

No. 23-866

**In the Supreme Court of the
United States**

EVAN H. NORDBY,

Petitioner,

v.

SOCIAL SECURITY ADMINISTRATION,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Federal
Circuit Court

**REPLY IN SUPPORT OF PETITION FOR A
WRIT OF CERTIORARI**

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REPLY IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

Three pending cases each present the same important and recurring question about whether differential pay is, as the governing statute provides, available to civilian federal employees when they are called to active duty under “any * * * provision of law during a war or during a national emergency declared by the President or Congress.” 10 U.S.C. § 101(a)(13)(B); *see also Feliciano v. Dep’t of Transp.*, No. 23-861; *Flynn v. Dep’t of State*, No. 23-868.

The government has identified purported vehicle problems in both *Feliciano* and *Flynn* but has raised no such problems in this case. For the reasons stated in the reply briefs of Mr. Feliciano and Mr. Flynn in support of their petitions for certiorari, Petitioner agrees that those cases do not present any vehicle problems and reiterates his request that the Court grant the *Feliciano* petition. However, should the Court determine that either *Flynn* or this case is a better vehicle for deciding the important statutory construction question underlying all three cases, Petitioner respectfully requests that the Court grant review in whichever case it prefers.

CONCLUSION

The petition for a writ of certiorari should be held pending the Court’s disposition of the petition for a writ of certiorari in *Feliciano* and then disposed of as appropriate.

Dated: May 23, 2024

Respectfully submitted,

Toby J. Marshall

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