

No.:

IN THE
Supreme Court of the United States

BRAD GREENSPAN,

Petitioner,

v.

GOOGLE, LLC, et al.

Respondent.

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

**CORRECTED PETITION
FOR WRIT OF CERTIORARI**

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QUESTIONS PRESENTED

1. Whether the D.C. Circuit’s dismissal of a Crime Victims’ Rights Act (“CVRA”) mandamus petition as moot, without merits review or written explanation as required by 18 U.S.C. § 3771(d)(3), directly conflicts with precedent in the Fifth, Ninth, and Eleventh Circuits mandating prompt merits adjudication and written disposition of such petitions, thereby creating a square, outcome-determinative, and nationally significant circuit split. (App. 001a–002a).

2. Whether the 15 U.S.C. § 7a-3(d) “remedies, privileges” clause protects the right to file a CVRA mandamus petition which is adjudicated independently of collateral docket events rather than dismissed for “mootness” based on unrelated process dispositions (App. 001a–002a; 010a–044a).

PARTIES TO THE PROCEEDING

Petitioner Brad Greenspan, the United States of America, multiple states as active or interested parties, and Google LLC (App. 001a; 010a–014a).

RELATED PROCEEDINGS

- United States v. Google LLC, No. 1:20-cv-03010 (D.D.C.) (referenced throughout) (App. 005a–008a).
- United States, et al. v. Google LLC, No. 24-5006 (D.C. Cir.) (orders and CVRA petition reproduced) (App. 001a–009a; App. 010a–044a).
- In re Brad Greenspan, No. 24-5007 (D.C. Cir.) (companion references in filings) (App. 013a; App. 024a–025a).

RULE 29.6 STATEMENT

The parent company of Google LLC is Alphabet Inc., a publicly traded corporation. No other publicly traded corporation owns more than 10 percent of Alphabet Inc.

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OPINIONS BELOW

The D.C. Circuit's order dismissing Petitioner's writ of mandamus as moot is reproduced at App. 001a. The D.C. Circuit's order denying reopening is at App. 002a.

JURISDICTION

The D.C. Circuit entered its final order on February 21, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1) (App. 001a–002a).

STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 3771(d)(3):

The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed. If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.

15 U.S.C. § 7a-3(a):

(a) Whistleblower protections for employees, contractors, subcontractors, and agents

(1) In general

No employer may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against a covered individual in the terms and conditions of employment of the covered individual because of any lawful act done by the covered individual—

(A) to provide or cause to be provided to the Federal Government or a person with supervisory authority over the covered individual (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct) information relating to—

(i) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, the antitrust laws; or

(ii) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, another criminal law committed in conjunction with a potential violation of the antitrust laws or in conjunction with an investigation by the Department of Justice of a potential violation of the antitrust laws; or

(B) to cause to be filed, testify in, participate in, or otherwise assist a Federal Government investigation or a Federal Government proceeding filed or about to be filed (with any knowledge of the employer) relating to—

(i) any violation of, or any act or omission the covered individual reasonably believes to be a violation of, the antitrust laws; or

(ii) any violation of, or any act or omission the covered individual reasonably believes to be a violation of,

another criminal law committed in conjunction with a potential violation of the antitrust laws or in conjunction with an investigation by the Department of Justice of a potential violation of the antitrust laws.

15 U.S.C. § 7a-3(d):

(d) Rights retained by whistleblowers

Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law, or under any collective bargaining agreement.

INTRODUCTION

This document addresses the D.C. Circuit's summary dismissal of a well-founded CVRA mandamus petition, in a District Court case intervened in by a pro se antitrust whistleblower who became represented by counsel on appeal. The court's action violated both the letter and spirit of 18 U.S.C. § 3771(d)(3), refusing merits review and written explanation, thereby denying not just Petitioner's statutory rights but materially harming the

administration of antitrust justice.¹ This harm extended to the States and their Attorneys General, whose parallel enforcement and interests were significantly undermined due to the loss of whistleblower evidence and the inability to confer regarding crucial government antitrust evidence shielded by the conduct in the district court and reviewed on appeal (App. 001a–002a; 010a–044a).

The case at hand is not limited to an individual injustice, but it also implicates nationwide statutory policy and institutional integrity. "The statutory protections Congress offered for antitrust whistleblowers in 15 U.S.C. § 7a-3(d) guarantee that none of Petitioner's parallel rights—including those under the Crime Victims' Rights Act—are diminished or limited in any way." As such, every process, conferral, and restitution right under 18 U.S.C. § 3771 is completely preserved and enforceable alongside federal whistleblower protections, underscoring the

¹ Also preventing an industry expert in online search and Artificial Intelligence from being heard during the remedies stage in the District Court

far-reaching impact of this case on legal rights and statutory policy.

STATEMENT OF THE CASE

The D.C. Circuit, in a matter involving federal and state antitrust enforcement, refused merits review of petitioner's CVRA mandamus petition and failed to issue the written rationale mandated by 18 U.S.C. § 3771(d)(3). As a result, federally protected whistleblower materials were excluded from the record, impairing both federal and state antitrust enforcement and undermining collaboration. The enforceability of statutory rights under both the CVRA and 15 U.S.C. § 7a-3 now turns on the happenstance of circuit assignment.

ARGUMENT

I. The D.C. Circuit's Summary Dismissal Contravenes the Plain Text of the CVRA

- The CVRA mandates that courts of appeals “shall take up and decide such application forthwith within 72 hours” and, if relief is denied, “the reasons for the denial shall be clearly stated on the record in a written opinion.”
- The D.C. Circuit's order dismissed the petition as “moot” without addressing the merits or providing a written opinion, in direct violation of the statutory text.
- This approach frustrates Congress's intent to provide victims with prompt, reasoned judicial review and creates uncertainty for lower courts and litigants.

II. Clear and Recurring Circuit Split

The Fifth, Ninth, and Eleventh Circuits require merits review and written explanation for CVRA petitions. The D.C. Circuit's contrary approach—summary dismissal without explanation—renders the statute inoperative in high-impact federal dockets, deepening a split that affects justice nationwide.

See *Kenna v. U.S. Dist. Court*, 435 F.3d 1011, 1012–13 (9th Cir. 2006) (“mandatory, not discretionary”); *In*

re Dean, 527 F.3d 391, 393 (5th Cir. 2008); *In re Stewart*, 552 F.3d 1285 (11th Cir. 2008). The D.C. Circuit’s order below not only denied merits review but also failed to issue any written rationale, creating a sharp and outcome-determinative circuit split on the enforceability of statutory conferral, merits review, and access-to-court requirements (App. 001a–002a; 049a–052a). Petitioner’s arguments and proffered evidence—including the suppressed whistleblower Errata—would have triggered a court’s mandatory, expedited review and a reasoned opinion. Here, however, the summary “mootness” dismissal violated both petitioner’s substantive rights as an antitrust victim whistleblower and those of the State co-plaintiffs, who were denied both the evidence and their statutory ability to confer meaningfully with DOJ on the merits (App. 049a–052a; 021a–022a).

Multiple circuits require CVRA petitions to be decided promptly on the merits with written reasons. See, e.g., *Kenna v. U.S. Dist. Court for the Cent. Dist. of Cal.*, 435 F.3d 1011, 1012–13 (9th Cir. 2006) (mandating prompt merits adjudication and reasoned disposition); *In re Dean*, 527 F.3d 391, 393 (5th Cir.

2008) (vacating for failure to comply with CVRA review obligations); *In re Stewart*, 552 F.3d 1285 (11th Cir. 2008) (recognizing CVRA’s enforceable appellate rights). The contrary approach—summarily dismissing on “mootness” grounds, issuing no reasons, and directing clerks to block further filings—renders the CVRA optional in the very circuit where many nationally significant cases are docketed. The statutory promise of uniform victims’ rights becomes a patchwork, governed by local practice rather than federal law. The practical stakes are intolerable: litigants will forum shop for circuits that minimize victim/whistleblower participation; national enforcement will turn on courthouse happenstance; and the public’s confidence in the Courts’ willingness to apply Congress’s plain mandates will erode.

III. Exceptional Importance: Antitrust Enforcement, State-Federal Interests, and *Pro Se* Barriers

Congress’s recent expansion of the Clayton Act (15 U.S.C. § 7a-3) created new rights for whistleblowers in antitrust matters, empowering them to participate directly and supplying robust remedies for retaliation or exclusion. Petitioner’s

experience as a *pro se* party at the district court stage—navigating complexity and facing rampant procedural obstacles—mirrors the reality for many would-be whistleblowers nationwide. Yet, Greenspan’s transition from *pro se* status at trial to full legal representation on appeal demonstrates that the prejudice here transcends a lack of sophistication: both procedural abandonment and dysfunctional clerk/judicial collaboration can defeat even well-lawyered statutory claims and appeals (App. 010a–044a;) At the appellate level, represented by experienced counsel, Greenspan sought to vindicate not only his own rights, but also those of the States and the public at large, by attempting to correct the record and bring critical evidence into play.

The focus here is not solely individual. The DOJ and the State Attorneys General, acting as federal and state sovereigns, were each deprived of the ability to weigh, utilize, or respond to evidence central to the largest antitrust prosecution of the decade. Statutory rights to confer with the government—core to the CVRA’s substantive enforcement vision—were denied to all state co-plaintiffs by virtue of the suppression of

Petitioner’s evidence and the improper truncation of conferral and deliberative dialogue (App. 021a–022a; 049a–052a). The States were materially prejudiced in their official capacities—a distinct harm to the national interest.

IV. CVRA and 15 U.S.C. § 7a-3(d) Overlap: Judicial Suppression of Whistleblower Evidence Requires Supreme Court Review

Section 7a-3(d) expressly provides that “[n]othing in this section shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law.” This anti-diminution clause ensures that antitrust whistleblowers maintain full access to all rights and remedies otherwise available—including those conferred by the Crime Victims’ Rights Act. Accordingly, a whistleblower proceeding under § 7a-3 is entitled to CVRA standing by operation of law, as Congress expressly guaranteed that enforcement of one statute does not abrogate or limit eligibility for protections under the other. Thus, § 7a-3(d) not only preserves, but affirmatively secures, whistleblower access to the CVRA’s core participatory and

procedural rights in relevant federal proceedings. (App. 010a–044a, 049a–052a; see also App. 021a–022a, 085a+). Congress requires that all proper relief—legal and equitable—be available upon appeal, as would have been triggered by a compliant CVRA merits review.

Greenspan’s *pro se* filings established a predicate for these remedies; his counsel’s CVRA petition on appeal spelled out both the statutory and constitutional dimensions. Yet, by denying any appellate merits review and failing to issue a reasoned opinion, the D.C. Circuit left the core promise of both Section 3771 and 15 U.S.C. § 7a-3 unfulfilled, to the detriment of the petitioner, co-plaintiff States, and the public at large.

V. State Attorneys General and the States Suffered Concrete Prejudice

The exclusion of Petitioner’s whistleblower evidence and the failure to confer as contemplated by the CVRA inflicted harm not just on Petitioner, but on the States and their Attorneys General participating as sovereign co-enforcers. In landmark federal antitrust litigation, the DOJ coordinates closely with

State AGs. Depriving that partnership of access to relevant whistleblower material—and of the opportunity for meaningful conferral informed by a complete evidentiary record—compromises sovereign enforcement choices and diminishes the States’ ability to protect their residents and markets.

The suppression of the Errata and related filings prevented the DOJ-State coalition from evaluating whether supplemental claims, remedies, or structural relief should be pursued in light of the new evidence.

The preclusion of conferral foreclosed discussion of investigatory follow-up, targeted discovery, or coordination with other pending state matters potentially impacted by the same conduct.

The appellate court’s refusal to compel merits review and give written reasons perpetuated the informational deprivation and denied the States a clear, reviewable rationale on which to calibrate their own ongoing antitrust strategy.

The CVRA does not apply only to victim-offender dynamics; it also interlocks with the real-

world architecture of national enforcement. When the CVRA's conferral right is thwarted by record manipulation and appellate noncompliance, the sovereign co-plaintiffs—the States—lose more than a meeting; they lose the fulcrum for evidence-based, time-sensitive enforcement decisions in a market-defining case.

VI. The Vehicle Is Clean and the Record Complete

This petition is an ideal vehicle to resolve the split and restore uniformity:

The question presented is cleanly framed and outcome-determinative.

The record is fully developed, and the issue recurs in federal criminal and antitrust proceedings involving victim participation

The issues are purely legal and require statutory construction rather than new factfinding;

The case is not moot, as the underlying statutory violation and the need for guidance on the

proper procedure for CVRA petitions remain live controversies.

The public and sovereign stakes are exceptional: depriving DOJ and State AGs of whistleblower evidence in a market-defining case undermines enforcement nationwide.

VII. The Prejudice-to-Certworthiness Link Is Direct and Compelling

The prejudice resulting from the D.C. Circuit's denial of merits review and exclusion of whistleblower evidence not only harmed Petitioner's statutory rights, but also deprived the judiciary and government of crucial material in a matter of national antitrust significance. When such prejudice undermines both individual justice and the public interest in fair, uniform law enforcement, the standard for Supreme Court certiorari is indisputably met.

CONCLUSION AND PRAYER FOR RELIEF

This case is a referendum on whether Congress's statutory guarantees for victims and antitrust whistleblowers are real or merely aspirational in the Nation's most consequential

dockets. The Court's intervention is essential to restore national uniformity in the application of statutory victim and whistleblower protections, clarify the obligations of federal courts under 18 U.S.C. § 3771(d)(3) and 15 U.S.C. § 7a-3(d), and ensure that antitrust enforcement remains robust, transparent, and fair regardless of venue.

Prayer For Relief

Petitioner respectfully requests that this Court:

Grant certiorari;

Vacate the D.C. Circuit's order and remand for merits adjudication of the CVRA petition, with instructions to comply with 18 U.S.C. § 3771(d)(3) by issuing a prompt decision and written reasons if relief is denied;

Grant such further relief as may be just and proper.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Supreme Court Rule 33.1(h), I certify that this petition for writ of certiorari contains fewer than 2,899 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d). I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 23, 2025.

Respectfully Submitted,

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