

NO. 17-9476

**IN THE
SUPREME COURT OF THE UNITED STATES**

ALI ELGHANNAM – PETITIONER

VS

EDUCATIONAL TESTING SERVICES- RESPONDANT

On Writ of Certiorari to

The Supreme Court of United States

CORRECTED PETITION FOR REHEARING

**ALI ELGHANNAM
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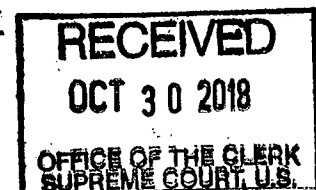


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Petition for rehearing, No. 17-9476

OTHERS

The United States Senate approved the appointment of Justice Kavanaugh to the

Supreme Court, thereby denying the validity of unsubstantiated accusations.....1

Saudi journalist Jamal Khashoggi walked into the Saudi Consulate in Istanbul,

Turkey. This was established to the satisfaction of experts by a video recording,.2

PETITION FOR REHEARING

Petitioner Ali Elghannam respectfully asks this Court to grant rehearing of this Court's October 1, 2018 order, pursuant to Rule 44 of this Court. This corrected petition for rehearing calls the Court's attention to a recent development, since the denial of certiorari, that affects Petitioner's first question presented and may affect the Court's consideration of this case.

RECENT DEVELOPMENT

On October 6, 2018, the United States Senate approved the appointment of Justice Kavanaugh to the Supreme Court, thereby denying the validity of unsubstantiated accusations. The accusations against Justice Kavanaugh were not supported by any forensic evidence, nor even by corroborating testimony.

Mr. Elghannam's case, just like Justice Kavanaugh's, involves the question of whether an accusation, unsupported by any evidence, should be allowed to destroy a man's career. Senator Lindsey Graham characterized Kavanaugh as a victim of "the most unethical sham." Mr. Elghannam is also the victim of an unethical and discriminatory fabrication. It is alleged that Mr. Elghannam did not sit for his own exam, yet no evidence was ever provided to substantiate this accusation. From the first, Mr Elghannam has implored the Courts to hear evidence, the alleged comparison tapes, and make an independent evaluation; and from the first, the Courts have ignored this simple request for justice.

Judge Kavanaugh stated that his "family and name have been totally destroyed" by the allegation. Likewise Mr. Elghannam, left without employment and deprived of income and benefits, has suffered emotional distress and irreparable damage to his reputation as a result of the cancellation of his valid scores. All judges are sworn to preserve the Constitution of the United States and the American rule of law. The lower court abdicated its responsibility under the Constitution when it accepted the allegation against Mr. Elghannam as fact.

INTERNATIONAL EXAMPLE

On October 2, 2018, Saudi journalist Jamal Khashoggi walked into the Saudi Consulate in Istanbul, Turkey. This was established to the satisfaction of experts by a video recording, even though he's seen from the side and slightly above, and his face is not shown completely. By comparison Mr. Elghannam, on the day of the TOEFL, was photographed full face in the test center at the moment of his sitting to the exam, but lower Court ignored that, and supported the allegation that he "Was not the person who took TOEFL test." **See EX I of the petition**

The Petitioner incorporates this corrected petition with his original petition for rehearing, (12 pages) filed in October 19, 2018, and including Ex. I and Ex. II

CONCLUSION

This Court should reconsider its denial of certiorari in this case.

Respectfully submitted,


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Date: October 28, 2018

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Pursuant to Rule 44.1, Petitioner respectfully petitions this Court for rehearing.

ARGUMENT

Mr. Elghannam had passed the Foreign Pharmacist Graduate Equivalency Examination (FPGEE), but the pharmacy board, NABP, was holding Elghannam's FPGEC Pharmacist Certification under one condition, which was to pass in the Test of English as a Foreign Language (TOEFL). Then, Elghannam passed in the TOEFL, but NABP, for more than one month after receiving Elghannam's real scores from Educational Testing Service, ETS, refused to send to Elghannam his pharmacist certificate. NABP was in contact and relationship with ETS and pushed ETS to cancel Mr. Elghannam's valid TOEFL real score because he is Muslim.

Judges are sworn to apply the law, never sworn to apply their personal opinion, see:

Honorable Judge Kavanaugh said, "As a justice on the Supreme Court I will always strive to preserve the Constitution of the United States and the American rule of law"

So, according to this oath, I will ask the Supreme Court logical questions:-

FIRST,

Are photos not considered evidence? If not, what is the value of the I.D., the passport, or the sentences based on photos that leads to execution?

A. Would the Supreme Court of the U.S. find that the journalist Khashoggi did not enter the Saudi Consulate, in spite of his photo entering the consulate?

That is what the Supreme Court did with Mr. Elghannam, in spite of his photo inside the ETS's test room. **See EX. I**

N.B. All the world decided that the Journalist did enter the Consulate, although his photo is lateral and does not show his face completely, while Mr. Elghannam's face appeared completely in the test room at the moment of his sitting to the exam, but Supreme Court ignored that.

B. See Certiorari, p.4, **Two forensic evidences** prove that the Petitioner was the person who took the TOEFL, the Petitioner's photo and his handwriting on the contract, taken at the moment of his sitting to the exam, only one of which is sufficient evidence to save or condemn any person in the Courts. (Certiorari Attached#3 is the Petitioner's photo, and #5 is his handwriting.)

C. A man was executed because of a piece of handwriting left on the body of the murdered, **See *DISTRICT OF COLUMBIA COURT OF APPEALS, No. 08-CF-1361 ROBERT E. PETTUS, APPELLANT, v. UNITED STATES, APPELLEE, the Court said:-***
(handwriting comparison and expert opinions based thereon satisfy the bedrock)

D. If the courts are going to violate the law, and decide cases according to their personal opinion, ignoring the facts and the law, so, USA must close the law schools and appoint judges from wise people as was in the old era.

SECOND,

Honorable Judge Kavanaugh and Mr. Elghannam exposed to similar allegation. Has the allegation become evidence?

(No accusation without evidence.)-(Allegation must be put in the trash.)

Judge Kavanaugh states his "Family and name have been totally destroyed" by the allegation.

Mr. Elghanam also, as a result of the illegal cancellation of his valid scores, has been left without employment, deprived of income and benefits, suffered damages to his reputation, has suffered emotional distress, has otherwise been damaged, and his pharmacist certificate has expired.

Senator Lindsey Graham characterized Kavanaugh as a victim of "the most unethical sham." Also, Mr. Elghannam is a victim of unethical allegation.

THIRD,

In the case of President Clinton and Lewinsky, tapes were submitted to the investigation as proof. However, in the case of Elghannam, ETS alleges they made a voice comparison, but there is no evidence that such comparison tapes even exist.

The only hearing in our case, hearing transcript of Superior Court dated February 24, 2016 (Docket number; 2015 CAB 09834);-

See EX. II

I. Mr. Elghannam challenges ETS allegation, that he "Was not the person who took TOEFL test." **ETS alleges they made a voice comparison**, but Elghannam repeated his essential request in his previous filing, which is to review these tests **(an independent review)**, and said if ETS fails to submit to that request, the Court should issue an immediate Order that Petitioner's score is still valid, see Elghannam says in **P. 24 line 17 to 25** of the hearing transcript:

"Their decision to cancel my score in a comparison between all the tests and the last test, so my request would need to explain that and review. Make this comparison. All the tests, you do not have all the tests. I am sure 100 percent there's no other test because my file was closed, they just wanted to say that's not you but there no other test to make comparison. If their decision based on invalid matter, so, it does not have any value. My score is valid unless they make the comparison."

The Court refused Elghannam's repeated requests to review the previous tests. (The Court cannot know if any previous tests exist.). Elghanam's Essential Request is a Fundamental point in the case.

So, based on President Clinton and Lewinsky's tapes, we can say that:

The Superior Court violated Elghanam's constitutional rights. The Superior Court violated the judiciary process, and the American rule of law. According to the law, the Superior Court does not have the right to refuse to make a comparison of the tests' tapes, and its decision was based on the ETS allegation.

See, President Clinton and Lewinsky's tapes, and forensic evidence:

Ms. Tripp from the Pentagon public affairs office revealed tapes. Also, in November 20, 1997, Tripp instructed Lewinsky to preserve her dress to make DNA test (Forensic evidence).

Why, in our case, the Superior Court refused to make comparison of the alleged tests' tapes? Because the Court knows ETS does not have any tests, also ignored two forensic. This is a black point in Justice's dress.

N.B. Until today, all American citizens are equal, and must submit to the same rule of law, and to the same Constitutional rights. But, the Superior Court violated Elghannam's constitutional rights and the American rule of law. In other words, the President's tapes were submitted for examination, but Elghannam's tapes did not appear, they did not exist.

The Fifth and Fourteenth Amendments to the U.S. Constitution.....5

42 US Code Subchapter I: § 1981 - Equal rights under the law, § 1981a – Damages in cases of intentional discrimination in employment, § 1985 - Conspiracy to interfere with civil rights. § 1986 - Action for neglect to prevent, § 1987 Prosecution of violation of certain laws.

The Civil Rights Act of 1871 (42 U.S.C. § 1983 (1976), 398 U.S. 144, 152 (1970).

Rule 201 of Federal Rules of Evidence and the inherent equitable authority of the federal courts of appeals

II. Elghannam says, the ETS contract is breached, see the hearing transcript, p.28, line 8 to 12:

See EX. II

"They didn't, they didn't perform their duty according to the contract because -- scores corrected, so they did it with respect to the contract, they didn't perform their duty in the contract, so ETS breached the contract.

and in p. 28, lines 15 to 19 of the hearing transcript, Elghannam says,

"So, the contract, that he speaks about the contract, so the contract did not have any value. It's not me. I think now ETS -- they failed to send correctly score."

So, from the previous points, the Court can discover that the Superior Court based its decision not only on allegation, but also on breached contract.

See, Elghannam's Petition of Certiorari, p.4. (Certiorary, Attach.#5),, according to the ETS contract(the Confidentiality Statement for the TOEFL iBT®test), the contract states: **if ETS had suspected any scores, they never would have released them**, which means ETS had to choose one action, "Reporting or Cancellation," but ETS reported the score, then cancelled it after more than one month, so, the contract is breached.

This reversal indicates interference in this matter by a third party who conspired with ETS and pushed ETS to cancel the Petitioner's valid score. This third party is NABP, who refused for one month to send to the Petitioner his pharmacist certificate, that was being held under one condition, that he must pass in the Toefl iBT.

Thus, ETS breached its adhesion contract, violated its contract, the law, the

Constitution, and the Petitioner's constitutional rights of due process under the fifth and fourteenth Amendments of the United States Constitution.

FOURTH

The Petitioner discovered that ETS was sending him low scores although he was excellent in several exams: so, the Petitioner's Complaint to the ETS Director in 2014 (see Certiorari Attach.#7), which is stamped by the ETS's stamp), Elghannam's complaint **forced ETS to report, for the first time, the Petitioner's real scores**, but NABP, for more than one month after receiving Elghannam's real scores from ETS, refused to send to Elghannam his pharmacist certificate.

NABP was in contact and relationship with ETS and pushed ETS to cancel Mr.

Elghannam's valid TOEFL real score because he is Muslim. Also, the Memorandum and Judgment ignored this Exhibit. (see Certiorari, Attached#7)

FIFTH

Is Superior Court Order based on hollow opinion and not on law, and the Appeal Court erred when it supported it?

The Superior Court mentioned nonsense evaluation and wrong estimation in supporting cancellation of Mr. Elghannam's scores, based on nonsense idea that **his previous scores was lower scores, so, the Court agreed with ETS to cancel his high scores.**

Of course, this estimation is a hollow opinion, because many students obtained a low grade, then they obtain A. So, is the Superior Court personal estimation above the law? Does the Superior Court have the right to violate Elghannam's Constitutional rights and the American rule of law?

If we agree with this hollow idea, so a big percentage of officials did not deserve to be graduated, also, some law men must cancel their scores.

N.B. The Petitioner discovered that ETS was sending him low scores although he was excellent in several exams: Petitioner's Complaint to the ETS Director in 2014 (see Certiorari Attached#7), which is stamped by the ETS's stamp), forced ETS to report, for the first time, the Petitioner's real scores.

SIXTH

ETS and NABP committed Conspiracy and Overt act

As it appears on p.4 of Elghannam "**petition to reinstate the plaintiff's Toefl IBT scores**" that Mr. Elghannam filed on Aug. 25, 2015, and as innocent Pro se, **he believed in the beginning of this case that ETS did a voice comparison and found difference in his voice, so he filed document showing that he did not attend his previous test on March 21, 2015, because he was sick by pharyngitis which is**

considered a very strong cold, that caused temporary change in the voice, so he lost the fee, \$180, that he paid to ETS and did not appear and did not go to the test.

After three weeks his health improved, so he paid another \$180, and went to the test on April 10, 2015, but ETS cancelled that result after more than one month of reporting Elghannam's valid score to him and to NABP, which is the third party that forced ETS not only to cancel Elghanam's valid score, but also to **forbid him from taking the test for one year to expire his pharmacist certificate**).

So, Pharmacy board **leaked confidential information** from Elghannam's file to ETS to forbid him for one year, which proves the conspiracy between ETS and the pharmacy board against Elghannam because he is Egyptian American Muslim.

But, Elghannam discovered that ETS did not make any test comparison, when

ETS, and the Superior Court refused Elghannam's repeated requests to make independent review for his last test with the previous tests, Elghannam discovered that ETS did not make any test comparison, and also he discovered that ETS did not have any previous tests to make any comparison.

Also, he discovered that the **Superior Court violated the judicial process and**

Elghannam's Constitutional's right and the American rule of law by refusing to make independent review and comparison for the tests. (although ETS based its cancellation of Elghannam's valid scores on the tests comparison allegation.)

The Respondent's cancellation of the Petitioner's iBT valid score was forgery in official papers, conspiracy with NABP, and an arbitrary, reckless and irresponsible violation of the Petitioner's due process rights as well as defamation, without any evidence, without any hearing, no investigation was ever done, and it was a discriminatory decision.

A conspiracy under 42 U.S.C. §1983 can exist even if only one party to the agreement is named as a defendant, as in *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 152 (1970).

42 US Code Subchapter I: § 1981 - Equal rights under the law, § 1981a – Damages in cases of intentional discrimination in employment, § 1985 - Conspiracy to interfere with civil rights. § 1986 - Action for neglect to prevent, § 1987 –Prosecution of violation of certain laws.

SEVENTH

Elghannam requests the application of law, and refuses personal opinions, or any external interference in this case.

Elghannam went to the Court seeking application of the law and the constitution, never ever seeking the judge's personal view.

Also notice that in many murder cases the judges know that the person in front of them is the killer and a known criminal, but they cannot execute him without evidence, or under the allegation he is a criminal or because of his previous crimes, or because his score was lower before; so the Court will execute him or will forbid him from his current scores, and destroy him and his family because he is Muslim, or because interference of external sources, as example, by the pharmacy board.

If the Courts are going to violate the law, and the sentences will issue according to judges' personal opinions, via ignoring the facts, the constitution, and the law, as in our case, so, USA must close the law schools and appoint judges from wise people as was in the old era.

Finally,

Elghannam incorporates his petition for writ of certiorari with this petition.

The Court erred when it supported the ETS's violation of the Petitioner's rights under the fifth and fourteenth Amendments of the U.S. Constitution.

Elghannam seeks justice from the Supreme Court

Elghannam seeks the Court to consider the weak party strong until it gives him his right, and consider the strong party weak until it takes the right from him.

As a result of the illegal cancellation of Mr. Elghannam's valid scores, he has been left without employment, deprived of income and benefits, suffered damages to his reputation, has suffered emotional distress, has otherwise been damaged, and his pharmacist certificate expired.

CONCLUSION

The Petitioner insists on his previous requests:-

- a. Issue order to ETS to reinstate the Petitioner's TOEFL IBT scores .
- b. Grant Petitioner's right in compensatory and punitive damages, compensatory damages in the amount of \$3,000,000, and punitive damages in the amount of \$4,000,000, plus interest and costs, the relief sought above, and reasonable attorney's fees and litigation expenses.

The petition for rehearing should be granted.

Respectfully submitted

ALI ELGHANNAM 

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Tel:.(202)363 6743

Date : October 20, 2018

EX. I



TOEFL® (Test of English as a Foreign Language™)
Internet-based Test (TOEFL iBT™)
Examinee Score Report

Name: elghannam, ali abouelfath
Last (Family/Surname) Name, First (Given) Name Middle Name

Email: they333@yahoo.com

Gender: M

Date of Birth: 19 Apr 1960

Registration Number: 0000 0000 2446 7050

Test Date: 10 Apr 2015 Sponsor Code:

09458001197
elghannam, ali abouelfath
5834 sherier place nw
washington, DC 20016
United States

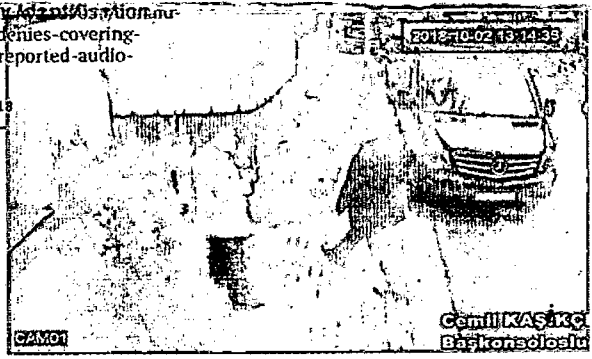


Country of Birth: Egypt
Native Language: ARABIC
Test Center: STN14494A - Evergreen Academy
Test Center Country: United States

Inst. Code	Dept. Code
9103	99

TOEFL Scaled Scores	
Reading	30
Listening	30
Speaking	28
Writing	29
Total Score	117

Saudi/ally Assad/US mission nu-
trump denies covering-
saudis reported audio-
jamal)
18 Oct 2015



Saudi journalist Jamal Khashoggi enters the Saudi consulate in Istanbul on October 2. Photo: AP

Turkish police overnight undertook a nine-hour search of the residence of the Saudi consul to Istanbul – who abruptly left the country on Tuesday – and also searched the consulate for the second time.

The controversy threatens to rip apart Prince Mohammed's attempt to portray himself as a modernising Arab ruler, with his planned investment conference in Riyadh next week hit by a litany of big name cancellations.

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crime/article/2169180/new-hong-kong-id-cards-be-rolled-out-late-december)



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2 (/news/china/politics/article/2169151/simple-g-jinping-thought-heres-how-chinas-official-me-
The 'simple' guide to Xi Jinping Thought (/news/china/politics/article/2169151/simple-guide-xi-jinping-thought-heres-how-chinas-official-media)



3 (/news/hong-kong/transport/article/2169199/decade-deaths-and-delays-worlds-longest-sea-crossing)
World's longest sea crossing is finished – but construction came at a price (/news/hong-kong/transport/article/2169199/decade-deaths-and-delays-worlds-longest-sea-crossing)



4

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

----- x
:
ALI ELGHANNAM, : Docket Number: 2015 CAB 09834
Plaintiff, :
:
vs. :
:
EDUCATIONAL TESTING SERVICES, :
:
Defendant. :
: Wednesday, February 24, 2016
----- x Washington, D.C.

The above-entitled action came on for a hearing
before the Honorable RONNA L. BECK, Associate Judge, in
Courtroom Number 219.

APPEARANCES:

On Behalf of the Plaintiff:

Pro se

On Behalf of the Defendant:

ADAM RAVIV, Esquire
Washington, D.C.

16-02782

Deposition Services, Inc.

12321 Middlebrook Road, Suite 210

Germantown, MD 20874

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info@DepositionServices.com www.DepositionServices.com

1 answer to that.

2 I'm not sure ETS would be willing to do any of
3 this, but a possible answer to that is for ETS to allow
4 you to take the test again with the understanding that if
5 you did very well, that they would cancel the prior
6 cancellation and you said that would take care of the
7 problem. Let me finish. But I hear you say well, no,
8 you're not willing to validate the score by taking it
9 again. You don't know that you could do well again and
10 that so, that's not an acceptable alternative to you. Do
11 I understand you correctly about that?

12 MR. ELGHANNAM: Yes.

13 THE COURT: Okay.

14 MR. ELGHANNAM: Can I add something?

15 THE COURT: Yes.

16 MR. ELGHANNAM: Their decision to cancel my
17 score is a comparison between all the test and the last
18 test, so my request would need to explain that and
19 review. Make this comparison. All the tests, you do not
20 have all the tests. I am sure 100 percent there's no
21 other test because my file was closed, they just wanted
22 to say that's not you but no other test to make
23 comparison. If their decision based on invalid matter,
24 so, it does not have any value. My score is valid and --
25 scores is still valid unless they make the comparison.

1 filed yesterday, is --

2 THE COURT: I don't know anything about your
3 filing somebody yesterday.

4 MR. ELGHANNAM: I filed yesterday a -- is a --
5 in advance.

6 THE COURT: I'm sorry, I can't understand you;
7 if you could slow down.

8 MR. ELGHANNAM: They didn't, they didn't
9 perform their duty according to the contract because --
10 scores corrected, so they did it with respect to the
11 contract. They didn't perform their duty of the contract
12 so ETS, breach the contract.

13 THE COURT: Well, all these cases are fact
14 intensive and they're different --

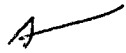
15 MR. ELGHANNAM: So, the contract, he speak
16 about the contract but ETS breaches the contract so the
17 contract did not have any value. It's is not me. I
18 think now ETS
19 -- they failed to send correctly the score.

20 THE COURT: You see, the problem is that your
21 complaint, as it is, has very big problems in the way you
22 have formulated what your causes of action are and that's
23 why I've talked about whether some lawyer should get
24 involved or not because as the defendant points out,
25 although you say there's been a breach of contract, you

CERTIFICATE OF PETITIONER (RULE 44)

As the Petitioner, Mr. Ali Elghannam, I hereby certify that this Petition for Rehearing from denial of certiorari is presented in good faith and not for delay, and that it is restricted to the grounds specified in Rule 44.2, namely intervening circumstances of substantial or controlling effect and substantial grounds not previously presented.

Date; October 28, 2018



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