

No. 18-330

In The
Supreme Court of the United States

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DOUGLAS WALTER GREENE,

Petitioner,

v.

IPA/UPS SYSTEM BOARD OF ADJUSTMENT;
UNITED PARCEL SERVICE CO.;
INDEPENDENT PILOTS ASSOCIATION,

INDEPENDENT PILOTS ASSOCIATION;
ROBERT TRAVIS, in his capacity as President of the
Independent Pilots Association; ERICK GERDES, in his
capacity as Vice President of the Independent Pilots
Association; THOMAS KALFAS, in his capacity as
Secretary of the Independent Pilots Association;
BILL CASON, in his capacity as Treasurer of the
Independent Pilots Association; HARRY TREFES,
in his capacity as At Large Representative of
the Independent Pilots Association,

FROST BROWN TODD, LLC;
MARK FRANCIS SOMMER; TONY C. COLEMAN,

Respondents.

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**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Sixth Circuit**

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PETITION FOR REHEARING

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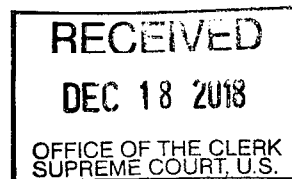


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PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, Captain Douglas Walter Greene respectfully petitions for rehearing of this case before a full nine Member Court. It's imperative the Court's denial decision in setting aside a case of National importance is reversed while contemporaneously giving Captain Greene's basic 1st, 5th, 7th, & 14th Amendment Rights, guaranteed by law, to due process in finally being heard in a trial court. Captain Greene moves this Court to Grant petition for rehearing considering this case with full merits briefing and oral argument. Pursuant to Supreme Court Rule 44.1, petition for rehearing is filed within 25 days of Court's decision of denial in this case.

REASONS FOR GRANTING PETITION

Justice isn't a privilege, it's a Right guaranteed by the Rule of Law under the Constitution that cannot be denied. In accordance with (LAW) the Declaration of Independence:

“Government officials must respect their oaths to uphold the Constitution and we the people must be vigilant in seeing that they do.”

Yet up to this point in time the Courts have been deaf to the Voice of Justice and of Consanguinity. Governments are instituted among Men, deriving their just Powers from the Consent of the Governed. Thus, establishing a “Government of the people, by the

people, for the people,” endowing that the Supreme Court shall have appellate Jurisdiction, both as to **Law and Fact**. Law and Facts of this case before the Supreme Court has been indignantly ignored at the hands of undue Partisan Political & Monetary influences of Corporate RICO Act fraud through channels of regional law firms as witnessed by the history of Quarles and Brady through their connected attorneys like Edward King Poor. On the eve of this past Thanksgiving, Chief Justice Roberts stated:

“We have neither Obama judges nor Trump judges, neither Bush judges nor Clinton judges. . . . We should all be grateful that we have an independent judiciary.”

Unfortunately, by all appearances, especially after the fiercely contested election of Brett Kavanaugh to the Supreme Court, the public could easily get the impression that judges in fact decide purely according to party affiliation or political support, which they receive in their Senate confirmation. IAW **Supreme Court Rule 44**, Petition for Rehearing grounds are based on intervening circumstances of a substantial or controlling effect in that the Supreme Court has a duty and obligation in maintaining oversight of lower courts in adhering to the Rule of Law, this is not optional versus mandatory. Supreme Court review is not an Appellant process of winning the lottery to be heard versus an unalienable Constitutional Right. Captain Greene is a 22-year, highly-decorated Veteran of the United States Air Force and has earned that Right.

After over five years of defending RICO Act fraud Captain Greene presented a solid case established on Circuit Court splits and stare decisis Supreme Court precedent based on the Rule of Law. Yet, to this day Captain Greene has been denied his basic Right of Due Process to have been heard in a trial court to judge the credibility of known perjured witnesses. Defendants in the triad case before this Court cannot prevail in denying Captain Greene to be heard in a court of law, nor should they unless they did not do something wrong?

I. Material Facts in Dispute, Misrepresentations & Fraud

The lower courts abandoned the Rule of Law Granting motion for summary judgment with the record showing voluminous Material Facts in Dispute. If the defendants didn't do something wrong, what are they afraid of? Should Goliath (UPS, IPA, FBT) need an unfair advantage against Captain Greene defending himself as David in this case of epic fraud? UPS/IPA/GBT resources of undue partisan political and monetary influence do not entitle the defendants to a "*get out of jail free card.*" The justice system has devolved into a contest; a competition between opposing attorneys. Who has the best-case law to win? Justice is no longer about truth or justice or law or fact. Truth is no longer an affirmative defense. Facts and evidence in these triad cases are overwhelmingly in favor of Captain Greene.

But anyone standing outside of the BAR, hence a pro se litigant in this instance, is automatically excluded from this process due to their lack or inability to quote specific case law. Judges pick and choose through their own bias specific case law weighed not on truth, law or justice but on favoritism and expediency with ill-regard for justice which this Petition for rehearing is such a case. This case has been tainted with judicial prejudice beginning with Arbitrator Barry Winograd. The record shows this Court should Grant rehearing given the lower courts unlawfully overlooking Material Facts in Dispute while fabricating and sustaining misrepresentations of fraud in false facts and tampering with evidence in violation of Federal Rules of Civil Procedure Rules 56 & 60. These reasons alone demand rehearing and a different result.

II. Lower Courts Concealed Facts of the Case

This Petition for a Rehearing arises out of extreme prejudice against pro se litigant Captain Douglas Greene. Evidence in the record shows that UPS engaged in fraud and corruption, including Title 18 federal crimes to unlawfully terminate Greene's employment. UPS purposely solicited and sought out compromised UPS pilots (witnesses) already in trouble with the company. UPS then unlawfully retaliated against and threatened at least two of Greene's potential witnesses calling them into "disciplinary hearings."

The Sixth Circuit Court didn't reference one piece of Greene's evidence when making their decision. A proper de novo review required the Appellate Court to look at facts, law and evidence. Captain Greene counted on an unbiased "new" de novo review, the panel claimed to have conducted. Captain Greene's evidence has been unlawfully ignored; first by the Arbitrator, then by the District and Appellate Courts and now by the Supreme Court.

"When a court hears a case de novo, it is deciding the issues without reference to any legal conclusion or assumption made by the previous court to hear the case. An appellate court hearing a case de novo may refer to the lower court's record to determine the facts, but will rule on the evidence and matters of law without deferring to that court's findings. De novo review occurs when a court decides an issue without deference to a previous court's decision."

UPS fraudulently attempted to send Greene to an unwarranted medical exam based on false and fabricated statements and testimony from other UPS pilots, a false premise. UPS' false statements and testimony remains unchallenged by the District and Appellate Courts in violation of FRCP Rule 52(a)(6):

Setting Aside the Findings. Findings of fact, whether based on oral or other evidence, must not be set aside unless clearly erroneous, and the reviewing court must

give due regard to the trial court's opportunity to judge the witnesses' credibility.

UPS witness statements and testimony were clearly erroneous, false, fabricated and perjured. The District Court allowed Captain Greene's findings of fact in both oral and documentary evidence of actual audio files and transcripts, establishing perjury, into the record then ignored the evidence refusing to judge the witness's credibility in violation of Federal Rules of Evidence 102 and 608:

Rule 102. These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

Rule 608. A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness . . . But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

The Sixth Circuit Court followed suit and didn't question the witness statements after Captain Greene brought this to the court's attention via criminal complaints. The District and Appellate Courts had a duty to read, look at and listen to the evidence ascertaining the truth.

The Sixth Circuit refused to take Judicial Notice after a formal request by Captain Greene whereby

violating **FRE Rule 201** again demonstrating extreme prejudice against a pro se litigant in favor of big business:

Rule 201(c)(2) Taking Notice. The court must take judicial notice if a party requests it and the court is supplied with the necessary information.

UPS tried to connect Greene's attempt to expose criminal fraud between the IPA, UPS, FBT, and the Kentucky Department of Revenue (KDOR) when UPS accused Greene of being obsessed with a KDOR tax issue. Another FBT scheme on behalf of UPS which Captain Greene subsequently became an unwitting target via FBT using KDOR connections to first end Greene's career via malicious prosecution. A scheme in which UPS changed management pilot's classification to shield them from same KDOR scrutiny while subpoenas were being issued to non-management pilots. There's also evidence that IPA leadership turned in one of their own to the KDOR to retaliate against him for his involvement in protecting pilots, setting off the entire Kentucky attack on UPS pilots.

UPS accused Greene of being obsessed with the tax issues that were initially created by UPS, IPA & FBT. UPS attempted to punitively silence Greene by forcing him to attend an unwarranted medical examination. The Sixth Circuit refused to take judicial notice of State and Federal crimes perpetrated by UPS, IPA, & FBT which showed that Greene was merely attempting to expose fraud and wasn't obsessed with anything.

Arbitrator Winograd also based his decision to uphold Greene's dismissal on the same false and fabricated statements from the perjured UPS pilots. Arbitrator Winograd is a party to fraud and corruption. The IPA had "Substantive Issues" with Winograd's draft decision but allowed this so-called impartial arbitrator to include his own fabricated false statements into the record. The IPA/UPS system board members placed their signatures on the final decision knowing that Winograd had not corrected or amended the decision to reflect the truth. Winograd falsely accused Greene of "taking powerful painkilling drugs" with no proof or evidence. As a result of Winograd's fraud, UPS and IPA pushed Winograd's false accusation of Greene's use of "powerful painkilling drugs" to federal agencies like the DOL, Western District Court of Kentucky and the Sixth Circuit unabated and unchallenged.

Facts in the record show IPA challenged Winograd's biased accusations and that Winograd adamantly refused to correct his own false allegations. A de novo review would have shown that Winograd was a party to fraud and corruption per **RLA 45 U.S.C. § 159(c)**.

"The arbitrator's award is a product of fraud or corruption if he exhibited complete unwillingness to respond to any evidence or argument in support of one of the parties' positions." Green v. Grand Trunk W. R.R., Inc., 155 F. App'x 173, 176 (6th Cir. 2005).

The record clearly establishes that Winograd absolutely refused to change or amend his false allegations after they were brought to his attention. Winograd exhibited complete unwillingness to respond, painting a false picture of Greene to support UPS' position.

IPA and Winograd also allowed UPS to unlawfully dump over 6,000 pages of discovery on Greene two days prior to his arbitration. The District and Appellate Courts unlawfully bypassed governing laws of the Railway Labor Act (RLA) and the UPS/IPA Collective Bargaining Agreement (CBA) while also denying Greene due process rights under the CBA and the Constitution.

IPA refused to process Greene's grievances violating the RLA and UPS/IPA collective bargaining agreement. Neither IPA nor UPS cited or referenced any past practice as an excuse to place grievances in abeyance. Instead IPA/UPS management made a secret deal to break the contract between its members and UPS. The District and Appellate Courts unlawfully ruled on upholding this secret deal outside the scope of the CBA.

Sixth Circuit panel judges unanimously agreed to uphold the District Court decision without conferring to any of Greene's evidence in the record thereby dismissing their obligation and duty to conduct an unbiased proper de novo review. These are precisely the type of factual issues that need to be resolved in full briefing and argument and for this reason, rehearing

is appropriate. See *Schweiker v. Hansen*, 450 U.S. 785, 791 (1981), Marshall, J., dissenting:

Summary disposition is only appropriate in cases where “law is settled and stable, the facts are not in dispute, and the decision below is clearly in error.”

This Court must Grant rehearing so that it may have the benefit of full merits briefing and argument. See *McWilliams v. Dunn*, 137 S. Ct. 1790, 1807 (2017), Alito, J., dissenting:

Admonishing majority for deciding issue without “receiv[ing] adversarial briefing, which in turn helps the Court reach sound decisions” (internal citations omitted).

III. Sixth Circuit History of Corruption

In a recent Washington Post article, responding to President Donald Trump’s criticism of Northern District Court, Judge John Tigar, calling him an “Obama Judge,” the Federal Circuit Court of San Francisco was identified as being known for passing sentences that would be later overturned by the Supreme Court. It was also cited the San Francisco Circuit Court is not a special case for having the worst record, but is behind the Sixth Circuit Court holding second place in the Nation for having the worst record of corruption in the Circuit Court system. The Sixth Circuit’s history of judicial scandals identifies the true character of this Court and its lack of oversight by current Chief Justice Ransey Guy Cole ignoring Captain Greene’s judicial

complaint of Sixth Circuit misconduct in violation of countless federal laws identified in Captain Greene's pleadings to include:

- **18 U.S. Code § 371 Conspiracy to commit offense or to defraud United States**
- **18 U.S. Code § 1519 Destruction, alteration, or falsification of records in Federal investigations**

The Sixth Circuit tampered with evidence, purposely misstated and changed facts, via willful omission crafting disingenuous opinions to achieve the end result of case-fixing on behalf of biased rulings showing favoritism towards politically partisan-powerful litigants such as United Parcel Service.

This was especially evident in this case where the lower courts made certain that their purposeful errors couldn't be corrected in advance by denying Captain Greene's (litigants in general) request for oral argument with the knowledge that the lower court's favored side (UPS/IPA/FBT) would lose if the issues were aired publicly. This is also reinforced by **ALL** fraudulent Sixth Circuit Decisions sequestered from media attention with a "NOT RECOMMENDED FOR FULL-TEXT PUBLICATION."

Sixth Circuit history sustains the failed oversight & leadership of the Court as in the 2003 scrutiny of the Heritage Foundation, Todd Gaziano story highlighting the need for a Congressional and House Judiciary Committee investigation and release of a public report

on Sixth Circuit misconduct of former Chief Justice Martin purposely manipulating and disregarding the court's rules in assigning judges and mischievously instructing clerks of the court to withhold Appellant requests of all judges review, essentially deciding motions on his own, without consulting any other members of the court. Greene encountered the same unscrupulous tactics of the clerk's office aiding and abetting against me in all pleadings to include Petitions for Rehearing En Banc. Judge Martin's misconduct was protected by current Chief Justice Cole in a press release suggesting that criticisms of Judge Martin manipulating and disregarding the court's rules was "totally unjustified and unwarranted." This clearly demonstrates other judge's willingness in covering up for the misdeeds of one of its own, further shaking Public confidence in the legitimacy of the judiciary as in Captain Greene's case.

IV. Exposing the Truth has Consequences of Retaliation

This case has been one of countless examples demonstrating the desperate need for Supreme Court intervention & oversight of lower court judges applying one law for the rich and powerful, and another law for the ordinary citizen. Attempting to expose the truth has consequences of retaliation to muzzle the American people's basic First Amendment Rights to Freedom of Speech, Freedom of Religion and expressions thereof.

Greene exercised these rights in an affirmative defense IAW with 18 U.S. Code § 1512(e) to encourage or induce a known perjured witness to come forward with his truthful testimony stating:

“May God guide you the right way as he guided me to reach out to you.”

The lower court retaliated against Greene with an unlawful sanction of \$10,000.00 stating:

“He [Greene] used religion and God as a means by which to apparently try and convince Starnes to come forward with a statement more to Greene’s liking and benefit.”

Yet, evidence entered into the record by the lower court established beyond reasonable doubt that UPS witnesses (Starnes/Cook/McDermont) made perjured false testimony under oath that the lower courts know to be true but have unlawfully set aside to appease their Dark Money benefactors. This has been nothing less than a gag order to inflict damage on parties who aren’t favored by ordering monetary sanctions against them with the intent to inflict financial punishment to break the resolve of the people in securing justice. Captain Greene is now forced to file yet another Supreme Court Writ of Certiorari against this heinous attack of the Defendants, unlawfully sustained by the lower courts, that is directly linked to this Supreme Court case (18-330).



CONCLUSION

Current interpretation by lower courts isn't in agreement with the U.S. Constitution or U.S. Supreme Court stare decisis precedent established IAW the Rule of Law. Denying Writ of Certiorari, means agreeing with District/Appellate Court decisions unlawfully defying current law. Given the EPIC FRAUD during these proceedings it's now incumbent on the U.S. Supreme Court remanding this case providing appropriate oversight of lower courts for clearly abandoning the Rule of Law, which no U.S. Court has jurisdiction to do.

Petition for Rehearing is based on fundamental areas of emphasis establishing intervening circumstances of a substantial & controlling effect. U.S. Courts Denial of American Citizen's Rights to Due Process in accessing justice is a **Betrayal of Public Trust** in our most sacred institutions making the U.S. Justice System the shame of America and an embarrassment to the free world as we know it. Captain Greene respectfully requests that this court Grant petition for rehearing.

Respectfully submitted,

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CERTIFICATE OF GOOD FAITH

Pursuant to Rule 44.2, I hereby certify that the Petition is restricted to the grounds specified in the Rule with substantial grounds not previously presented and that this Petition is presented in good faith and not for delay.

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