No. 20-1039

IN THE

SUPREME COURT OF THE UNITED STATES

Elizabeth Aviles-Wynkoop, Petitioner

vs

Department of Defense, Respondent(s)

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES FEDERAL COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Elizabeth Aviles-Wynkoop
Pro Se
753B Delaware Ave SW
Washington DC 20024
Telephone: 703-798-0214
Email: avileswynkoop1@gmail.com

QUESTION PRESENTED

On January 4, 2016, I was first terminated from the Federal Government as a probationary employee. The termination letter was dated January 4, 2016 and became effective on January 4, 2016. I was denied my Constitutional right to respond to the charges prior to being terminated. The decision letter contained information that was not contained in the proposed letter. According to the United States Court of Appeals decision from the Federal Circuit, based on 5 U.S.C 7513(b)(2), I was entitled to a minimum of seven (7) days to respond to the charges prior to a removal. On June 24, 2017, the agency terminated me a second time primarily based on the evidence that was used in the first termination. During the second termination, the agency introduced new affidavits that were one year and two months old, after I was terminated and never presented in the decision letter or in the first termination letter. In essence, I was denied of my Constitutional right to respond the charges prior to the removal. I believe it would be beneficial if the Supreme Court would review the alleged perjury of the affidavits from Federal Government Officials. This was the second removal for the same offense, double jeopardy. The agency failed to defend or address my 8-million-dollar Whistleblower Enhancement Act. I am respectfully asking the court to review and determined if the respondents committed judicial default. There is a significant problem with the uniform compliance of the code of federal regulations, United States Code statues, and the problem with double jeopardy cases in the federal government. Each federal agency handles their cases differently. I am respectfully asking this court to establish a national standard pertaining to terminating a federal employee twice for the same offense without providing the employee with an opportunity to respond prior to a removal action.

THE QUESTION PRESENTED IS:

Can the Federal Government violate a Federal Employee's 5th Amendment right by depriving a federal employee of his or her property right (job) without due process-the right to respond to the action prior to removal from federal service?

Can a Federal Government employee be terminated twice for the same offense, and can the Federal government add new evidence that was 1 year and 2 months old after a removal?

QUESTION PRESENTED (CONTINUED)

THE QUESTION PRESENTED IS (CONTINUED):

Can the Government prevail if they fail or refuse to defend my 8-million-dollar whistleblowing complaint? Thus far, this issue has not been defended by the Federal Government?

Are Federal Arbitrators, Administrative Law Judges, and Federal Appellate Court Judges under any obligations to comply and enforce such regulations as

5 C.F.R. 752.404 (g) when handling administrative cases? The United States Supreme Court's opinion in this area could benefit all 50 states in processing removal cases.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Solicitor General of the United States (see Rule 29.4)

Room 5616

Department of Justice

950 Pennsylvania Avenue, N. W.

Washington, DC 20530-000

RELATED CASES

FEDERAL CIRCUIT COURT OF APPEALS CASE NUMBERS AND DATES

Merit System Protection Board (MSPB) Case Elizabeth Aviles-Wynkoop v. Department of Defense, Case No. **DC-315H-16-0327-I-1** entered 02/23/16 till 09/14/2016. Appellant Petition For Review 04/19/2016, Document 1. **Judgment entered Remand Order, 09/14/2016, Document 6**.

Merit System Protection Board (MSPB) Case Elizabeth Aviles-Wynkoop v. Department of Defense, Case No. **DC-315H-16-327-B-1** entered 09/14/2016 till 03/24/2017. **MSPB Remand** 09/14/2016, Document 1; **Appellant Brief in Support Appellant was not a Probationary Employee** 12/30/2016, Document 12; **Order Finding Jurisdiction** 01/12/2017, Document 13; **Agency's Brief in Support of its Removal of Appellant** 03/17/2017, Document 18; **Appellant Brief and Compensatory Damages and Exhibits** 03/17/2017, Document 21; **Appellant Affirmative Defense Brief** 03/21/2017, Document 22; **Agency Executed Affidavit of Victor Shirley** 03/21/2017,Document 23. NO BOARD TO APPEAL TOO.

THE UNITED STATES FEDERAL COURT OF APPEALS FOR THE FEDERAL CIRCUIT; Elizabeth Aviles-Wynkoop v. Department of Defense, Case No. 19-1908 entered dated 05/17/2019 till 09/20/2020. **Decided 09/20/2020**.

THE UNITED STATES FEDERAL COURT OF APPEALS FOR THE FEDERAL CIRCUIT; Elizabeth Aviles-Wynkoop v. Department of Defense, Case No. 19-1908 **PETITIONER'S PETITION FOR COMBINED PANEL**

REHEARING AND REHEARING EN BANC 09/29/2020 till 11/12/2020.
Decision 11/05/2020 DENIED.

VI. TABLE OF CONTENTS

VII. INDEX TO APPENDICES

APPENDIX A – Proposed Termination During Probationary Period letter dated 27 OCT 2015

APPENDIX B – Notice of Decision on Proposed Termination During Probation Letter dated 4 January 2016

APPENDIX C – August 13 and August 14, 2015 email

APPENDIX D – MSPB Remand September 14, 2016

APPENDIX E – MSPB ORDER AND NOTICE OF JURISDICTIONAL HEARING, STATUS CONFERENCE, AND PREHEARING CONFERENCE dated September 26, 2016

APPENDIX F –MSPB ORDER FINDING JURISDICTION January 12, 2017

APPENDIX G– MSPB Agency Affidavits submitted 17 March 2017 from Jerry Russell signed 2017-03-08 and Carol Ensley signed 16 Mar 2017 and submitted on 2017-03-21 for Victor Shirley and signed 2017-03-17

APPENDIX H – MSPB APPELLANT'S BRIEF IN SUPPORT THAT THE APPELLANT WAS NOT A PROBATIONARY EMPLOYEE dated December 30, 2016

APPENDIX I – 5 C.F.R 752.404 (g) mandates that all of an agency's charges must be specified in the proposed notice

VII. INDEX TO APPENDICES

APPENDIX J – MSPB BRIEF AND COMPENSATORY DAMAGES AND EXHIBITS dated MARCH 17, 2017

APPENDIX K – 5 U.S.C 7513 (b)(2) mandates a minimum 7-day notice to respond prior to implementing a removal from federal service.

APPENDIX L –US Circuit Court of Appeals Petition for review of the Merit Systems Protection Board in No. DC-315H-16-0327-B-1 decided **September 2, 2020** DENIED.

APPENDIX M - US Court of Apppeals for the Federal Circuit, Docket 2019-1908, PETITIONER'S PETITION FOR COMBINED PANEL REHEARING AND REHEARING EN BANC, DATED OCTOBER 3, 2020.

APPENDIX N– US Court of Appeals for the Federal Circuit, Docket 2019-1908, ON PETITION FOR PANEL REHEARING AND REHEARING EN BANC DATED **November 5, 2020 DENIED.**

APPENDIX O – US Court of Appeals for the Federal Circuit Docket 2019-1908, **MANDATE** DATED November 12, 2020.

VIII. TABLE OF AUTHORITIES CITED

CASES **PAGE NUMBER**

STATUES AND RULES

OTHER

CONSTITUTIONAL PROVISIONS

CODE OF FEDERAL REGULATIONS

IX. OPINIONS

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below:

OPINIONS BELOW

[X] For cases from **Federal Courts:**

The opinion of the United States court of appeals appears at Appendix L, N and O to the petition and is

[X] reported at ePacer under 19-1908; or,

[ ] has been designated for publication but is not yet reported; or,

[ ] is unpublished.

This case was decided by the United States Court of Appeals for the Federal Circuit.

A petition for panel rehearing and Rehearing En Banc was denied on

November 5, 2020. A mandate was issued on November 12, 2020 to the US Court of

Appeals for the Federal Circuit.

X. JURISDICTION

[X] For cases from **Federal Courts:**

The date on which the United States Court of Appeals decided my case was **November 5, 2020**. On November 12, 2020 a **MANDATE** was issued.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: **November 5, 2020,** and a copy of the order denying rehearing appears at Appendix L, N and Appendix O was **a MANDATE dated November 12, 2020**.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____(date) on _____(date) in Application No. _____A_____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

The United States Court of Appeals for the Federal Circuit denied my petition for a panel Rehearing and a Rehearing En Banc on November 5, 2020. On November 12, 2020 a mandate was issued with no response from the US Court of Appeals for the Federal Circuit. I am now invoking the court's jurisdiction under 28 U.S.C 1257. Having timely filed this petition for a Writ of Certiorari within ninety days (90) of the United States Court of Appeals for Federal Circuit final judgement.

XI. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land of naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life and limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

STATUES AND RULES

28 U.S.C 1257

5 U.C 7513 (b)(2) mandates a minimum 7-day notice to respond prior to implementing a removal from federal service.

OTHER

CONSTITUTIONAL PROVISIONS

United States Constitution, Amendment V

CODE OF FEDERAL REGULATIONS

5 C.F.R 752.404 (g) mandates that all of an agency's charges must be specified in the proposed notice

XII. STATEMENT OF THE CASE

I am a Pro Se Petitioner. I am respectfully requesting a Writ of Certortiorari to review the judgement of the United States Court of Appeals for the Federal Circuit.

After 15 years of federal government service, I was illegally and without authority terminated as a probationary employee on January 4, 2016, primarily because I was a Whistleblower. The agency added a series of misconduct charges to support their termination as a probationary employee. On March 24, 2016, the Administrative Judge (AJ) dismissed my appeal based on his erroneous interpretation that I was a probationary employee who lacked jurisdiction for a full appeal. I filed a petition for review with the Merit System Protection Board (MSPB). On September 12, 2016, the MSPB remanded the case back to the AJ. On January 12, 2017, the AJ opined that I was not a probationary employee, and I had full MSPB Board appeal rights. At this point, I should have been reinstated and provided with an opportunity to respond to the decision letter that contained additional charges that were not contained in the proposal action. This was a direct violation of the U.S. Supreme Court decision pertaining to the Cleveland Board of Education v. Loudermill, 470 U.S. 532, 546 (1985). According to Loudermill, I had a constitutional right to respond to the charges before the agency made a decision to deprive me of my property right without due process. More significantly, the agency's termination letter was issued and dated January 4, 2016, and became effective on

January 4, 2016. This was an egregious violation of 5 U.S.C 7513 (b) (2) which specifically states that a federal employee is entitled to a minimum of 7 days to respond and address the charges prior to a removal action. Since the decision letter became effective the same day it was issued, this violated my due process rights to respond to the additional charges that were contained in the decision letter, but not the proposal letter, prior to a removal action.

I WAS ALSO THE VICTIM OF DOUBLE JEOPARDY

I was also the victim of double jeopardy associated with the illegal deprivation of my property right without due process. As I initially stated, I was officially terminated on January 4, 2016 as a probationary employee without appeal rights. The agency added subsequent misconduct charges to support their charge of termination during probation. The agency lost the jurisdictional hearing because the AJ opined that I was not a probationary employee, and I did have appeal rights. Instead of the agency reinstating me at this point, in order to provide me the 7-day minimum requirement to address the charges that were contained in the decision letter, but not contained in the proposal letter. According to the United States Court of Appeals for the Federal Circuit decision, this was mandated by 5 U.S.C 7513 (b)(2) (page 9). This was also mandated by the Cleveland Board of Education v. Loudermill, 470 U.S. 532, 546 (1985) U.S. Supreme Court decision. Instead of reinstating me after they lost the jurisdictional hearing, the agency conducted a second hearing based on primarily the same issues and facts that were contained in

the jurisdictional hearing, with the exception of adding new affidavits that were submitted one (1) year and two (2) months after I had been terminated. In other words, this was a second bite of the apple in which the agency added new evidence that was not contained in the proposal letter, or the decision letter. This type of inappropriate conduct is also a direct violation of Ward v. USPS, 634, F.3d 1274 (Fed Cir 2011). The Ward court stated that new information that was not provided to the employee, is referred to as an Ex parte communication. The court further ruled that ex parte communications that introduce new and material information about a federal employee's case to a deciding official constitutes a due process violation. On June 24, 2017, the AJ affirmed the agency's charges based on the initial charges that were contained in the jurisdictional hearing. It is my understanding that double jeopardy usually pertains to criminal court cases based on a Fifth (5th) Amendment violation. Because I received two hearings on the same issues and evidence, the first and second hearing created the 5th Amendment violation, which caused my property right (job) to be deprived without due process. This is a significant issue that the court can clear up. The deprivation of a property right without due process is a very serious concern. I sincerely believe that the deprivation of a property right without due process is just as serious as a crime. They are both 5th Amendment violations.

To save time and to expedite this situation, I will now provide a brief summary of undeniable and uncontested facts. A full explanation with case citations is

contained in the Petitioner's Petition for Combined Panel Rehearing and Rehearing En Banc dated October 1, 2020. According to uncontested court documents, my petition for en banc rehearing's, page 11, I was a model employee until I made protected disclosures to Agency managers and the Inspector General because the agency was awarding contracts in an unethical and crooked manner. The agency was awarding millions of dollars to contractors who were not qualified to do the work. The agency rewarded staff who participated in this illegal activity by promoting them to positions in which they did not come close to being qualified for the positions. I submitted a written report to management officials about their illegal activity pertaining to contracts on August 13, 2015.

On August 14, 2015. Page 11 of my petition, this is what the deciding official wrote me:

"My apologies for the confusion, hopefully this will clarify (1) there was a meeting with Labor Relations yesterday that I attended with Carol. The purpose of the meeting was to discuss Carol's observations as presented to you yesterday. I did not draft the paper and it was important that I attended as Carol's supervisor to discuss issues raised (2) For the record-I do not have any concerns with your job performance and I'm very glad to have you as part of the team. I know Carol is as well. Please consider this e-mail as formal apology from me for any miscommunications that have occurred over the past day or so. I do not have any intentions of further communications with LEMR. In fact, LEMR has stated that this is a matter between the first line supervisor and the employee and that I should not be involved unless required."

This email is dated August 14, 2015. This document was introduced into the MSPB docket number DC -315H-16-0327-B-1 on March 30, 2017, exhibit 1, page 9.

When the deciding official received and read my e-mail dated August 13, 2015, he

immediately placed me on administrative leave without any additional charges on August 28, 2015. This was a travesty and an egregious abuse of authority that resulted in a gross violation of my 5th Amendment right as it relates to my termination without an opportunity to respond to the charges that were not contained in proposed action, but were contained in the decision letter.

On page 5 of the court's decision, I believe the court erroneously concluded and stated,

"Ms. Aviles-Wynkoop has not identified any requirement that an agency attach to a notice of proposed termination all evidence of the misconduct described in the notice."

This is 100% incorrect. I attached a copy of 5 CFR 752. 404. (g) (1) to my brief in which this document specifically states,

"In arriving at its decision, the agency will consider only the reasons specified in the notice of proposed action and any answer of the employee or his representative."

In essence, if any agency considers any information that was not contained in the proposed action, then this would be a violation of 5 CFR 752. 404 (g) (1), and a violation of the 5th Amendment because a federal employee is entitled to a response to the charges before a personnel action is finalized. See Cleveland Board of Education v. Loudermill, 470 U.S. 532, 546, (1985). Just as significant, The United States Court of Appeals for the Federal Circuit has held that ex parte communications that introduce new and material information about a federal employee case to a deciding official constitute a due process violation. Stone v. Federal Insurance Corporation, 179 F. 3d 1368 ,1376-77 (Fed Cir 1999). More

significantly, the AJ and the United States Court of Appeals for the Federal Circuit concurred that it was permissible for the respondents to introduce new evidence (3 sworn affidavits accepted on March 17, 2017 and March 21, 2017.) that were not contained in the proposed action or the decision letter. These affidavits were accepted in to the record after I had been terminated for 1 year and 2 months. Gross 5th Amendment violation.

On page 5 of the Court's decision, the court stated,

"Ms. Aviles-Wynkoop suggests that it was improper for the Board to rely on those affidavits because they presented evidence that was not included in the notice of proposed action. The affidavits, however, were submitted before the evidentiary deadline established by the administrative judge."

It is my sincere belief that the AJ did not have the authority to establish new deadlines that would violate my due process rights under the 5th Amendment. In essence, it is my understanding that I had a constitutional right to respond to the new affidavits before I was terminated. The new affidavits were prepared on March 17, 2017. Not 1 year and 2 months after I had been terminated. To me, this is a clear violation that does not require much interpretation. The respondents could have prevented this situation if they had just provided me my 5th Amendment right to respond to the new affidavits before I was terminated. It is significant to note that the AJ relied on the improper affidavits to affirm the agency's charges. This is exactly what happened in my case. Agency officials introduced new information and evidence that were not contained in the proposed action—a due process violation.

There is compelling evidence that proves the respondent's entire case is procedurally, statutorily and constitutionally fatally flawed. I was initially terminated from Federal employment on January 4, 2016. The agency issued me a decision letter that was dated January 4, 2016 and became effective January 4, 2016. Because the decision letter violated the statutory 7-day minimum requirement to respond to the charges that were not contained in proposed action. I provided the court with a copy of 5 CFR 752. 404 (g)(1) that mandated that the agency could only consider the information that was contained in the proposed actions.

When the agency lost the jurisdictional hearing, they were required by the 5th Amendment to reinstate my employment and provide me with an opportunity and my constitutional right to respond to the new evidence that they introduced to the case on March 17, 2017. On March 17, 2017, the AJ permitted the agency to introduce 3 affidavits to the case that were not included in the proposed or decision letters. These sworn affidavits were from Jerry Russell, the deciding official, Carol Ensley, the proposing official, Victor Shirley, Chief of Staff. In essence, the AJ permitted a response from me to this new information after I had been terminated for 1 year and 2 months. In essence, it is my sincere belief that the AJ should have known that he did not have the authority to extend statutory deadlines that could only result in the gross abuse of the 5th Amendment due process constitutional rights.

More significantly, there is compelling evidence that Jerry Russell and Carol Ensley committed perjury in an attempt to support a prohibited personnel practice (knowingly taking an unjustified personnel action related to reprisal and retaliation).

On August 14, 2015, Jerry Russell supported by Carol Ensley stated that they did not have any problems with my performance and they were glad to have me as part of the team. When they read my email dated August 13, 2015, I suddenly became the worse person on earth. Their sworn false affidavits can only be described as stunning and disgraceful. They did what they had to do to keep their criminal empire alive. Please be assured that any impartial investigation will reveal that the American tax payers got ripped off for millions of dollars. There is very little doubt that this illegal action will continue to operate without some type of intervention. Thus far, they remain to operate undisturbed.

The respondents must be recognized for pulling off the trifecta for abuse of authority by knowingly violating 5 CFR 752.404 (g) (1), they violated 5 U.S.C 7513 (b)(2), and the constitutional 5th Amendment due process rights.

XIII. REASONS FOR GRANTING THE WRIT

The issue of a federal employee being deprived of his property right (job) without due process after an agency lose a jurisdictional hearing should be explained and resolved by this court. According to this court's decision on the Cleveland Board of Education v. Loudermill, 470 U.S. 532, 546 (1985), It states that an employee has the right to respond before a personnel action is finalized. Loudermill also states that a federal employee must be given a meaningful opportunity to invoke the discretion of the decision maker before a personnel action is finalized. In my particular case, the respondents gave me an opportunity to respond to new information that was not contained in the proposed action 1 year and 2 months after I had been terminated.

According to 5 CFR 752.404 (g) (1), an agency is supposed to consider only the information that was contained in the proposed action. This CFR is also confirmed by the U.S. Supreme court decision Cleveland Board of Education v. Loudermill , 470 U.S. 532, 546 (1985), Stone v. Federal Insurance Corporation, 179 F.3d 1368, 1376-77 (Fed Cir 1999), and Ward v. USPS , 634 F.3d 1274 (Fed Cir 2011).

Here, we have an AJ and the court who have primarily ignored this CFR that has been confirmed by the above court decisions. Only this Court can give guidance whether or not if Administrative Judges and other courts have any obligation to comply with these mandates which have been validated by the above stated courts. I believe it is necessary and could be very beneficial for all if this court could

determine if federal employees are entitled to any protection pertaining to cases involving Double Jeopardy. In essence, can a federal or state employee be prosecuted for the same offense more than one time using the same evidence and witnesses. I sincerely believe that a uniformed understanding and guidance on the issues discussed in this brief could be a significant benefit for Pro Se litigants and future cases.

DOUBLE JEOPARDY---FEDERAL AND STATE EMPLOYEES

I was terminated on January 4, 2016 primarily as a probationary employee. The agency added several misconduct charges to support their probation termination charge. The agency was granted a full jurisdictional hearing that included their written submissions and any witness submissions. During the jurisdictional hearing, the agency was provided with an opportunity to submit affidavits and any other evidence they deemed appropriate to support their case. After the AJ had received all of the agency's evidence, on June 24, 2016, the AJ dismissed my appeal for lack of jurisdiction. I filed a Board petition for review of the AJ decision. On September 12, 2016, the Board remanded the case. On January 12, 2017, The AJ opined that I was not a probationary employee and I had a right to a full Board appeal. Without authority that I could find, the AJ took it upon himself to permit the agency to submit new evidence (affidavits) that were not contained in the proposed action nor the initial decision letter dated January 4, 2016. The AJ created a new deadline of March 17, 2017 for the agency to submit their new evidence. It is significant to note that the affidavits were prepared one year after I had been terminated. These affidavits deprived me of my constitutional right of responding to agency's charges before I was terminated. With the exception of the new inappropriate affidavits, all of these charges were dismissed on January 12, 2017 when the agency lost the Jurisdictional hearing.

Therefore, I received two hearings in which the agency introduced new affidavits

during the second hearing that was not part of the first hearing. It is my belief that this constitutes double jeopardy because I was prosecuted twice for the same offense with the exception of new evidence that I had not seen before.

THE AGENCY DID NOT DEFEND THE WHISTLEBLOWING CHARGES

On March 17, 2017, I filed an eight-million-dollar claim for compensatory damages complaint in accordance with the Whistle Blower Enhancement Act. Under this provision, there are no caps on damages. In this complaint, I made specific allegations of contract fraud that exceeded more than $155 million dollars.

On page 6 of this complaint, I stated,"

> On November 24, 2015, the appellant submitted a DoD Hotline complaint (2015 50924133951093) in which she detailed her disclosure to Victor Shirley (management official) that a personal service contract for Blonda Griffith was illegal. It is completely illegal to award a personal service contract to a government employee. It was estimated that this contract was around $150,000."

I submitted this written complaint prior to being terminated on January 4, 2016. There is little doubt that I was terminated because of my August 13, 2015 e-mail complaining about contractor fraud, and filing the DoD hotline complaint. I told the agency that they had forced me to file a DoD hotline complaint because they would not stop the fraud activity. I was then promptly terminated. This constitutes reprisal and retaliation for engaging in a protective activity.

I did everything within my power to report this illegal activity to the Inspector General and two (2) DoD hotline complaints. The agency was awarding personal

service contracts that exceeded $125,000 on a routine basis. You simply can't award $100,000 personal service contracts to government employees without violating the law.

Contract fraud was flowing like water. I was retaliated and punished because I was a Whistle Blower. These are the undisputed facts. On August 13, 2015, I gave executive managers an e-mail putting them on notice about their unethical and crooked manner in which they awarded contracts. On November 24, 2015, I filed two (2) formal DoD hotline complaints. I also filed subsequent complaints. On August 14, 2015, management gave me an e-mail in which they stated they did not have a problem with my performance. When management read my e-mail dated August 13, 2015, Management placed me on administrative leave on August 28, 2015. Management terminated my employment on January 4, 2016 without stating what offenses I had committed between August 28, 2015 and January 4, 2015. Remember, the agency vacated all of their charges on August 14, 2015 by their own e-mail.

The bottom line is that the respondents did not defend my Whistle Blower complaint. Management has not denied one issue in my complaint for the 8-million-dollar compensatory damage complaint. I believe management lost this case by default. Even if this honorable court gave the respondents an opportunity to deny or respond to the charges, this would be very difficult because the allegations are true.

THE AGENCY OFFICIALS WASHINGTON HEADQUARTERS SERVICES (WHS) COMMITTED PERJURY

There is compelling evidence that suggest certain officials committed perjury. According to the agency's documents, I was a model employee until I put them on notice about the unethical and crooked manner in which they awarded contracts. I did this by way of an e-mail dated August 13, 2015.

According to the agency's e-mail dated August 14, 2015, I had been exonerated of all charges. The agency even offered an apology. When the agency read my e-mail dated August 13, 2015, they placed me on administrative leave effective August 28, 2015. The agency terminated my employment on January 4, 2016. The agency submitted three sworn affidavits from Jerry Russell, the deciding official, Carol Ensley. the proposing official, and Victor Shirley, management support. These sworn affidavits were submitted into the case file on March 17, 2017.

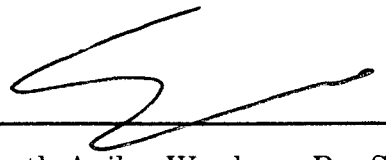
As stated, I had a clean record on August 14, 2015 because Mr. Jerry Russell had vacated all of the charges. From August 14, 2015 to August 28, 2015, the agency did not generate or state any additional charges. From August 28, 2015 to January 4, 2016, the agency did not state or served any additional charges during this time period. Therefore, the submission of the March 17, 2017 were products of perjury and confirmed the 5th Amendment violation because I was denied of my constitutional right to respond to the affidavits before I was terminated. I was terminated on January 4, 2016. This is the bottom line. The agency did not and

could not list any additional charges after August 14, 2015. This type of malicious conduct fully confirms my charges of reprisal and retaliation. By the agency committing this senseless violation, they derailed their entire case. If proven, as a matter of law, the agency's case must be dismissed.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



23 January 2021

Elizabeth Aviles-Wynkoop Pro Se
Date: