

No. 17-1670

IN THE
Supreme Court of the United States

SYDNEY M. OSKOU, *ET AL.*,

PETITIONERS,

v.

EVAN HANSEN NORDBY ACTING ON BEHALF OF
THOMAS PEREZ, SECRETARY OF LABOR
UNITED STATES DEPARTMENT OF LABOR,

RESPONDENTS.

On Petition for a Writ of Certiorari
To the United States Court of Appeals
for the Ninth Circuit

SUPPLEMENTAL BRIEF

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SUPPLEMENTAL BRIEF

Honorable R. Alexander Acosta Not a Party

The Petitioner requests that the Court take Judicial Notice of the fact that this case was improperly initiated by Evan Nordby who worked as an administrative attorney through the offices of the Solicitor of Labor. Also that this improper action was instituted during the time when the Secretary of Labor was Thomas Perez and not the Honorable R. Alexander Acosta who was interposed improperly into this action by the three Judges of the 9th Circuit Court of Appeals under color of law.

This color of law is directly connected to the lack of subject matter jurisdiction which was due to these three judges' failure to correct the lack of jurisdiction which is the main issue to my Writ of Certiorari. The Honorable R. Alexander Acosta good name should not be connected to the insubordination and unlawful and lawlessness which was done by Nordby and associates within the Department of Labor.

Petitioner respectfully requests that the Honorable R. Alexander Acosta's name be removed from the Writ and replaced with the Name in which the original action was brought which continues to lack subject matter jurisdiction.

Judicial Notice of Executive Orders

Further the Petitioner requests the Court to take Judicial Notice of new evidence demonstrating new cause for this action to be declared that there is a lack of jurisdiction from its inception. This new

evidence are two Executive Orders Numbered as 13245 (Supplemental Appendix A) and 13755 (Supplemental Appendix B) demonstrating the Presidents Bush and Obama never allowed for any subordinate from and inclusive of the Solicitor of Labor to have the authority to act for or in the name of the Secretary of Labor. This mandate from the President of the United States of America is still in force and effect today.

Further the Petitioner requests the Court to take Judicial Notice of Executive Order 13245 which specifically disallows anybody in the office of Solicitor of Labor to act for the Secretary of Labor unless the Secretary has either died, resigned or unable to perform the functions and duties of the office of Secretary pursuant to Sections 1, 2(a) and 3(a). See Executive Order 13245 in the Appendix as attached to this Reply by Petitioner and is incorporated herein by its reference.

Also the Petitioner requests the Court to take Judicial Notice of that Executive Order 13245 was sign in effect on December 18, 2001 by President George W. Bush and remained in effect until December 23, 2016 when President Obama sign Executive Order 13755, which has similar language and continues the same mandatory Order disallowing any subordinate from and inclusive of the Solicitor of Labor the authority to act for or in the name of the Secretary of Labor.

Those who work in the Offices of the Solicitor of Labor have sufficient knowledge to know about these Executive Orders of the President of the United States of America.

There is no excuse by Nordby or his boss Bruce Brown for their failure to comply with these Executive Orders, as “ignorance of the law” is no excuse.

Mr. Justice McKenna said it best in the case of *Shevlin-Carpenter Co. v. Minnesota*, 218 U.S. 57 (1910) which the Justice held and I quote: “In other words, innocence cannot be asserted of an action which violates existing law, and ignorance of the law will not excuse.”

The law in this case was not only the Act itself, but also Executive Order 13245, both ignored and both violated by Norby when he filed the complaint. This lack of authority which was continued by Winmill and the three Judges from the 9th Circuit Court of Appeals by allowing a case without jurisdiction to proceed and the failure to correct the lack of jurisdiction on appeal has caused considerable damages to Petitioner’s business. Now the duty to correct this injustice is upon the shoulders of this Court. But it is worse than that

Respondent’s Silence is Acquiescence

On July 10th, 2018, Solicitor General Noel J. Francisco formally waived his right to respond to Petitioner’s Writ of Certiorari. Norby also filed no response to Petitioner’s Writ of Certiorari.

By the Solicitor General Noel J. Francisco’s waiver to respond and Nordby’s choice to be silent to the statements made in the Petition for Writ of Certiorari is a response. Such silence by waiver is acquiescence to EVERY statement and relief requested from the wrongdoings alleged therein. In

addition, Nordby's choice to be silent is an admission to his wrongdoing(s) too. An example - See the decision of *Baxter v. Palmigiano*, 425 U.S. 308 (1976) and is incorporated by its reference.

Nordy's conduct to file a case for which he lacked complete authority to do and which the District Court should have dismissed before any answer or pre-motion was filed, is justification for minimally requires Rule 11 sanctions as requested. Winmill should have granted sanctions when the damages were much less. He chose his ego over legal/lawful conduct in administering justice against Nordby.

The Ninth Circuit failed to correct this error of conduct by Mr. Winmill has also entered in the controversy on the issue of continued sanctions by their failure to Order sanctions to be instituted and acted wholly without jurisdiction by their failure to correct the error in district court.

Petitioner emphasizes that the Court's sanction is ONLY for the litigation from the Ninth Circuit and this Court action, and that the question of sanctions in the District Court should be handled by a different judge in the District Court to cover all the other sanctionable conduct covered under the Revised Code of Washington as claimed in the Motion for Sanction filed by Petitioner.

Petitioner cites additional authority for granting sanctions, besides what was cited in the Brief in Support of the Writ of Certiorari on the subject of sanctions: *Goodyear Rubber & Tire Company v. Harger*, 137 S. Ct. 1178 (2017) and is incorporated herein by its reference.

Continued Harassment by Brown

With the incredible amount of *stare decisis* and authorities cited that Petitioner's should be found in his favor. Nordby and the Solicitor General both acquiesced to the causes of error and remedies requested, inclusive of additional sanctions being imposed upon Nordby. Not only has Mr. Nordby acted improperly, but the Department of Labor saw fit to reward him by making him an administrative law judge in San Francisco for the Department of Labor.

Mr. Brown the Regional Solicitor of Labor, is still interfering with Petitioner with Motions for Sanctions being sought from Winmill, who still won't get it that he acted without jurisdiction, continues to harass the Petitioner too. As of July 12, 2018, Winmill demands payment from a void judgment that does not impose a time to pay. Because of their continued actions to continuously damage and harass the Petitioner, Petitioner seeks from this Court an Immediate Injunction or at the very least a Stay, and upon Petitioner's Writ of Certiorari being granted, a permanent injunction. Petitioner will be submitting a Motion for an immediate injunctive relief or stay in the coming days.

Conclusion

To the Petitioner, it seems clear that the Writ of Certiorari should be granted and the relief sought should be given. But, Petitioner patiently waits for your decision and requests that the Court immediately imposes by issuance of a temporary

injunction on both the Department of Labor – Mr. Brown and Judge B. Lynn Winmill.

Further there is no authority for their behavior, and this Court – THE HIGHEST COURT THROUGH OUT THE UNITED STATES OF AMERICA, should hold these judges accountable to your rules, your decisions. Their acts were not mistakes, they were deliberate acts.

It is not my desire to tell you what your job is, but, your rules when made were adopted by Order from this Court. As such the rules are Orders of this Court. Violations of rules are violations of your Orders by which they can held in contempt of Court.

If you are the boss, then, you should hold them accountable to your orders. When you don't, ANARCHY sets in and the boss losses control over its subordinates. Enough said.

Petitioner believes that this Court deals with far more important issues than issues of this nature which should have been properly dealt with by following your rules and stare decisis. Don't you think so?

Respectfully Submitted,

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SUPPLEMENTAL APPENDIX A

1. Executive Order 13245 of December 18, 2001

Providing An Order of Succession Within the Department of Labor

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Labor (Secretary) during any period when both the Secretary and the Deputy Secretary of Labor (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. Order of Succession.

(a) Solicitor of Labor;

(b) Assistant Secretary of Labor in charge of Administration and Management;

(c) Assistant Secretary of Labor in charge of Policy;

(d) Assistant Secretary of Labor in charge of Congressional and Intergovernmental Affairs;

- (e) Assistant Secretary of Labor in charge of the Employment and Training Administration;
- (f) Assistant Secretary of Labor in charge of the Employment Standards Administration;
- (g) Assistant Secretary of Labor in charge of the Pension and Welfare Benefits Administration;
- (h) Assistant Secretary of Labor for Occupational Safety and Health;
- (i) Assistant Secretary of Labor for Mine Safety and Health;
- (j) Assistant Secretary of Labor in charge of the Office of Public Affairs;
- (k) Assistant Secretary of Labor for Veterans= Employment and Training; and
- (l) Assistant Secretary of Labor in charge of the Office of Disability Employment Policy.

Sec. 3. Exceptions.

(a) No individual who is serving in an office listed in section 2(a)-(l) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 10513 of January 19, 1954, is hereby revoked.

[signed:] George W. Bush

THE WHITE HOUSE,

December 18, 2001.

[Emphasis Added]

SUPPLEMENTAL APPENDIX B

EXECUTIVE ORDER 13755

PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF LABOR

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, as amended, 5 U.S.C. 3345 et seq. (the "Act"), it is hereby ordered that:

Section 1. Order of Succession. Subject to the provisions of section 2 of this order, and to the limitations set forth in the Act, the following officials of the Department of Labor, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Labor (Secretary) during any period in which both the Secretary and the Deputy Secretary of Labor have died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary:

(a) Solicitor of Labor;

(b) Assistant Secretary for Administration and Management;

(c) Assistant Secretary for Policy;

(d) Assistant Secretary for Congressional and Intergovernmental Affairs;

(e) Assistant Secretary for Employment and Training;

(f) Assistant Secretary for Employee Benefits Security;

- (g) Assistant Secretary for Occupational Safety and Health;
- (h) Assistant Secretary for Mine Safety and Health;
- (i) Assistant Secretary for Public Affairs;
- (j) Chief Financial Officer;
- (k) Administrator, Wage and Hour Division;
- (l) Assistant Secretary for Veterans' Employment and Training;
- (m) Assistant Secretary for Disability Employment Policy;
- (n) First assistants, pursuant to the Act, to the officials in the order listed in (a) and (c)-(h);
- (o) Regional Solicitor – Dallas; and
- (p) Regional Administrator for the Office of the Assistant Secretary for Administration and Management – Region VI/Dallas.

Sec. 2. Exceptions. **(a) No individual who is serving in an office listed in section 1(a)–(p) of this order in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.**

(b) No individual listed in section 1(a)–(p) of this order shall act as Secretary unless that individual is otherwise eligible to so serve under the Act.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Secretary.

Sec. 3. Revocation. Executive Order 13245 of December 18, 2001 (Providing An Order of Succession Within the Department of Labor), is hereby revoked.

Sec. 4. Judicial Review. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA
THE WHITE HOUSE,

December 23, 2016.