

No. 23-892

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

JASON ANTOINE BROCK,
Petitioner,

v.

PETER BUTTIGIEG, U.S. Secretary of
Transportation,
Respondent.

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

PETITION FOR REHEARING

Jason Antoine Brock, *Pro Se*
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Nashville, TN 37211-6654
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QUESTION PRESENTED

I. Whether reinstatement technicality can occur.

LIST OF PARTIES

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: U.S. Merit Systems Protection Board, Atlanta Regional Office Peachtree Summit, 401 W Peachtree St NW # 1050, Atlanta, GA 30308.

RELATED CASES

Brock v. Department of Transportation, No. AT-0752-20-0542-M-1. U.S. Merit Systems Protection Board, Judgment entered August 31, 2022.

Brock v. DOT Federal Aviation Administration, No. 2021003451. U.S. Equal Employment Opportunity Commission Office of Federal Operations, Judgment entered June 21, 2022.

Brock v. MSPB, No. 2021-1000. U.S. Court of Appeals for the Federal Circuit, Judgment entered December 14, 2021.

Brock v. DOT Federal Aviation Administration, No. 490-2021-00064X. U.S. Equal Employment Opportunity Commission, Judgment entered March 15, 2021.

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TABLE OF CITED AUTHORITIES

Statutes

5 U.S.C. § 1201.151 1, 2
5 U.S.C. § 1201.151(a)(1) 1
5 U.S.C. § 1201.151(b) 1
5 U.S.C. § 1201.157 1, 2
5 U.S.C. § 7702(b)(1) 1, 2
29 U.S.C. § 1614.403(a) 1, 2

JURISDICTION

On April 1, 2024, the Supreme Court of the United States denied petition for writ of certiorari. Petitioner wishes rehearing pursuant to Rule 44.

STATUTORY PROVISIONS INVOLVED

5 U.S.C. § 1201.151, Subpart E, Procedures for Cases Involving Allegations of Discrimination

5 U.S.C. § 1201.151(a)(1), Scope

5 U.S.C. § 1201.151(b), Policy

5 U.S.C. § 1201.157, Notice of Right to Judicial Review

5 U.S.C. § 7702(b)(1), Actions Involving Discrimination

29 U.S.C. § 1614.403(a), How to Appeal

STATEMENT OF THE CASE

The adjoining party, the MSPB stated to file EEOC review pursuant to statute 5 U.S.C. § 7702(b)(1) in notice to appeal, but no EEOC mailing address within statute, (Appendix A, Reh 1a) and (Petition for Writ of Certiorari, No. 23-892, Appendix B: Decision, MSPB, 8-31-2022, page 58a). The EEOC's Office of Federal Operations mailing address instead provided, (Petition for Writ of Certiorari, No. 23-892, Appendix B: Decision, MSPB, 8-31-2022, pages 58a-59a). The scope requirement for procedures involving allegations of discrimination, 5 U.S.C. §

1201.151(a)(1), Subpart E states, “The rules in this subpart implement 5 U.S.C. § 7702”, (Appendix B, Reh 2a).

REASON FOR GRANTING THE WRIT

Petitioner believes technicality is usage of 29 U.S.C. § 1614.403(a) for EEOC mailing address, (Appendix C, Reh 3a). In addition, the MSPB did not provide EEOC Form 573 pursuant to 29 U.S.C. § 1614.403(a) for EEOC review, (Petition for Writ of Certiorari, No. 23-892, Appendix B: Decision, MSPB, 8-31-2022, pages 57a-59a). The Notice of Right to Judicial Review within statute 5 U.S.C. § 1201.157 aligns with 5 U.S.C. § 1201 Subpart E, (Appendix D, Reh 4a). On March 15, 2021, an EEOC District Office rendered decision against the DOT Federal Aviation Administration for untimely submittal of final agency decision, (Petition for Writ of Certiorari, No. 23-892, Appendix E: Decision, EEOC, 3-15-2021, pages 75a). On December 14, 2021, the Federal Circuit rendered decision against the MSPB involving jurisdiction, (Petition for Writ of Certiorari, No. 23-892, Appendix D: Decision, Federal Circuit, 12-14-2021, pages 73a). On June 21, 2022, the EEOC’s OFO rendered decision against discrimination claim, (Petition for Writ of Certiorari, No. 23-892, Appendix C: Decision, OFO, 6-21-2022, pages 61a). Like statute 5 U.S.C. § 7702(b)(1), no EEOC mailing address within statute 5 U.S.C. § 1201.157. The EEOC’s OFO mailing address within 29 U.S.C. § 1614, Subpart D, conflicting with 5 U.S.C. § 1201(a)(1), Subpart E. An EEOC District Office mailing address does not conflict. The MSPB did not act pursuant to policy within 5 U.S.C. § 1201.151(b), (Appendix E, Reh 5a).

CONCLUSION

The petitioner humbly states that petition for rehearing should be granted.

Respectfully Submitted,

/s/ _____

Jason A. Brock, Pro Se

April 16, 2024

CERTIFICATE OF PETITIONER

I hereby certify that this Petition for Rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2.

A handwritten signature in black ink, appearing to be "J. A. Smith", written over a horizontal line.

APPENDIX TABLE OF CONTENTS

Appendix A: Title 5 – Government Organization and Employees, §7702. Actions involving discrimination Reh 1a

Appendix B: Subpart E – Procedures for Cases Involving Allegations of Discrimination §1201.151 Scope and policy, (a) Scope (1) . . . Reh 2a

Appendix C: Part 1614 – Federal Sector Equal Employment Opportunity, Subpart D – Appeals and Civil Actions, §1614.403 How to appeal . Reh 3a

Appendix D: §1201.157 Notice of right to judicial review Reh 4a

Appendix E: Subpart E – Procedures for Cases Involving Allegations of Discrimination, §1201.151 Scope and policy, (b) Policy Reh 5a

APPENDIX A

TITLE 5 – GOVERNMENT ORGANIZATION AND EMPLOYEES

§7702. Actions involving discrimination

(b)(1) An employee or applicant, within 30 days after notice of the decision of the Board under subsections (a)(1) of this section, petition the Commission to consider the decision.

APPENDIX B

Subpart E – Procedures for Cases Involving Allegations of Discrimination

§1201.151 Scope and policy.

(a) *Scope.* (1) The rules in this subpart implement 5 U.S.C. 7702. They apply to any case in which an employee or applicant for employment alleges that a personnel action appealable to the Board was based, in whole or in part, on prohibited discrimination.

APPENDIX C

PART 1614 – FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

Subpart D – Appeals and Civil Actions

§1614.403 How to appeal

(a) The complainant, agency, agent, grievant or individual class claimant (hereinafter applicant) must file an appeal with the Director, Office of Federal Operations, Equal Employment Opportunity Commission, at P.O. Box 77960, Washington, DC 20013, or electronically, or by personal delivery or facsimile. The appellant should use EEOC Form 573, Notice of Appeal/Petition, and should indicate what is being appealed.

APPENDIX D

§1201.157 Notice of right to judicial review.

Any final decision of the Board under 5 U.S.C. 7702 will notify the appellant of his or her right, within 30 days after receiving the Board's final decision, to petition the Equal Employment Opportunity Commission to consider the Board's decision, or to file a civil action in an appropriate United States district court. If an appellant elects to waive the discrimination issue, and appeal may be filed with the United States Court of Appeals for the Federal Circuit as stated in §1201.120 of this part.

APPENDIX E

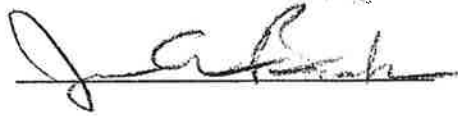
Subpart E – Procedures for Cases Involving Allegations of Discrimination

§1201.151 Scope and policy.

(b) *Policy.* The Board's policy is to adjudicate impartially, thoroughly, and fairly all issues raised under this subpart.

CERTIFICATE OF PETITIONER

I hereby certify that this Petition for Rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2.

A handwritten signature in black ink, appearing to be "J. A. [unclear]", written over a horizontal line.

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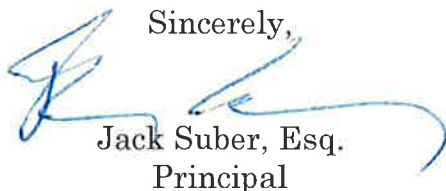
**RE 23-892: JASON ANTOINE BROCK V. PETER BUTTIGIEG, U.S. SECRETARY OF
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Dear Sir or Madam:

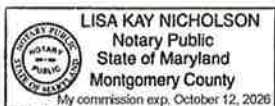
As required by Supreme Court Rule 33.1(h), I certify that the Petition for Rehearing referenced above contains **429** words, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Sincerely,



Jack Suber, Esq.
Principal



Sworn and subscribed before me this 22nd day of April 2024.



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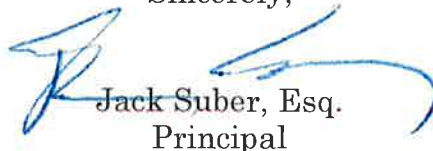
I certify that at the request of the Petitioner, on April 22, 2024, I caused service to be made pursuant to Rule 29 on the following counsel for the Respondents:

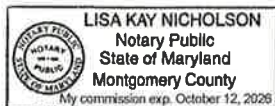
RESPONDENTS:

Elizabeth B. Prelogar
Solicitor General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
202-514-2217
SupremeCtBriefs@USDOJ.gov

This service was effected by depositing three copies of a Petition for Rehearing in an official "first class mail" receptacle of the United States Post Office as well as by transmitting digital copies via electronic mail.

Sincerely,


Jack Suber, Esq.
Principal



Sworn and subscribed before me this 22nd day of April 2024.

