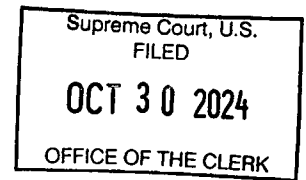


24-973

CASE NO. 23-13771-CC



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IN THE SUPREME COURT OF THE  
UNITED STATES OF AMERICA

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JUSTIN SAVAGE,

Petitioner

v.

HENRY COUNTY SCHOOL DISTRICT,

Respondent

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ON PETITION FOR WRIT OF CERTIORARI  
TO THE ELEVENTH CIRCUIT COURT OF  
APPEALS

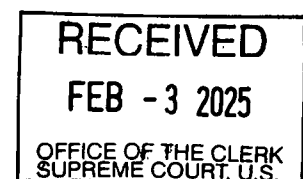
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PETITION FOR WRIT OF CERTIORARI

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**QUESTION PRESENTED FOR REVIEW**

(i) Whether the Eleventh Circuit Court of Appeals' dismissal of the petition for rehearing without providing any reasoning, and its failure to duly consider and address material evidence, including the absence of any criminal record and a corrected application affirming such, is 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:** Henry County School District

- \* Justin Savage v. Henry County School District, No. 1:22 -CV-0175-CAP-LTW, Northern District Court of Georgia Judgment entered October 11, 2023
- \* Justin Savage v. Henry County School District, No. 1:22 -CV-0175-CAPLTW, Northern District Court of Georgia Judgment entered May 29, 2024
- \* Justin Savage v. Henry County School District, No. 23-13771-CC, 11th Circuit Court of Appeals Judgment entered May 29, 2024
- \* Justin Savage v. Henry County School District, No. 23-13771-CC, 11th Circuit Court of Appeals Judgment entered August 12, 2024

iii.

(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"): Non 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 Eleventh Circuit Court of Appeals on August 12, 2024. No explanation was given by the Court of Appeals as to why the petition for rehearing was dismissed. Petitioner seeks a review of the judgment of the Court of Appeals as it denies the constitutional right of due process to the Petitioner.



## OPINIONS BELOW

Following the May 29, 2024, opinionated judgment from the 11th Circuit Court of Appeals (Annexure A), on the same date, Magistrate Judge Linda T. Walker passed an order in the Northern District Court of Georgia allowing the respondent to seek attorney fees (Annexure B). Plaintiff filed a petition for rehearing on the matter on June 17, 2024 (Annexure B). Plaintiff alleges that the Eleventh Circuit Court of Appeals had reached an improper order. Notice of the petition for rehearing was also sent via certified mail to the Defendant.

While this petition for rehearing was under review by the Appellate Court, Defendant filed a motion for attorney fees in the lower court-Northern District Court of Georgia on June 28, 2024, and a second motion was filed in the Northern District Court of Georgia on July 29, 2024. In response, Plaintiff filed a motion in the Northern District Court of Georgia to deny the request for attorney fees on August 9, 2024. It was entered into the docket on August 12, 2024. On the same day-August 12, 2024, the Eleventh Circuit Court of Appeals entered a judgment for the petition for rehearing and denied it with no explanation (Annexure D).

## **JURISDICTION**

The final order of the Eleventh Circuit Court of Appeals was rendered on August 12, 2024, dismissing the petition for rehearing. 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 with the denial of a Clearance Certificate by the Professional Standards Commission (hereinafter "the Commission"). Due to this denial, Petitioner was terminated from his job at the Henry County School District. The reality was, however, very different in which the Petitioner was wrongfully denied the Clearance Certificate by the commission which operated with malice since the Petitioner had launched a harassment complaint against a higher official of the school. Following this complaint, the Petitioner was terminated from his employment. The Henry County School District (hereinafter "School district") stated that the reason for termination was due to the petitioner not attaining a clearance certificate which is false. This was also contested by the Georgia Department of labor in which the school district forwarded the same reasons for the plaintiff's termination to the department once the Plaintiff filed for unemployment compensation. The school district attempted to challenge the Plaintiff's favorable outcome and filed an appeal in an attempt to order the Georgia Department of Labor to make the Petitioner payback unemployment compensation which occurred three years later after the Plaintiff's termination. Upon review of all material evidence on record, the Georgia Department of Labor ruled in the Plaintiff's favor for the second time. During this time, the attorney representing the school district-Grant McBride, has made several attempts to make settlement offers with the petitioner who was

initially represented by an attorney through this period. Actual proof and acknowledgement of the school district's admission of the petitioner's wrongful termination can be viewed in at least two different email screenshots on two different occasions up to two years following the petitioner's termination. It has now been 4 years since the Petitioner's termination and as you can see, the Petitioner has experienced a turmoil of retaliatory events. The Professional Standards Commission (hereinafter "Commission") had wrongfully denied the Petitioner's clearance certificate. In particular, the Petitioner seeks to highlight the issue of a clerical error arising with the initial 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, indicated "No" regarding the personal affirmation question. The second application was notarized and presented during the Professional Standard Commission's hearing, but the Commission has not yet acknowledged this correct version of the Application. It is important to note that the former certification specialist- Pamela Stephens, received two Clearance Applications on the same day. The correct clearance application was notarized and forwarded directly to the commission by the former certification specialist, not the Petitioner. The Commission did not provide compelling evidence against the petitioner regarding the allegations of a criminal history record made against him. Additionally, the Court did not give due consideration to the evidence presented by the Petitioner, which led to the

issuance of the May 29, 2024, Order.

Aggrieved by this order, the Petitioner filed a petition for rehearing with the Eleventh Circuit Court of Appeals on June 17, 2024. Generally, this action serves to stay any demand for attorney's fees; however, the defendant nonetheless filed two motions demanding attorney's fees.

Consequently, the petitioner was compelled to file a motion to dismiss these demands while awaiting the decision on the rehearing petition. The motion to dismiss the request for attorney fees was file on August 9, 2024 and entered into the docket on August 12, 2024. On the same day-August 12, 2024, the Court of Appeals dismissed the petition for rehearing without providing any explanation.

Additionally, on February 22, 2024, the school district had filed a brief asserting that the petitioner's case should be dismissed without consideration of the merits, based solely on his conduct. This position appears to have been adopted by the Court of Appeals.

Petitioner stands before the Honorable Supreme Court with the exception of actual justice on account that all courts have failed to sufficiently appreciate and address evidence on record that speaks to the fact that the petitioner does not have a criminal record. The alleged arrest and assault that the opposing counsel was referring to has been improperly cited on record. This information came from the assumption that a brief, type-written, unsigned description which alluded to the

petitioner to which the petitioner vehemently denies and was submitted directly by the former certification specialist-Pamela Stephens who has since resigned. In fact, multiple evidence on record show otherwise to the contrary and the opposing counsel has never produced a criminal record confirming such allegations. The petitioner has no criminal record nor arrest record which substantiates the assumption. O.C.G.A- 35-35 (b) provides that a criminal record must exist in order for a clearance certificate to become void or a licensing agency to deny certification. The opposing counsel has failed to produce exculpatory evidence from the school district. For instance, the petitioner's FBI/GBI fingerprint background check issued by the school district was clear, showing no criminal record and accepted on 7/23/2020, four days later, the petitioner's starting date of employment began on 7/27/2020 as indicated within the petitioner's official separation notice which was also submitted to and verified by the Georgia Department of Labor.

## **MATERIAL FACTS**

The petitioner, a former employee of Henry County Schools ("School district"), was hired as an educator. Before his employment, he was required to obtain a clearance certificate. On June 1, 2020, the petitioner completed the Commission's Clearance Application ("Application"). The documents were notarized by a District system representative-Pamela Stephens-the former certification specialist who has since resigned and faxed the documents directly to the Commission. The process proceeded without issue until the petitioner filed a complaint of sexual harassment against Ms. Sellers, an administrator at Henry County Schools. Shortly thereafter, the petitioner was placed on administrative leave for about 2 1/2 months and was eventually terminated on December 18, 2020.

It is important to note that the petitioner had provided all necessary documentation for clearance purposes. Despite this, the Commission denied issuing a clearance certificate to the petitioner, citing an error in the clearance application that the former certification specialist-Pamela Stephens forwarded directly submitted to the Commission. Notably, no criminal history record was found against the petitioner. A letter dated-July 23, 2020, from the Georgia Bureau of Investigation clearly stated that "No Georgia or F.B.I. National Criminal History record was found" against the petitioner (Annexure B). During the Commission's hearing, Assistant Attorney General Walencia Monroe also confirmed that the petitioner had no criminal record



nor any criminal convictions. She acknowledged that the Commission had received a clear fingerprint/background check on July 23, 2020 (Annexure D)—the same day that Paul Philips emailed and called Dr. Savage to finalize and approve of all requested documents. Similarly, a letter from the Attorney General's office confirms 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 crucial to highlight that the Georgia Professional Standards Commission, in its final order, explicitly noted under the "Findings of Fact" section that the 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).

The petitioner further contends that recorded testimonies from former certification specialist Pamela Stephens, who has since resigned, confirmed the acceptance of the clearance application prior to the Petitioner's employment and that the former school district investigator- Justin Cofer, who had also resigned, cleared the Petitioner's background check for employment and certification by the Petitioner's starting date of employment which was July 27, 2020 as indicated in the Petitioner's official separation notice. 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 failed to

acknowledge these facts in their final decision. The school district has not addressed any of the Petitioner's previous submissions, yet the courts have continued to deny the Plaintiff's petition without providing any explanation.

### **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 Supreme Court of the United States.

As per the factual background, a rehearing petition was filed by the Petitioner on June 17, 2024, as he was aggrieved by the decision rendered in the May 29, 2024, opinionated judgment. The judgment was based on the presumption that the Petitioner had provided fraudulent documentation. Nevertheless, it is clear from the evidence produced herein that the Petitioner has no reason to commit such fraud. The Petitioner's primary objective was to seek justice for his wrongful termination by the Respondent. Therefore, a petition for rehearing was filed. In the petition, the Petitioner provided all evidence on hand in support of his claims. However, the Court of Appeals dismissed the rehearing petition without providing any reasons for its decision. It is a well-established principle that every case shall be decided based on merits to assure substantive equality in the justice system (*Watson v. Russell*, 367 Ark. 443 (Ark. 2006), *Dolah v. ICT, LLC*, 2023 N.Y. Slip Op. 33180 (N.Y. Sup. Ct. 2023)) Courts are generally required to provide reasons for their decisions to ensure transparency and fairness, allowing the parties to understand

the legal and factual basis for the Court's actions. The absence of such reasoning not only undermines the Petitioner's ability to challenge the dismissal effectively but also raises concerns about the arbitrariness of the Court's decision. Given the significant legal and factual issues at stake, including the procedural fairness owed to the Petitioner, this failure to provide a reasoned explanation constitutes compelling grounds for granting the writ.

The USCS Supreme Ct. R. 10 provides:

“A state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.”

In State v. Leyh, 166 Ohio St. 3d 365, 185 N.E.3d 1075 (Ohio 2022), it was explicitly stated that when a court of appeals denies a petition, it must provide reasons for the denial in its judgment entry. This principle is similarly upheld in other cases, such as In re Stewart, 552 F.3d 1285 (11th Cir. 2008). The failure to provide an explanation constitutes a procedural oversight that undermines the principles of transparency and fairness essential to judicial proceedings.

In summary, the Court of Appeals has failed to appreciate the weight of the evidence and 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 the Petitioner's multiple clear background checks, all point to a miscarriage of justice. Therefore, it is imperative that the 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 Presented By Petitioner Has Not Been Addressed By The Court But Remains Material And Relevant.**

The evidence in question is material as it pertains directly to central issues crucial to the case's outcome. The May 29, 2024 judgment primarily rested on the presumption that the Petitioner had provided fraudulent documentation (Annexure A). Nonetheless, this remains a presumption, not a fact. Georgia Bureau of Investigation and the Assistant Attorney General confirmed during the proceedings that no criminal history or convictions exist for the Petitioner. This evidence directly contradicts the allegations and assumptions made against the Petitioner regarding his suitability for employment and the unfounded claims of criminal behavior. The Petitioner asserts that he obtained clearance through multiple background checks, including a FBI/GBI fingerprint background check that was requested by the Georgia Professional Standards Commission and acknowledged by the school district. The petitioner further contends that if the school district did not recognize the clearance as valid, it raises the question of why the attorney representing the school district-Grant McBride, attempted to make a settlement offer twice, up to two years after the Petitioner's termination. On January 27, 2021 in an email correspondence, counsel for respondent suggested that a settlement offer should be made to the Petitioner. In response, Julie Oinonen explicitly agreed, stating, "Plaintiff will prevail under sexual harassment/retaliation

claims,” thereby indicating a willingness to pursue settlement. Furthermore, in 2022, Grant McBride continued to request a demand amount to resolve the matter. The series of communications clearly demonstrate that Counsel for the Respondent was fully aware that the Petitioner had been wronged and recognized the merits of the Petitioner’s claims. Furthermore, as indicated in the brief filed by the Respondent, there is an acknowledgment that a Clearance Certificate demonstrates that educators have successfully completed a background and fingerprint check. This directly contradicts the Respondent’s claim, as this requirement was both fulfilled and approved. The petitioner did in fact, receive fingerprint background clearance from the School District and the Board of Education, and was subsequently issued a Clearance Certificate, which includes a Clearance Certificate ID number, as verified in the document received from Shielda Guilder esq. from the Attorney General's office. In Richardson v. State, 331 Mont. 231, 2006 MT 43, 130 P.3d 634 (Mont. 2006), it was held that by hiding critical evidence, the respondent had showed a disregard for the law. The Court noted that this behavior suggests that they were more interested in winning the case through procedural tactics rather than addressing the actual merits of the case in a fair and just manner. In State v Heft, 2009 Ohio 5908 (Ohio Ct. App. 2009), it was noted that an appellate court should not make decisions based upon allegations founded upon facts not found in record. The Petitioner has consistently provided all the necessary evidence in support of his arguments; yet there has been no review of it

by the Court of Appeal.

Additionally, the Petitioner submits the Separation Notice as evidence. A review of this notice clearly shows that the Petitioner's fingerprint clearance was approved on July 23, 2020, while his employment was scheduled to commence on July 27, 2020. This indicates that the school district was fully aware of the Petitioner's clearance. Although distinguishable on its facts and pertaining to a criminal case, it has been stated in *Brady v Maryland* 373 U.S. 83 (1963) that it is a well-established rule that the disregard of exculpatory evidence, such as clear criminal history reports, is comparable to the suppression of evidence favorable to the accused.

Due process mandates a fair and impartial hearing where all relevant evidence is considered (*Whitby v. Office of Pers. Mgmt.*, 559 F. App'x 1037 (Fed. Cir., 2014)). The failure to consider exculpatory evidence undermines this fundamental requirement and prejudices the Petitioner's ability to present a complete defense.

## **II. FAILURE TO ADDRESS EVIDENCE ON RECORD IS A VIOLATION OF THE DUE PROCESS 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 submitted a FBI/GBI fingerprint background check dated-July 23, 2020, from the Georgia Bureau of Investigation, confirming that he had no criminal history, as well as letters from the Rockdale County Sheriff's Office, dated- July 13, 2020, and December 30, 2020, corroborating this. Despite this clear evidence, both the Commission and the Administrative Law Judge (ALJ) ignored these documents, basing their decision on incorrect assertions about the Petitioner's criminal history. The initially Clearance Application contained a clerical error which mistakenly indicated an affirmative option pertaining to a criminal record, one the same day, a subsequent Clearance Application which was corrected submitted to the former certification specialist-Pamela Stephens to be submitted to the professional standards commission was approved and notarized. It is important to note that both Clearance Application state on page 1 of the application: "The fingerprint background check revealed no reportable problems." However, the Commission disregarded this correction and denied his certificate based on the original clerical error, despite the fingerprint background check findings showing a clear background for both applications. Additionally, after the Petitioner filed a sexual harassment complaint against an administrator, he faced retaliatory actions, including being placed on administrative leave and pressure on the official responsible for issuing his clearance to deny it, indicating a malicious intent behind these actions.



The May 29, 2024, Order by the Eleventh Circuit Court of Appeals was based on the incorrect assumption that the Petitioner had a criminal record and had acted dishonestly. This decision disregarded clear evidence to the contrary. Upon the filing of a petition for rehearing, it is the Court's responsibility to ensure that the aggrieved party is afforded a fair opportunity to be heard.

On February 22, 2024, the Respondent submitted a reply brief arguing that the Petitioner's case should be evaluated based on his conduct during the proceedings rather than the merits of the case. This argument was based on alleged inconsistencies in the discovery process. Specifically, in the initial clearance application, the Clearance Application contained the answer "yes" to question no. 7, related to criminal history, which was submitted by the school district to the Commission with an unsigned, type-written explanation suggesting criminal activity to which the Petitioner has denied composing. Pamela Stephens-the former certification specialist at Henry County Schools, forwarded all required documents of the Clearance Application along with the notarized seal directly to the Commission. The Petitioner testified that he did not author the unsigned explanation and that his background and fingerprint results did not support the allegations made in it. It is important to note that after the Petitioner completed the initial application, it was handed to Justin Cofer, the former Henry County Schools investigator, who then passed it to Pamela Stephens to forward directly to

the Commission.

The initial answer to question no. 7 was a clerical error; the corrected Clearance Application, which is the second application, indicated "No" in response to the personal affirmation question. Although this second application was notarized and presented at the Professional Standards Commission's hearing, it was not acknowledged by the Commission. Furthermore, there is no record of criminal history against the Petitioner. Therefore, the Petitioner's

case necessitates a thorough review of all merits and evidence provided. An effort is made by courts to prevent a party from gaining an unfair advantage by presenting evidence that, when taken out of context, creates an inaccurate or misleading impression (*People v. Chavez*, 318 P.3d 22, 2012 COA 61 (Colo. App. 2012)). Therefore, the respondent should not be permitted to secure a victory solely due to an error made in the application. Such a result would be unjust and undermine the integrity of the judicial process.

It is a well-established legal principle that evidence must be thoroughly analyzed before a decision is reached. Plaintiff has repeatedly presented the relevant Courts with evidence supporting his arguments; however, this evidence is consistently disregarded. Precedent suggests that a comprehensive analysis of all evidence is necessary to assess its sufficiency before a decision is rendered (*Gunning v. Cooley*, 281 U.S. 90; *Anderson v. Bessemer City*, 470 U.S. 564). Therefore, Plaintiff asserts that the Court of Appeals failed to exercise sound discretion in dismissing his


petition.

Furthermore, 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 due process rights.

Respectfully Submitted,

 1/24/25

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