "combat veteran" USERRA is applicable to the "Wounded Warrior Leave Act" as it conditions a benefit to a member's past military service and the disabilities borne from such battle, etc. While the judge and MSPB use combat veteran status as a prerequisite to hear this case it is not limited to such status and the additional claims and benefits with nexus to USERRA are within the authority of MSPB and this court to review. On this matter alone reversible error exist.

The Jobs for Veterans Act, Public Law 107-288, amended title 38 U.S.C. 4214 by making a major change in the eligibility criteria for obtaining a Veterans Recruitment Appointment (VRA). Those who are eligible: Disabled veterans; or Veterans who served on active duty in the Armed Forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal was awarded; or Recently separated veterans. Veterans claiming eligibility on the basis of service in a campaign or expedition for which a medal was awarded must be in receipt of the campaign badge or medal. Appellant Aguirre was hired under VRA as a veteran preference eligible. Whether or not his employer, the Department of Defense knew he was a combat veteran does not relieve it of its legal responsibilities under USERRA nor disenfranchises the employee VRA of his rights, benefits, or entitlements under USERRA. Appellant Aguirre was entitled to a full and fair hearing before MSPB and the courts as a matter of law, and the case laws cited in opposition do not supersede USERRA law. Supervisors should consult with their servicing human resources office to help them determine if an individual meets the statutory definition of "employee." An individual must receive full procedural and appeal rights if he or she meets the definition of "employee" provided at 5 U.S.C. § 7511. An individual must receive full procedural and appeal rights if he or she is: a preference eligible in the excepted service who has completed one year of current continuous service in the same or similar positions in an Executive agency; or in the United States Postal Service or Postal Regulatory Commission; or an individual in the excepted service (other than a preference eligible) who is not serving a probationary or trial period under an initial appointment pending conversion to the competitive service, for example: Veterans Recruitment Appointments (VRA) (5 CFR part 307). https://www.opm.gov/policy-data-oversight/employee-relations/employee-rights-appeals/#EmployeeCoverage. This issue alone constitutes reversible error that this court should recognize and USERRA demands its enforcement.

§4335 (a) (1) (2). Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations. Training required. DoD is inextricably linked in the initial and continuous development of USERRA regulations and training. It is more likely than not that DoD human resources personnel and the appellant's management officials were reasonably aware of his veteran status and its related rights and benefits. Moreover, appellant's status as a combat veteran would likely have been more readily accessible and known than a non-DoD Federal executive agency. DoD DLA knew appellant was suffering from PTSD and through the period of the use of Wounded Warrior Leave Act usage. Ample evidence of such status has been continuously included in Appellant's record of appeal, including to this court. To deny such facts should be construed as continuing acts of fraud upon the court.

4311 (D) exercise of a right provided for in this chapter, is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such person's enforcement action, testimony, statement, assistance, participation, or exercise of a right.

Due process violations by MSPB and the Court of Appeals against the petitioner Aguirre. MSPB denied petitioner's motions to compel key witnesses such as the female contractor alleged to have been harassed and CHP officer who allegedly performed sobriety tests on petitioner. Appeals court similarly declined review based upon probationary status; violation of USERRA.

SERRA's disability protections exceed those found in the Americans with Disabilities Act (ADA). USERRA defines "disability" ıore broadly and covers any disability incurred or aggravated during military service, whereas the ADA's coverage of only those isabilities that meet the ADA's statutory definition of disability. Even if a Petitioner, a former service member, would not have a claim ıder the ADA, he is entitled to all of USERRA's protections because his military service caused his PTSD and DLA aggravated such isability when it unreasonably disrupted his ongoing VA medical and psychological treatment with mandatory overtime conflicting ith such treatments, hostile work environment with animus "Dirtbag" statements and treatment. Although USERRA "does not ɔecifically prohibit an employer from subjecting an employee to harassment or a hostile work environment due to an employee's ıilitary status," the court noted, the Act specifically prohibits the denial of "any benefit of employment by an employer" to members f uniformed service based on their membership and/or performance of service. According to the court, "[b]ecause the right to be free om a hostile work environment, broadly construed, is a benefit of employment. The court held, the employee may proceed with his aim under USERRA. Steenken v. Campbell County, No. 04-224-DLB, U.S. District Court for the Eastern District of Kentucky March 15, 2007). This matter alone is reversible error.

ULE 60 Motion, Fraud upon the court:
he multiple allegations and causes giving rise to USERRA protections in this matter were and are important questions of law to ɔcessitate certifying a ruling for review on interlocutory appeal. Agency's veiled allegations of sexual harassment, leave abuse/fraud, ıd unlawfully influencing a "CHP Officer" raise important questions of law which were not sufficiently weighted by the dministrative Law Judge. For example, as reflected in the record and this appeal, petitioner Aguirre continuously maintained a valid ːiver license from the date of his arrest through this appeal and the assertion that he did not possess such licensure as to preclude his ːquired employment training and development (A "benefit" of employment) is patently false and fraud upon the board and court. ɛtitioner steadfastly asserted violation of his "Weingarten" rights throughout his appeals. Petitioner further alleged drawing an dverse inference to his fifth amendment privilege violates the right of the privilege, and does so here. The judge's multiple abuse of iscretions are significant and substantially erroneous to the extent that substantive due process has been violated. This matter alone is ːversible error. D.E. v. Department of the Navy, MSPB, 721 F.2d 1165 (9th Cir. 1983)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

GILBERT AGUIRRE

Date: APRIL 25, 2025