21-6713

No.:

IN THE

Supreme Court of the United States

ANDREW U. D. STRAW,

Petitioner,

v.

UNITED STATES,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT, 21-1597 & 21-1598

Andrew U. D. Straw
700 12th ST NW STE 700, PMB 92403
Washington, DC 20005
Tel. (847) 807-5237
Email: andrew@andrewstraw.com
Petitioner, Proceeding *Pro Se*

QUESTIONS PRESENTED

Whether the rule that the Court of Federal Claims **cannot review other courts' final orders** is wrongly applied when the only matter is a takings and the other court (being "reviewed") had no Tucker Act jurisdiction to grant such takings when the damages claimed was over $10,000 (as here). Thus, whether when ***judicial takings*** are being compensated, nothing in the other case would be overturned and review of another court is not a bar to Tucker/Takings recovery. Fed. R. Evid. § 201 (a) & (c). This has long been the Federal Circuit rule, but it was not applied here. *Boise Cascade Corporation, v. United States*, 296 F.3d 1339, 1344 (Fed. Cir. 2002)

Whether a law license is property of such great import that, when taken by a judge or court, must be compensated when **no crime** was alleged, **no dishonest act** was alleged, and the only grounds for taking the licenses was **"incompetence."** Further, another state rejected this suspension as "a drive-by shooting" by claiming no ethical violation happened by clear and convincing evidence. In other words, whether **5 years of suspension with no fault** should be sufficient property invasion to justify a 5th Amendment Taking and compensation.

> *Ex Parte Garland*, 71 U.S. 333, 379 (1867) (One **does not hold a law license** merely "as a matter of **grace and favor**.");
>
> *Supreme Court of N.H. v. Piper*, 470 U.S. 274, 281 (1985) ("The opportunity to practice law is a **'fundamental right.'**")
>
> *Scheehle v. Justices*, 508 F.3d 887, 889, 891 (9th Cir. 2007) (*Penn Central* & *Lingle* regulatory takings tests govern law license takings)

PARTIES TO THE PROCEEDINGS BELOW

I, *petitioner* Andrew U. D. Straw, a disability rights lawyer and advocate living in Bauan, Batangas Region, the Philippines, have been deprived of **5 law licenses** (and denied another by the 11th Circuit Chief Judge) without compensation. Further, the Indiana Supreme Court took my law license without considering mitigating facts, and the false omissions of those mitigating facts in 4 state court documents constitute criminals acts by the officers who filed them. 4 U.S. District Court reciprocal suspensions followed based on the Indiana Supreme Court suspension but no federal court hearing was allowed.

The *respondent*, United States of America, is the defendant and below has been allowed to refuse compensation for law license suspensions under the Tucker Act and the Takings Clause.

CORPORATE DISCLOSURE STATEMENT

No corporations are parties, and there are no parent companies or publicly held companies owning any corporation's stock to my knowledge.

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LEGISLATIVE AND OTHER MATERIALS

PETITION FOR WRIT OF CERTIORARI

Petitioner petitions for a writ of certiorari based on the extreme errors below depriving law licenses of property status that can be compensated under the Takings Clause of the 5th Amendment simply because the Federal Circuit and U.S. Court of Federal Claims under the Tucker Act choose not to review any other court's orders or opinions for any judicial takings in defiance of 19 years of precedent in that Circuit.

OPINIONS BELOW

The appeals I wish to consolidate here due to their common Judicial Takings of law licenses facts and law under the Tucker Act and 5th Amendment Takings Clause are as follows: *Straw v. U.S.*, 21-1597, 21-1598 (Fed. Cir. 10/13/2021) (**Dkt. 29**).[1] The opinion denying relief, the refusal to reconsider and the original dismissal ORDER at the Court of Federal Claims are in the Appendix.

JURISDICTION

This is a timely appeal covered by 28 U.S.C. § 1254 with the last final (refusal of *en banc* review) order (**Dkt. 38, 11/15/2021**) less than 90 days ago. The appeals at the Federal Circuit were timely taken under 28 U.S.C. § 1295(a)(3). These were Tucker Act cases above $10,000 under the 5th Amendment Takings Clause, a money-

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[1] The U.S. District Court for the District of Columbia has decided that no federal court can grant any takings compensation for property taken by another federal court. *Straw v. U.S.*, 1:21-cv-003079-CKK (D.D.C. 11/29/2021) (*IFP* granted at **Dkt. 6**).

mandating provision being required under the Tucker Act. *Smith v. United States*, 709 F.3d 1114, 1115-1117 (Fed. Cir. 2013).

CONSTITUTIONAL PROVISIONS AT ISSUE

U.S. Constitution, Amendment V, "Takings Clause"

INTRODUCTION

I, *petitioner* Andrew U. D. Straw, seek this writ from this Honorable Court because judicial takings have been inflicted on me with no relief, no compensation, and in defiance of 19 years of precedent of the Federal Circuit Court below.

First, my 5 law licenses (1 state, 4 federal) were taken without just compensation. These are the appeals at 21-1597 and 21-1598 below. My law licenses were taken by my former employer, the Indiana Supreme Court, and an **"incompetence"** accusation was the only grounds. *In Re Straw*, 68 N.E.3d 1070 (Ind., 2/14/2017). Federal judges used the word frivolous against a few of my cases without any additional sanction and then waited for Indiana to pounce, which it did. I was not accused of any crime and a serious crime is apparently required by the 7th Circuit for a suspension. *In re Ming*, 469 F.2d 1352, 1355-1356 (7th Cir. 1972). I was also not accused of any dishonest act, thus making these **5-year suspensions** a matter of being **disfavored**. Cf. *Ex Parte Garland*, 71 U.S. 333, 379 (1867) (a law license is not held merely, "as a matter of grace and favor.").

Indiana's attack using its ADA coordinator was rejected by the Virginia State Bar as "a drive-by shooting" with VSB stating that I had not violated any Virginia ethics rule and said I proved this by **clear and convincing evidence**. *In re Straw*, 17-000-108746 (VSB Disciplinary Board Dismissal, 6/20/2017). No mitigating fact was provided in 4 separate Indiana Supreme Court records when at least 14 mitigating facts existed. **Dkt. 27-1** below. This is crime on the part of those who entered those documents to deceive and mislead the Indiana Supreme Court and cause permanent injury to my career as a lawyer. No 7th Circuit federal court will even allow me a hearing, so I cannot oppose it there.

Thus, there appears to be no "for cause" and the federal courts imposed the Indiana suspension based on federal court words such as "frivolous" as a bootstrap: **no discipline originally** generated severe state-level **discipline out of thin air**. With "incompetence" under Rule 3.1 being the only given reason for suspending for these 5 years, this was a constructive disbarment without any crime by me. ABA Rule 10.

It is important to remember that I used to work for the Indiana Supreme Court and was hired by the Chief Justice of Indiana to provide services to over 400 Indiana state courts. A reckless driver hit me on the way to the Court to work and broke both my legs, my pelvis, my hand, my nose, my ribs, and the skull behind my nose. This was so violent, if I had not been wearing a seatbelt, I would be dead.

Further, when I sued to stop this discipline, the lawyer for the Indiana Supreme Court was later found to be a **criminal groper of 4 women** and my complaint about the Indiana Attorney General resulted in his being suspended, but his ***crimes*** only resulted in 30 days of suspension with reinstatement because ***his mitigating facts*** were considered when mine were not. *In re Hill*, 19S-DI-156 (Ind. 5/11/2020). While this Attorney General was representing my Indiana hearing officer as my federal appellee, that Hon. James R. Ahler was hired by the 7th Circuit to be a federal judge with my appeal against him **still open**. *Straw v. Indiana Supreme Court, et. al.*, 17-1338 (Fed. Cir. 2017) (**Dkts. 79 & 80**).

Under such strange circumstances, my 5 licenses should have been compensated as regulatory takings. *Scheehle v. Justices*, 508 F.3d 887, 889, 891 (9th Cir. 2007); *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978); *Lingle v. Chevron U. S. A. Inc.*, 544 U.S. 528 (2005).

Now, I live on SSDI at $1,204 per month plus a $250 tax credit as my income with calumny spread all across the nation to injure my reputation. *Straw v. Avvo, Inc.*, 20-35971 (9th Cir.). Judges and their staff members have lied and abused me and it is not reviewable. When such critical property for the legal system itself is on the line here, **judicial actions must be noticeable and reviewable** per Fed. R. Evid. § 201 (a) & (c) so takings can be compensated.

As James Madison said, "a man may be ... said to have a property in his rights," James Madison, *Property*, NAT'L GAZETTE (March 5, 1792), in JAMES MADISON, THE MIND OF THE FOUNDER 186 (Marvin Meyer ed., 1981).

I am not the only person who has made the argument that judicial takings of law licenses can happen. The Federal Circuit itself has a precedent. *Smith v. United States*, 709 F.3d 1114, 1116-1117 (Fed. Cir. 2013). See also, *Webb's Fabulous Pharmacies, Inc. v. Beckwith*, 449 U.S. 155, 164 (1980); *Stop the Beach Renourishment v. Florida Department of Environmental Protection*, 560 U.S. 702 at *7-20 (2010) (plurality opinion agrees that judicial takings are compensable).

If the Supreme Court of the United States believes that judicial takings are compensable under the 5th Amendment and the Tucker Act, it must state clearly for the courts below that all judicial orders must be reviewed for takings compensation when requested without disturbing or changing those reviewed orders when damages are above $10,000 per the Tucker Act. As a principle, protecting the **property rights in the law licenses of every attorney in the United States** from judicial takings "without cause" seems to be an appropriate moment to make this binding precedent.

The only grounds for denying jurisdiction was the falsely claimed inability to review another court because that rule has an exception that should have been applied since I asked for damage levels that made the U.S. Court of Federal Claims the only federal court with jurisdiction to provide my relief.:

> However, resolution of this case did not require the Court of Federal Claims to review the merits of the district court's order enjoining Boise from logging without a permit. Boise has accepted the validity of the injunction, and only filed suit in the Court of Federal Claims to determine whether the Service's assertion of jurisdiction over it by seeking and obtaining the injunction worked **a taking of its property** that **requires compensation under the Takings Clause. Whether or not the government action took Boise's property was not before the district court, nor could it have been. Because Boise seeks over $10,000 in compensation for this alleged taking,4 the Court of Federal Claims is the sole forum available to hear Boise's claim.** See 28 U.S.C. § 1346(a)(2) (2000). Because the takings claim does not require the trial court to review the district court's actions, there is no constitutional defect in the Court of Federal Claims' assertion of jurisdiction over this case. *Boise Cascade Corporation, Plaintiff-appellant, v. United States,* Defendant-appellee, 296 F.3d 1339 (Fed. Cir. 2002).

STATEMENT OF THE CASE

Judicial takings have been known and recognized since the 1800s. See: "Barton H. Thompson, Jr., *Judicial Takings*, 76 Va. L.Rev. 1449 (1990) (examining the history and evolution of judicial taking jurisprudence)" *Smith v. United States*, 709 F.3d 1114, 1117 (Fed. Cir. 2013). See also, *Chicago, Burlington & Quincy Railroad Co. v. Chicago*, 166 U.S. 226, 236 (1897); *Webb's Fabulous Pharmacies, Inc. v. Beckwith*, 449 U.S. 155, 164 (1980) ("Neither * * * the Florida courts by judicial decree, may accomplish the result the county seeks simply by recharacterizing the principal as "public money" because it is held temporarily by the court.").

From *Webb's* it appears that judicial takings compensation is already law, even though the Federal Circuit does not enforce *Webb's* or *Smith* and avoids its duty under *Boise* to compensate judicial takings over $10,000 by refusing to review the judicial takings orders and opinions of other courts even without disturbing their outcomes.

It should be self-evident that judges take law licenses by suspending or disbarring an attorney using court orders and the law license is useless with such sanctions in effect. When there is no cause but an alleged "incompetence" because an attorney has a disability and pushed for greater ADA protections, that disabled lawyer has spent his life working harder than most to be a lawyer, facing discrimination at every step. This is my life.

Taking away that license (here without any mitigating factors considered, below Dkt. 27-1) is an abrupt property appropriation that the 7th Circuit said has drastic financial impact on a lawyer. *In re Ming*, 469 F.2d 1352, 1355-1356 (7th Cir. 1972). When **no crime** is alleged, **no dishonest act** alleged, and the Virginia State Bar refuses to sanction reciprocally due to lack of any ethical violation, it is time to compensate that disabled lawyer so he can take the money to go into another line of work without starting out at less than zero and with his reputation ruined. In the absence of cause and with a public interest reason given (incompetence) for taking the license, compensation is due. My background shows extreme competence and that is why the previous Chief Justice of Indiana hired me out of ~500 applicants to provide statistical and technology services to over 400 courts. To attack me is to attack the judgment of the previous chief justice and state court administrator in 2000. I was recommended for that role by the law school dean (IU Provost Lauren Robel, a former AALS president).

The Indiana Supreme Court bans all disabled people from practicing law and this too must be considered. Ind. R. Adm. & Disc., Rule 23, Sections 2(c) & 3(b). This ban shows the purported public purpose in the judicial taking, that no disabled person is trusted to provide competent services as a lawyer to the public and thus the license granted by that Court is taken judicially. Women were treated this way at one time. *Bradwell v. Illinois*, 83 U.S. 130 (1873).

Any judicial taking, even if only plausible as a public purpose taking, must be compensated under the Tucker Act when damages are above $10,000. This is true of law licenses due to the sheer sacrifice that goes into becoming a lawyer and the value of such a license and its role in society. To rip a disabled lawyer from the practice of law while spouting "frivolous" and "incompetent" is a judicial takings at a minimum.

REASONS FOR GRANTING THE WRIT

I. Supreme Court Rule 10

(a) a United States court of appeals * * * has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. The Federal Circuit is refusing to enforce its own *Boise* rule, the longstanding precedent that it can review another court's orders for takings when the amount in controversy is **above $10,000**.

II. Protection of property rights is one of the most important roles of the entire Bill of Rights, the U.S. Constitution, and the federal courts, and this has been true since the beginning. The Federal Circuit and U.S. Court of Federal Claims are

extinguishing the right of property compensation when law licenses are taken. This affects millions of lawyers in the USA now and in the future.

III. Further, to take the right to compensation under the 5th Amendment solely because it would require the Federal Circuit to review other courts' orders and opinions (without overturning them) is to end a fundamental and critical constitutional property right in defiance of Fed. R. Evid. § 201(a) & (c) as well as the *Boise* precedent.

IV. A law license represents years of study and training and is the culmination of a lawyer's work to function in the field of law. A law license taken with a long suspension represents ending that career and it must be compensated if no crime or dishonest act was involved.

V. The Federal Circuit has already recognized judicial takings and the decision below represents a radical and erroneous new precedent that will deprive every lawyer in the United States of property rights protection for their law licenses under the 5th Amendment Takings Clause and the Tucker Act. *Smith v. United States*, 709 F.3d 1114, 1116-1117 (Fed. Cir. 2013). The new precedent here being so radically opposed to long-established law license property rights and judicial takings doctrine more generally, the Federal Circuit must be definitively corrected to protect this fundamental property right. *Supreme Court of N.H. v. Piper*, 470 U.S. 274, 281 (1985) ("The opportunity to practice law is a 'fundamental right.')

CONCLUSION

This case is about protecting law licenses as property under the 5th Amendment Takings Clause and the Tucker Act from **judicial takings**. Since I was not allowed any federal review at either this Court, the 7th Circuit, the Southern District of Indiana, or any of the 4 federal district courts that reciprocally suspended me, (no federal hearings at all, incidentally), I must be paid for the 5 judicial takings so I can do something else with the rest of my life. Law is clearly no longer an option. *Supreme Court of N.H. v. Piper*, 470 U.S. 274, 281 (1985) ("The opportunity to practice law is a 'fundamental right.')

This Court's past precedents have explained the importance of compensating takings no matter which of the three branches of government does it. *Webb's Fabulous Pharmacies, Inc. v. Beckwith*, 449 U.S. 155, 164 (1980); *Stop the Beach Renourishment v. Florida Department of Environmental Protection*, 560 U.S. 702 at *7-20 (2010).

The Federal Circuit wants to be able to close its eyes to judicial takings in violation of Fed. R. Evid. § 201 (a) & (c), thus ending the Tucker Act's protection of 5th Amendment **judicial takings compensation**. This is wrong because there are so few exceptions to the sovereign immunity of the United States and the Tucker Act is one of them. The Tucker Act on its face protects constitutional property rights and it seems the Federal Circuit enjoys narrowly construing the 5th Amendment and

singling me out for denial when the 19 years of Federal Circuit *Boise* precedent is not being applied to protect my rights. This change must not be the rule for law licenses.

It is unlikely that a new *Bivens* category will be invented to protect my property rights. Thus, the Tucker Act is my constitutional takings remedy and it must not be narrowly construed to take away property from me worth **millions of dollars** to unlawfully inflict **poverty** on me. (**Dkts. 35-1 & 35-2** below).

I am disabled from public service to the **Indiana Supreme Court** and the **U.S. Marine Corps,** but I have been denied even such basic dignity as health care by judges who have no right to narrowly construe these laws. They were not born on top of an EPA Superfund site toxic waste pile of a military base, but ***I was***. *Straw v. Wilkie*, 20-2090, 843 F. App'x 263 (Fed. Cir. 1/15/2021). My mother died while I was in law school of one of the listed cancers. I obtained this Indiana law license while working for the Chief Justice of Indiana and serving over 400 state courts. My legs, pelvis, nose, ribs, hand, and skull were broken on my way to the Indiana Supreme Court to work by a reckless driver. That broken bone pain was present when I took the Indiana Bar Exam while serving those 400+ courts and the Chief Justice of Indiana.

I do not deserve to have my law licenses taken away, but they have been. I suffered too much to earn them and these law licenses are more valuable as a result of my unique service, painful sacrifices, and disability background, including the poverty inflicted on me by **state and federal judges** who have **no empathy for me**.

Look at me and my suffering in poverty now because courts discriminate and frankly, steal from me. Let us be clear. An uncompensated taking is theft by government. The Founders wanted to avoid such theft and gave people like me the Takings Clause to protect our property. But appellate courts today ***HIRE MY APPELLEES***, I am so **disfavored**. *Straw v. Indiana Supreme Court, et. al.*, 17-1338 (Fed. Cir. 2017) (**Dkts. 79 & 80**). Courts in my experience routinely use "frivolous" to damage their own criminal victims, the people whose property was stolen. Here, I was suspended for **5 years** and my **14 mitigating factors** were excluded, omitted, criminally *not considered*. I explained this omission of my mitigating facts at **Dkt. 27-1** of appeal **21-1597**. It mattered **NOT**. It seems as though the more outrageous the judge violations, the less other judges will do anything to help.

Violation of victims is how criminals act. It is also a tactic of criminals to get revenge against, discredit, and cripple a witness or victim when they complain. Courts can act the same. It ***shocks me*** after **my level of sacrifice to the American Courts** that I would be made into such a **victim** and thrust into **poverty**. Sarah Harsey & Jennifer J. Freyd, *Deny, Attack, and Reverse Victim and Offender (DARVO): What Is the Influence on Perceived Perpetrator and Victim Credibility?*, Journal of Aggression, Maltreatment, and Trauma, v. 29, Issue 8: Special Issue on Offenders, 2020.

These are compelling reasons for protecting my 5 law license properties under "regulatory takings" rules of the 5th Amendment Takings Clause and the Tucker Act

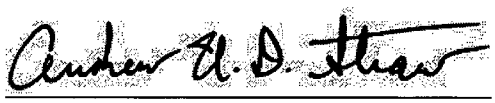
with full authority to review other cases' outcomes under Fed. R. Evid. § 201 (a) & (c). *Scheehle v. Justices*, 508 F.3d 887, 889, 891 (9th Cir. 2007); *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978); *Lingle v. Chevron U. S. A. Inc.*, 544 U.S. 528 (2005)

Conceptually, judicial takings go far beyond my law licenses and those of every other lawyer in the USA. Jeremy A. Blumenthal, *Legal Claims as Private Property: Implications for Eminent Domain*, 36 Hastings Const. L.Q. 373 (2009). **All judicial takings are at stake** in this case and it must be quite clear that the courts below, all of them, **must review other courts for takings relief** instead of avoiding this responsibility by denying mandatory judicial notice under the Federal Rules of Evidence. This Court should not accept that the Federal Circuit cannot review another Court's ORDERs when the Federal Circuit has a precedent allowing just that with damages above $10,000, the same as in my case. *Boise Cascade Corporation, Plaintiff-appellant, v. United States*, Defendant-appellee, 296 F.3d 1339 (Fed. Cir. 2002).

CERTIFICATE OF TRUTH AND CORRECTNESS

I, Andrew U. D. Straw, verify that my statements and factual allegations above and any in the attached appendix are true and correct to the best of my knowledge, information, and belief under penalty of perjury. **Date: December 16, 2021**

Respectfully submitted,



s/ Andrew U. D. Straw
700 12th ST NW STE 700, PMB 92403
Washington, DC 20005
Tel. (847) 807-5237
andrew@andrewstraw.com

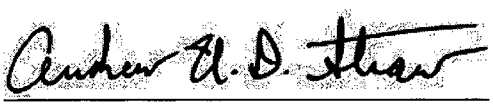
WORD COUNT CERTIFICATE

I, Andrew U. D. Straw, hereby certify that this PETITION FOR A WRIT OF CERTIORARI (*with* appendix) comply with the word count limits in Rule 33(1)(g)(i) of the United States Supreme Court Rules.

The relevant portions under Rule 33(1)(h) that are subject to this word limit contain **3,333 words**.

Date: December 16, 2021

Respectfully submitted,



s/ Andrew U. D. Straw, *petitioner*
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Washington, DC 20005
Tel. (847) 807-5237
andrew@andrewstraw.com