
IN THE
SUPREME COURT OF THE UNITED STATES

LAWRENCE E. MATTISON;
Petitioner

vs.

DEPARTMENT OF VETERANS AFFAIRS;
Respondent

On Petition For Writ Of Certiorari To
U. S. Court of Appeals for the Federal Circuit

PETITION FOR REHEARING

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Date 4/09/2025

PETITION FOR REHEARING

Introduction

Pursuant to Rule 44.2, a substantial and controlling ground not previously presented warrants a rehearing. Briefly and distinctly; (1) Federal circuit precedent in *Hill v. Department of The Air Force*, 796 F.2d 1469 (Fed Ct. 1986) raises a legitimate issue regarding unlawful transfers related to 28 U.S.C.§1295(a)(9) cases; (2) This Court's precedent in *Christianson v. Colt Industries* 486 U.S. 800, 108 S. Ct. 2166 (Sup ct.1988) raises a legitimate issue regarding the Federal circuit's power to revisit transfer decision challenged as 'unlawful'. Both together raises substantial and controlling support that 'clearly erroneous/unlawful' transfers are appealable and this court should Order 'clearly erroneous/unlawful' transfers be corrected by the transferring court.

Reasons for Rehearing

1. The procedural posture presented to this court is consistent with the presentation to the Federal Circuit on panel hearing/en banc review and unrefuted. When appellate courts are given an opportunity to revisit the procedural posture on panel hearing/en banc review, where such has been presented without dispute proves transfer here was clearly not "Plausible".
2. In *Hill*, the Federal circuit held: "To transfer a case containing a specious or inadequate allegation of authority in the transferee court, without review of the threshold issue of jurisdiction, would violate both 28 U.S.C. § 1631 and our judicial responsibility. Further, the jurisdiction of this court shall not be thus circumvented.

It was plainly not the intent of Congress to enable manipulation of appellate jurisdiction by the mere mention of discrimination in a petition for review.” See Hill @ 1470-71

3. Hill was a Federal employee seeking review of an adverse employment action. In Hill, Federal Circuit precedent dictates that §1631 transfer errors were unlikely because it follows mandatory and settled procedures preventing unlawful transfers. *Ibid* This settled precedent makes clear §1631 transfers from their court as related to Federal employment are not provisional, are not simply ‘plausible’, are not arbitrary, and are not in the abstract.

4. In Christianson, this court explained that a court should revisit its decision to transfer where the initial decision was ‘clearly erroneous’ and would work a manifest injustice. see 486, U.S.@ 817, 108 S.Ct.@ 2178 (1988)(citation omitted).

5. Here, the ‘clearly erroneous/unlawful’ transfer by the Federal circuit is based in the fact they ignored their own precedent. Cases cited by the Federal circuit @ Appendices B & C: Harris v. Securities and Exchange Commission, 972 F.3d 1307 (Fed Cir 2020); Williams v. Department of the Army, 715 F. 2d 1485 (Fed Cir 1983); Punch v. Bridenstine, 945 F. 3d 322 (5th Cir 2019) and now Hill are ALL Federal employees seeking review of adverse actions, all prove the law of the Federal circuit is to determine a specific procedural posture before transfer and anything less is unlawful. See Hill, 796 F.2d 1470-71.

6. Furtherance of a manifest injustice by the district court to “follow suit” with a clearly erroneous and unlawful transfer to “Protect it’s past federal law and

Constitutional contradictions” in Petitioner’s cases is absolutely reasonable. District courts are not required to review the jurisdiction of §1631 transfers from an appellate court (an influential court). See *Christianson*, 486 U.S. @ 816-19, 108 S. Ct @ 2178 but the Federal circuit is required to lawfully transfer. (emphasis); see *Hill*, 796 F.2d @ 1470-71

7. In the Federal employment context, §1631 and Federal circuit precedent dictates the Federal circuit is required to answer the question: “At any point under Petitioner’s circumstances would the district court have jurisdiction?” In *Dedrick v. Berry*, 573 F.3d 1280-81(Fed ct. 2009) the Federal circuit again quoted *Hill*: holding that [I]f Dr. Hill presented a non-frivolous allegation of prohibited discrimination, he was entitled to a hearing thereon before the Board. If the Board improperly denied such hearing, we must remand to the Board for this purpose (quoting *Hill* F. 2d @ 1271). See *Dedrick* @ 1280-81(quotation omitted) Of such is one issue here.

8. Petitioner’s transferor court is the Federal circuit which has, at the least, exclusive jurisdiction over Harmful Procedural error claims. See *Afifi v. United States Department of the Interior*, 924 F.2d @ 63 (4th Cir 1991) (holding: “....the Federal Circuit has assumed jurisdiction over what it terms “procedural” or “threshold” issues...” Id. Of such is another issue here.

9. Petitioner argues that both *Hill* and *Christianson* strongly support the fact there are “Guardrails” preventing ‘clear error’ transfers. Both cases strongly support that ‘erroneous/unlawful’ transfers be revisited and corrected by the transferring court preventing manifest injustices (such as lower courts “following

suit”). Vacating and Ordering ‘clear error’ transfers returned is a lawful outcome by the court. Leaving unsettled this issue on ‘clear error’ §1631 transfers from appellate courts to lower courts is not a lawful outcome by the court. Transfer arguments have its roots in coordinate courts (district-to-district, district-to-court of federal claims, federal circuit-to-federal appellate) but raises higher concern about transfers between the Federal circuit to a lower court.

10. The Federal circuit/panel cannot by agreement confer subject-matter jurisdiction on a court otherwise lacking it. See *Newell Cos. v. Kenney Mfg. Co.*, 864 F.2d 757, 765 (Fed. Cir. 1988) (quotation omitted); see *Metzinger v. Department Of Veterans Affairs*, 20 F.4th 781 (fed ct. 2021) (quotation omitted)

11. Creating a procedural posture on panel hearing/en banc review would have shown the decision to transfer was “clearly erroneous/unlawful” and would work a manifest injustice.¹ The abstractness of appendices B & C proves this point.

12. Hopefully at some point this court will acknowledge this unsettled issue and hold the Federal circuit to their precedent set in *Hill* related to §1631 transfers from their court involving cases falling under 28 U.S.C. §1295(a) and/or give it a chance to revisit it.

13. The Federal Circuit abused its settled precedent. If they’re not required to fix their own transfer errors then there are no “Guardrails” preventing ‘clear

¹ “A proper 28 U.S.C. § 1631 transfer requires both that the transferor court lack jurisdiction and that the transferee court have it.” See *Fisherman's Harvest, Inc. v. PBS & J*, 490 F.3d 1371, 1374 (Fed. Cir. 2007).

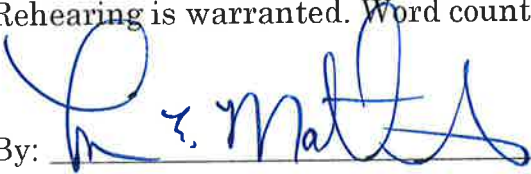
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error/unlawful' transfers and no guardrails preventing a lower court from 'following suit'. Rehearing is appropriate for this issue.

CONCLUSION

The transfer should be vacated and remanded to the Federal circuit under a violation of Law standard and or a clear error standard as acknowledged in Hill, 796 F.2d @ 1470-71 and Christianson, 108 S.Ct. @ 2177-78.

Rehearing is warranted. Word count is 1,084 @ 5 pages

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