

NO. 17-7913

IN THE

Supreme Court of the United States

DAVID ALAN SCHUM,

Petitioner

v.

FEDERAL COMMUNICATIONS COMMISSION and
UNITED STATES OF AMERICA,

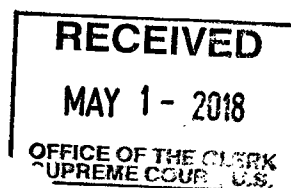
Respondents

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Washington D.C. Circuit**

PETITION FOR REHEARING

David A. Schum, Pro Se
4149 Lovers Lane, Apt. C
Dallas, Texas 75225
469-513-2177
Email: watchradio@aol.com

Dated: April 26, 2018



PETITION FOR REHEARING

Pursuant to Rule 44.2, Petitioner, David A. Schum, respectfully petitions for rehearing of the Court's April 2, 2018 Order denying certiorari in this case.

GROUND[✓]S FOR REHEARING

There have been intervening circumstances of a substantial effect which warrant rehearing. Petitioner has learned since the denial of certiorari in this case that the plaintiff in another case before this court, Press Communications, LLC v. FCC, case # 17-1182, was also denied mandated procedures by the FCC, as Petitioner was in the underlying case that was before the Court of Appeals. This is stated on page 2 of Press Communications, LLC Petition for Certiorari:

“Of more fundamental and far reaching importance, the FCC's policy represents a serious usurpation of the fundamental power of Congress to establish the ground rules that the agencies it has created must adhere to in carrying out their administrative functions. The substitution of the FCC's own conflicting policy for the command of Congress upsets the fixed Constitutional and legislative framework under which limited powers are delegated to agencies to administer laws in accordance with legislative mandates. Review by the Court is necessary to re-establish the absolute primacy of Congress over federal agencies in the regulatory hierarchy.”

In Petitioner's underlying case, the FCC violated or ignored the following rules established by Congress in the COMMUNICATIONS ACT OF 1934 as amended as well as the ADMINISTRATIVE PROCEDURE ACT and the Fifth Amendment to the U.S. Constitution:

1. 47 U.S.C. § 310(d) and 47 C.F.R. §73.3540(a) – all license transfers are subject to application process and FCC approval
2. 47 U.S.C. §309 (d)(2) and (e) – right to and need for a hearing

3. 47 U.S.C. §310(a-b) – prohibition of alien ownership of licenses

4. 47 USC (1)(A) § 1.934 (d)(1) & (d)(2) – lack of candor disqualifies licensee

5. APA - 5 U.S.C. §557 (d) – prohibition against ex parte communication

The United States Court of Appeals for the District of Columbia Circuit is the only Court that can review and provide judicial oversight over the FCC. The D.C. Court's denial of standing for Petitioner Schum provides this Court the ideal vehicle for resolving the circuit split which exists in interpreting 11 U.S. Code § 1109 (b). The resolution of that split would result in Schum having standing as he would have in the First, Second and Third Circuit.

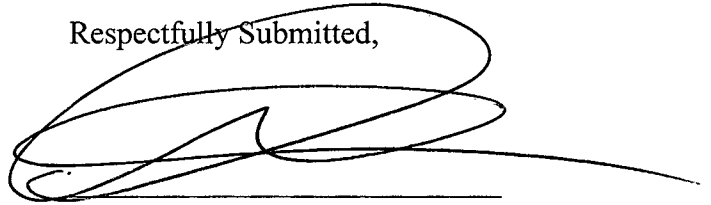
Rehearing should also be granted on the substantial grounds not previously presented that the APA was passed by Congress to prevent fraud, corruption and unequal application of the law by federal agencies. Petitioner has learned since the denial of certiorari in this case that the Chief of the Audio Division of the Media Bureau at the FCC that oversaw all of the decisions in the Schum proceedings has been replaced. He was responsible for the FCC decisions to not follow the Congressional mandated procedures under the COMMUNICATIONS ACT OF 1934 as amended as well as the ADMINISTRATIVE PROCEDURE ACT. This Court has previously suggested that judicial review may be warranted when an administrative agency has “consciously and expressly adopted a general policy’ that is so extreme as to amount to an abdication of its statutory responsibilities.”

Heckler v. Chaney, 470 U.S. 821, 833, n.4 (1985), citing Adams v. Richardson, 156 U.S. App. D.C. 267, 480 F.2d 1159 (1973) (en banc).

CONCLUSION

For the foregoing reasons, this Court should grant the petition for rehearing, vacate the order denying the writ of certiorari, and restore this case to its merits docket.

Respectfully Submitted,

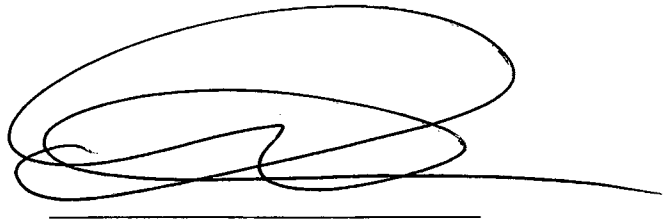


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CERTIFICATE OF GOOD FAITH

The undersigned hereby certifies that this Petition for Rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the Supreme Court and is presented in good faith and not for delay. ✓



David A. Schum, Pro Se

April 26, 2018