No. _____

In the Supreme Court of the United States

WILLIAM H. FERRELL,
Petitioner,

v.

DEPARTMENT OF THE INTERIOR,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Is the MSPB "Adjudication" process as mandated to federal civilian employees who petition MSPB appeals and authorized by 28 U. S. C. § 1295 (9) - Judiciary and Judicial Procedure which only authorizes 5 U. S. C. § 7703(b)(1) and (d) while omitting 5 U. S. C. § 7703 (c) systemically and illegally limiting, inhibiting, denying, restraining, abridging and\or depriving federal employees of their rights, privileges, immunities, assurances and\or protections of established laws and precedents including their US Constitutional rights, Fifth and Fourteenth Amendments in departure from *Marchant* v. *Pa. R.R.*, 153 U. S. 380, 386 (1894) where a litigant had the benefit of a full and fair trial or depriving federal civilian employees subjected to the MSPB process of; life, liberty, or property, without due process of law; or otherwise denying to any person within its jurisdiction the equal protection of the laws as established in *Hurtado* v. *California,* 110 U.S. 516, 537 (1884), *Hagar* v. *Reclamation Dist.*, 111 U.S. 701, 708 (1884) by extinguishing and denying the Federal Circuit's the ability to review MSPB cases de novo ?

RELATED PROCEEDINGS

United States Merit Systems Protection Board:

William Ferrell v. *Department of the Interior*, No. AT-1221-22-0459-W-1 (Feb. 28, 2024)

United States Court of Appeals (CAFC)

William H. Ferrell v. *Department of the Interior*, No. 2025-1533

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OPINION BELOW

The Merit Systems Protection Board's Initial Decision was issued on February 28, 2024 and reproduced in Appendix B, App. 14. The Federal Circuit's original opinion is reproduced in the Appendix at App. 14-55.

JURISDICTION

The Federal Circuit's decision was entered on December 1, 2025. The Federal Circuit denied the Petition rehearing en banc on January 28, 2026. This Court has jurisdiction under 28 U. S. C. § 1254(1).

INTRODUCTION

Nearly 1.8 million U. S. federal civilian employees are mandatorily subject to the Merit Systems Protection Board (MSPB) for resolution of employee disputes. Federal employees must appeal "exclusively through the statutory review scheme, even in cases in which the employees raise constitutional challenges to federal statutes." *Elgin*, 567 U. S. at 10–12; see also *Axon Enter., Inc.* v. *FTC*, 598 U. S. 175, 189, 195 (2023) and as authorized pursuant to 28 U. S. C. § 1295(a)(9). 5 C. F. R. § 1200.1 defines Statement of purpose of MSPB as an independent, quasi-judicial agency in the Executive branch that serves as the guardian of Federal merit systems and "operates like a court". 5 U. S. C. § 1204 further defines MSPB authority and role as "(1) hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, chapter 43 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter". 28 U. S. C. § 1295 defines and authorizes Jurisdiction of the Federal Circuit finding; (9) of an appeal from a final order or final decision of the BSPB, pursuant to 5 U. S. C. § 7703(b)(1) and 7703 (d). 28 U. S. C. § 1296 defines and authorizes Judiciary and Judicial Procedure Review of certain agency actions (a) Jurisdiction as subject to the provisions of chapter 179, the Federal Circuit shall have jurisdiction over a petition for review of a final decision under chapter 5 of title 3 of (1) an appropriate agency (as determined under section 454 of title 3) with no mention, reference nor citation to MSPB. On December 1, 2025 the Federal Circuit issued the appellant a ruling

stating, "We have jurisdiction pursuant to 28 U. S. C. § 1295(a)(9)" then just a few sentences later contradictorily stated "We review the Board's conclusions of law de novo and the Board's factual findings for substantial evidence". The law, 28 U. S. C. § 1295(a)(9), denies the Federal Circuit authority to execute de novo review over MSPB cases by only authorizing 5 U. S. C. § 7703(b)(1) and (d) while omitting 5 U. S. C. § 7703(c) yet told Ferrell and tens of thousands of other federal appellants the same deception or ruse and submitted an 11 page Order to perpetuate the ruse. Oddly 5 U. S. C. § 1204(n) encourages MSPB persuasion, graft and bribes Stating; "The Board may accept and use gifts and donations of property and services to carry out the duties of the Board" in direct opposition to Code of Conduct for United States Judges, Canon 2 with no documented commitment to justice or US laws nor the U. S. Constitution and no commitment to adhering to any governing procedures established pursuant to 28 U. S. C. § 2072 such as the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, Federal Rules of Appellate Procedure, etc. which help assure that the judiciary are following a consistent repeatable process to get the best ruling in the interest of justice and law and abet in assuring that litigants U. S. Constitutional rights are protected and assured by law but still the MSPB and Federal Circuit perpetuated the ruse. The MSPB has no original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States pursuant to 28 U. S. C. § 1331, and no "authority to interpret and apply federal law in disputes" with no assurance of U. S. Constitution law trained, educated, competent nor experienced personnel presiding in the

role known as "Adjudicate Judge" (AJ). Currently over 1.8 million current federal civilian employees are forced into this system for appeals, In FY 2023, 4,572 cases were decided by MSPB, as of May 24th 2025 MSPB reported having received 11,166 appeals. According to the Annual Performance Report (APR) for Fiscal Year (FY) 2023 has only 57 employees designated as "Adjudicate Judges" to "adjudicate the matters. Employee loss rate is above 98% in MSPB, the Federal Circuit "Board" overturns MSPB rulings less than approximately 4% of appeals resulting in daily, annual and ongoing harm and detriment of the employees with denial, estrangement and separation from the rights, responsibilities and privileges of U. S. Laws and their U. S. Constitutional rights including the 5th and 14th Amendments. The Supreme Court has recognized that the Federal Circuit's ability to review the merits of MSPB decisions is "extremely narrow."(see *USPS* v. *Gregory*, 534 U. S. 1, 6–7 (2001). While this reads more like a mafia than a constitutionally charted court and the Federal Circuit December 1, 2025 ruling before CHEN, BRYSON, and CUNNINGHAM, Circuit Judges PER CURIAM stated "We review the Board's conclusions of law de novo and the Board's factual findings for substantial evidence. *Brenner* v. *Department of Veterans Affairs*, 990 F. 3d 1313, 1322 (CAFC 2021)" but the actual ruling and 28 U. S. C. § 1295(a)(9) proves this was a felonious statement and its illegal because it only authorizes 5 U. S. C. § 7703(b)(1) and (d) while omitting 5 U. S. C. § 7703(c) which maps directly to the de novo review which in turn denies the de novo review to all federal civilian employees who pursue an appeal of a MSPB decision or ruling in the Federal Circuit in a manner

unique only to U. S. federal civilian employees. Another heinous element of the Federal Circuit action (or inaction) is that the MSPB and Federal Circuit Orders deceptively and contradictorily state, "We have jurisdiction pursuant to 28 U. S. C. § 1295(a)(9)" then just a few sentences later contradictorily states "We review the Board's conclusions of law de novo and the Board's factual findings for substantial evidence" as a practice. Most employees don't understand that implementation of 28 U. S. C. § 1295(a)(9) only authorizes 5 U. S. C. § 7703(b)(1) and (d) while omitting 5 U. S. C. § 7703(c) which maps directly to the de novo review while believing and having a firm fair conviction that "We review the Board's conclusions of law de novo and the Board's factual findings for substantial evidence" implies or conveys fairness, lawfulness and justice; oddly, those that hire lawyers are not informed of the ruse while taking their money.

THE QUESTION PRESENTED IS IMPORTANT

Did the MSPB "Adjudication" process as authorized by 28 U. S. C. § 1295 Judiciary and Judicial Procedure article 9 (nine) authorizing 5 U. S. C. § 7703(b)(1) and (d) while omitting 5 U. S. C. § 7703(c) as mandated to federal civilian employees within the MSPB system and then Federal Circuit oppose, deny or disallow Ferrell and nearly 1.8 million current U. S. federal employees (not including past and future employees) who are potentially or actually subjected to MSPB appeals process; the access, rights or protections granted to other U. S. litigants in the Federal Circuit "Board" to review conclusions of law de novo and the Board's factual findings for substantial evidence as established in *Brenner*, 990 F. 3d at 1322 and denies the

Board the ability to overturn the MSPB decision via a de novo review even if it is in fact; (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) obtained without procedures required by law, rule, or regulation having been followed; or (3) unsupported by substantial evidence" pursuant to *Cobert* v. *Miller*, 800 F. 3d 1340, 1347–1348 (CAFC 2015)(citing 5 U. S. C. § 7703(c) which systemically and illegally limits, infringes-upon, denies, abridges and/or otherwise deprive federal employees of their rights, privileges, assurances and/or protections of established laws and precedents including their U. S. Constitutional rights, 5th and 14th Amendments in departure from *Marchant* v. *Pennsylvania R. Co.*, 153 U. S. 380, 386 (1894) where a litigant had the benefit of a full and fair trial and/or depriving federal civilian employees subjected to the MSPB process of; life, liberty, or property, with due process of law; or otherwise denying to any person within its jurisdiction the equal protection of the laws as established in *Hurtado*, *Hagar* v. *Reclamation Dist.*, 111 U. S. 701, 708 (1884).

STATEMENT OF THE CASE

The Federal Circuit's Order deceptively and contradictorily stated, "We have jurisdiction pursuant to 28 U. S. C. § 1295(a)(9)" then just a few sentences later contradictorily stated "We review the Board's conclusions of law de novo and the Board's factual findings for substantial evidence." Most federal appellants don't know that 28 U. S. C. § 1295(a)(9) only authorizes 5 U. S. C. § 7703(b)(1) and (d) while omitting (c) and this is the reason why this assurance made by Federal Circuit is false. The evidence and facts of the record prove that the MSPB ruling was routinely

arbitrary, an abuse of discretion, or otherwise not in accordance with law and that the Federal Circuit "Board" supported or executed the same errors, abuses, unlawfulness and omissions as MSPB but additionally it misapprehended, overlooked, departed from or conflicted with numerous existing decisions of the U. S. Supreme Court or Federal Circuit precedents including when it systemically neglected to execute "independent examination of the unique facts and circumstances of the particular claim at issue" as established in *United States* v. *Bremers*, 195 F. 3d 221, 226 (CA5 1999) and routinely neglected to review the "entire record" de novo as established in *Brenner* which harmfully destroyed Ferrell's ability to prove his case with evidence and facts evidence of record resulting in an ongoing harmful miscarriage of justice". A "miscarriage of justice" has occurred if, upon the appellate court's examination of the entire cause, including the evidence, it concludes that it is "reasonably probable that a result more favorable to the appealing party would have been reached in the absence of the error" (see *Cassim* v. *Allstate Ins. Co.* (2004) 33 Cal. 4th 780, 800.) showing either of "cause and prejudice" or a "miscarriage of justice," as established in *Wainwright* v. *Sykes*, 433 U. S. 72. The ruling was sufficient to undermine confidence in the outcome" conflicting with the reasonable-probability standard, reversal is required when there exists "at least such an equal balance of reasonable probabilities as to leave the court in serious doubt as to whether the error affected the result". The items below demonstrate that errors were systemically made resulting in a travesty or miscarriage of justice and systemic denial of a de novo review pursuant to *Brenner*.

I. The Federal Circuit's Ruling was wrong

The MSPB decision and the Federal Circuit December 1, 2025 decision misapprehended, departed from and/or conflicts with numerous authoritative decisions of other United States court of appeals and decisions of the United States Supreme Court demonstrating indisputable evidence of failure to execute de novo review including;

1. The appellant objects to Federal Circuit decision(s) which misapprehended or conflicted with existing decisions of the U. S. Supreme Court or Federal Circuit precedent when the agency violated the appellant's constitutional rights, in which case the MSPB was lawfully required to reverse it, no matter of the underlying conduct as established Ward v. U. S. Postal Serv., 634 F. 3d 1274 (CAFC 2011); Stone v. Federal Deposit Insurance Corp., 179 F. 3d 1368 (CAFC 1999). See, *e.g.*, Thomas v. U. S. Postal Serv., 116 M.S.P.R. 453, ¶ 5 (2011) and committed manifest errors of law or fact when it did not comply with and follow existing decisions of the U. S. Supreme Court or Federal Circuit precedent pursuant to *Cobert* 800 F. 3d at 1347–1348 (citing 5 U. S. C. § 7703(c) see, *e.g.*, *Medtronic, Inc.* v. *Daig Corp.*, 789 F. 2d 903, 906 (CAFC 1986), and *Brenner*, 990 F. 3d at 1322, establishing; "We review the Board's conclusions of law de novo and the Board's factual findings for substantial evidence" nor *Kerrigan* v. *BSPB*, 833 F. 3d 1349, 1353 (CAFC 2016) establishing; "Whether the Board has jurisdiction over a particular matter is a question of law that this court reviews de novo" but also neglected to execute "independent examination of the unique facts and circumstances of the particular claim at issue" in

conflict with *Bremers*, 195 F. 3d at 226, in its ruling that;

A. the MSPB improper ruling that Ferrell's U. S. Constitutional Due Process rights were not violated during the November 2019 duty station change and when;

B. the Board improperly limited, overlooked or did not consider, the evidence he offered (specifically his facts of record, UMFs, exhibits and artifacts) that Ferrell's U. S. Constitutional Due Process rights were not violated during the November 2019 duty station change U. S. Constitutional Due Process rights. Due Process rights are a matter of law that Federal Circuit failed to review in departure from *The Servants of the Paraclete* v. *Does*, and neglected to review the Board's conclusions of law de novo and the Board's factual findings for substantial evidence in conflict with *Horton* v. *Reliance Standard Life Ins. Co.*, 141 F. 3d 1038, 1040 (CA11 1998). The facts of record reflect that the agency violated the appellant's constitutional rights, in which case the MSPB was lawfully required to reverse it, no matter of the underlying conduct but failed to do so in departure from *Ward*; *Stone*. See, *e.g.*, *Thomas* v. *U. S. Postal Serv.*. This included a matter of controlling law that the Board was required to review and correct the clear error [of law] or prevent manifest injustice as established in *The Servants of the Paraclete* v. *Does*, 204 F. 3d 1005, 1012 (CA10 2000) but instead improperly ruled; "Ferrell points to no support for the assertion that due process requires that a supervisor must provide an employee adequate prior notice and an opportunity to respond prior to charging that employee with AWOL status or changing his duty station" which is a new, specious,

enigmatic standard or precedent that itself is proven not factual and contradicted and unsupported by evidence of the record but also evidences a departure from Servants. Additionally the Board's factual findings was incomplete, lacked the specificity and cited no facts of the record necessary for an appellate court to understand the basis for the Board's conclusions in departure from *Hurwitz* v. *Hurwitz*, 136 F. 2d 796 (CADC 1943). The record reflects that the agency never denied its failure to extend, allow nor permit Due Process and never contested the appellants allegations nor states on the record that they ever did offer or allow Due -Process but the Board's statement/ruling verbiage is disputed, objected to and contradicted by substantial, clear and convincing evidence and UMFs of the record including UMF #s16,19,25,26,64,68, 79-94, 103,107,108,114,126,153 Submitted in Ferrell's INFORMAL APPENDIX_ 25-1533_Documents-05-16-2025 (Case: 25-1533 Document: 18-13, on page Case: 25-1533 Document: 18-5 Page: 4 Filed: 05/16/2025 (99 of 429) which if included in the ruling would provide evidence which reasonable minds can come to the conclusion at issue after examining evidence taken from the record as a whole, thus departing from *Perkin-Elmer Corp.* v. *Computervision Corp.*, 732 F. 2d 888, 893 (CAFC 1984), cert. denied, 469 U. S. 857 (1984) and that the verdict clearly contradicted the evidence in the case in departure from *Gasperini* v. *Center for Humanities, Inc.*, 518 U. S. 415, 433 (1996) ("'The trial judge in the federal system,' we have reaffirmed, 'has... discretion to grant a new trial if the verdict appears to [the judge] to be against the weight of the evidence." (alterations in original) (quoting *Byrd* v. *Blue Ridge Rural Elec. Coop.*, 356 U. S.

525, 540 (1958). Where the agency neglected to defend itself, the MSPB and the Board did so on its behalf with no supporting facts nor evidence and despite substantial conflicting facts and evidence including;

a. UMF#92 states; "Raymond Limon, Chief Human Capital Officer, CHCO testimony verifies that all federal employees are covered, protected by Due Process rights pursuant to the 14th Amendment of the U. S. Constitution (see PROSE_310446_09-27-21 FERRELL v HAALAND (LIMON).pdf p.19,20.pdf) but the ROI/investigation fails to evidence that the OCIO managers complied with nor extended, assured or applied any of the Due Process protections, rights and responsibilities of 14th Amendment of the U. S. Constitution to the appellant during the November 25, 2019 permanent duty station change and the ensuing AWOLs levied for enforcement.

The Federal Circuit improperly and erroneously introduces a bar or standard that misapprehends or departs from *Bremers* and also proven false, unsupported and contradictory to the record including;

b. UMF#79 "on November 25th 2019 the agency changed the appellant's official duty station via email to FWS 7915 Baymeadows Way Jacksonville, FL 32256 (see attached) citing 5 U. S. C. § 7106(a)(1) as the justification which the whistleblower was not granted a documented or formal means to refute, respond, rebut nor contest the duty station change (Due Process) and enforced the practice by levying approx 80 hours of AWOL (see Gmail - Dykk moved my duty station11-25-2019.pdf,Bruce admits his role in illegal DUTY STATION11 change_ROI DOI-OS-19-0756 quest 37_pg. 000453.pdf) for which he was also was

denied a documented or formal means to refute, respond, rebut nor contest Due Process."

The appellant objects as the Board's ruling is also proven false and contradicted by; Appellants Exhibit Case:- D2_ 25-1533 Protected submission _HotlinePage: Complaint Form E004394, Case: 25-1533 Document: 18-18 Filed: 05/16/2025 (282 of 429) question #8 as well as by the Appellants FORM 11. Informal Opening Brief (MSPB or Arbitrator Cases) SUBMITTED-ReCORRECTED INFORMAL BRIEF OF PETITIONER_APPELLANT 25-1533_Documents-06-03-2025, Case: 25-1533 Document: 23-2 Page: 2 Filed: 05/27/2025, (5 of 24), I. ISSUES and ARGUMENTS on APPEAL, item #14 which states;

c. "The MSPB ruled improperly and not in accordance with law when it failed to rule or determine that the agency's practices against the appellant violated his Constitutional rights of Due Process and involved Harmful Error" and;

d. in his Memorandum in Lieu of Oral Argument, Case: 25-1533 Document: 42 Page: 1 Filed: 10/19/2025, item "D" states; "The agency failed in its obligation to refute or rebut the appellant's cited court precedents nor provide its own version of court precedents support the AJs abdication/departure from established,well-known, common and accepted court precedent and procedure when the board improperly supported the agency's November 25, 2019 illegal duty station change executed without Due Process and enforced with AWOLs also without Due Process.

The Board was lawfully required to reverse it, no matter of the underlying conduct but neglected to do so in a departure from *Ward* v. *U. S. Postal Serv.*, 634 F. 3d 1274 (CAFC 2011); *Stone* v. *Federal Deposit*

Insurance Corp., 179 F. 3d 1368 (CAFC 1999); see, *e.g.*, *Thomas* v. *U. S. Postal Serv.*, 116 M.S.P.R. 453, ¶ 5 (2011). The appellant objects as both MSPB and the Board's rulings were unsupported by any evidence of the record but is disputed and contradicted by substantial, clear and convincing evidence and Undisputed Material Facts (UMFs) of the record including UMF #s16,19,25,26,64,68,82,83, 87,92, 103,107-108,114,126,153 Submitted in Ferrell's INFORMAL APPENDIX_ 25-1533_Documents-05-16-2025 (Case: 25-1533 Document: 18-13. on page Case: 25-1533 Document: 18-5

Page: 4 Filed: 05/16/2025 (99 of 429) In Ferrell's, CORRECTED Form11 Informal Petition for Review _APPENDIX- Appeals court Informal brief submitted on April 9, 2025, pg. 15, section VII. DUE PROCESS and THE DUTY-STATION CHANGE IN NOVEMBER 2019, item a, states; MSPB improperly failed to rule that the duty station change and reassignment constituted a prohibited personnel practice and;

MSPB and the Board further erred when they departed from *Massa* v. *Department of Defense*, 815 F. 2d 69, 72 (CAFC 1987) by ignoring the appellant's relevant evidence that a reasonable mind might accept as adequate to support his conclusion including UMFs #s 60, 79, 80, 83 and 85 which were specific to the duty station change. The same overlooked or misapprehended submissions include the following facts;

e. UMF #82. Raymond Limon, Chief Human Capital Officer, CHCO testifies that OCIO employees that suffer a permanent duty station change or had their permanent duty station changed, would they have rights to redress or aggrieve that change in the Part 370: Departmental Personnel Program Chapter 711: Labor-

Management Relation (370DM711); Part 370: Departmental Personnel Program Chapter 752: Discipline and Adverse Actions (370DM752) and/or Part 370: Departmental Personnel Program Chapter 771: Administrative Grievance Procedures (370DM771) (see PROSE_310446_09-27-21 FERRELL v HAALAND (LIMON).pdf p.21-22,32- 33.pdf) but the agency fails to evidence that the appellant was afforded his rights or allowed to contest, rebut, redress, aggrieve nor appeal the November 24, 2019 permanent duty station levied against him yet the agency admits that it "is not aware of another OCIO employee how [who] had their duty station changed in November 2019 ".

The appellant objects as these UMFs provide, substantial, clear and conclusive evidence of a conflict, misapprehension and departure from *Gasperini* v. *Center for Humanities, Inc.* finding that a reasonable mind might accept as adequate to support a conclusion that the verdict clearly contradicted the evidence in the case "The trial judge in the federal system,' we have reaffirmed, 'has... discretion to grant a new trial if the verdict appears to [the judge] to be against the weight of the evidence." (alterations in original) (quoting *Byrd*, 356 U. S. at 540). These clear, convincing and substantial facts and evidence also counter-evidences the Board's ruling of; "the record does not otherwise provide a basis from which we can conclude that the Board failed to review this evidence" but instead a departure from *Cober*, 800 F. 3d at 1347–1348 (citing 5 U. S. C. § 7703(c). And that the Board neglected to review the MSPB's conclusions of law de novo and neglected to review the MSPB's factual findings for substantial evidence and neglected to execute an independent examination of the unique facts and

circumstances of the particular claim at issue on matters of law in departure from Servants and Paraclete v. Does such as determining if the agency's action complied with Sections 7512 and 7513 of Title 5 or the U. S. Constitution including Amendment 14. This includes matters of controlling law that it was required to review pursuant to Servants and Paraclete v. Does but neglected to do so. MSPB and The Board ruling was obtained without procedures required by law, rule, or regulation having been followed; or (3) unsupported by substantial evidence" in a departure from or misapprehension of *Cobert*, 800 F. 3d at 1347–1348 (CAFC 2015) (citing 5 U. S. C. § 7703(c) see, *e.g.*, *Medtronic, Inc.* v. *Daig Corp.*, 789 F. 2d 903, 906 (CAFC 1986). These errors are obvious and seriously affect the fairness, integrity or public reputation of judicial proceedings in a departure from *United States* v. *Atkinson*, 297 U. S. 157, 160 (1936). The appellate court neglected to consult the entire record and apply the rule at its discretion, despite the errors being plain and affected the substantial rights of the parties in departure from *United States* v. *Vonn*, 535 U. S. 55, 59 (2002). Ferrell evidences these practices as ongoing, repeated and routine throughout the lifecycle of his appeals which were systemically destructive denials of law and justice throughout his case at all levels resulting a miscarriage or travesty of justice pursuant *Wainwright* v. *Sykes*, 433 U. S. 72

2. The appellant objects to Federal Circuit decision(s) neglecting to rule if it was legal to levy sanctions on pro se litigants or any other non-lawyers in conflict-with *Smith Int'l, Inc.* v. *Texas Commerce Bank*, 844 F. 2d 1193, 1197 (CA5 1988); *Zaldivar; Westmoreland* v. *CBS, Inc.*, 770 F. 2d 1168, 1173 (CADC

1985) and overlooked and departed from *The Servants of the Paraclete* v. *Does*, 204 F. 3d 1005, 1012 (CA10 2000), requirement to review the evidence of record nor the controlling law as well as overlooked or misapprehended *Kerrigan* specific to the legal merits and litmus, boundaries, authorities, rights and requirements of the levied sanction. The record is clear that Ferrell addressed supervisors in his Chain-of-Command but the agency, MSPB and the Federal Circuit failed to cite how his was illegal or sanctionable nor define the term "harassment" within the work environment and translate it into a punishable/sanctionable offense within MSPB authority. Specifically, when the Board sidestepped, overlooked or failed to rule nor review all of the legal merits, authorities, ramifications and interpretations de novo it departed from *Horton* and failed to execute an independent examination of the unique facts and circumstances of the particular claim at issue in departure from *Bremers* resulting in a miscarriage of justice which catastrophically damaged and destroyed Ferrell's ability to call witnesses to provide evidence/testimony for his appeal for which he objects and seeks a reversal as a cure. Specifically some issues and matters of law that the Board overlooked, neglected to review or execute an independent examination of the unique facts and circumstances include;

a. did the MSPB have the authority to levy sanctions and under which authority did they adhere, Rule 11, Rule 37 or other and did the appellant receive his Due Process Appeal rights in the sanction and;

b. was the agency's motion of "harassment" an actionable infraction pursuant to governing laws and rules for which MSPB had authority to act upon or

impose sanctions or was it otherwise without merit, specious or frivolous and was it itself meritorious of sanctions or a baseless motion pursuant to *Glass* v. *Pfeffer*, 657 F. 2d 252, 256–257 and n. 2 (CA10 1981) or;

c. did the MSPB abuse its discretion or act lawfully and in accordance with legal precedent and standards when it issued a "court" sanction for an activity alleged as "harassment" that allegedly happened at work within the agency and unrelated to and outside of the MSPB hearing or was the agency guilty of levying frivolous legal positions and making scandalous accusations pursuant to Blair v. Shenandoah Women's Center, Inc., 757 F. 2d 1435, 1438 (4th Cir. 1985) and;

d. did the MSPB apply the proper laws and legal precedents or even have the authority to rule and determine if Ferrell was lawfully engaging in protected activity pursuant to WPA/WPEA, 5 U. S. C. § 2302 as he claimed in which he reported to higher-level agency managers behaviors and actions which he reasonably believed were various violations of laws, rules or regulations which the agency described as "harassment" and;

e. was it legal to levy sanctions on pro se litigants or any other non-lawyers (see *Smith Int'l, Inc.* v. *Texas Commerce Bank*; Zaldivar; *Westmoreland* v. *CBS, Inc.* and;

f. did the MSPB and Federal Circuit properly and lawfully review/weigh if the "sanctions" unlawfully enacted a muzzling/chilling effect or suppression of the whistleblower's right to engage in protected activity pursuant to WPA/WPEA, 5 U. S. C. § 2302 or otherwise penalized him for his engagement

and;

g. did the MSPB and Federal Circuit properly and lawfully review all of the evidence as a whole to determine if the whistleblower's claims of "protected activity/submissions" was not specific to the then current MSPB case but instead lawfully reported new instances or ongoing violations of laws, rules or regulation and lawful activity pursuant to WPA/WPEA and 5 U. S. C. § 2302;

The appellant objected to the sanctions and alleged that the MSPB practice was arbitrary, an abuse of discretion, or otherwise in accordance with law and was fatally harmful to Ferrell's case as it critically impaired or destroyed his chance to prove his case with facts, testimony, evidence and artifacts to support his defense but the agency only submitted its conclusory allegations with no legal precedent to request the sanctions. Regardless the evidence is clear that the Federal Circuit repeatedly conflicted with *Cobert*, *Bremers*, *Horton*, and *Brenner*.

3. The appellant objects to Federal Circuit's decision(s) which overlooked or misapprehended and departed from *United States* v. *Balistrieri*, 779 F. 2d 1191, 1202 (CA7 1985) and other precedents including *Cobert* (citing 5 U. S. C. § 7703(c), *Brenner* and *Horton* by failing to execute an independent examination of the unique facts and circumstances in supporting the MSPB ruling while neglecting to review if;

a. The MSPB acted legally or improperly when it sidestepped, failed to recognize or take corrective actions in the apparent conflict-of-interest of MSPB Senior Board Member Limon in Ferrell's case and;

b. ensure the preservation, recognition, inclusion and stewardship of evidence, facts or UMFs generated by Limon'ss testimony while under oath.

The Board neglected to cite any legal precedents pursuant to *Poole* v. *Textron, Inc.*, 192 F.R.D. 494 (D. Md. 2000); *Carlucci* v. *Piper Aircraft Corp.*, 775 F. 2d 1440 (CA11 1985); *Malautea* v. *Suzuki Motor Co., Ltd.*, 987 F. 2d 1536 (CA11 1993) in its decision and overlooked or neglected to review all of the facts of the record in the case, in objection. Two provisions of Title 28 of the United States Code deal with conflict of interest and the disqualification or recusal of federal judges ("Disqualification" and "recusal" will be treated as synonymous.) Section 144 establishes procedures for assuring that no case is heard by a district judge who "has a personal bias or prejudice" against or in favor of any party. Section 455 lays down elaborate rules to govern the disqualification of judges and avoid conflicts of interest. 455(b)(1) provides that a judge must disqualify himself "[w]here he has a personal bias or prejudice concerning a party." "The disqualification of a judge for actual bias or prejudice is a serious matter, and it should be required only when the bias or prejudice is proved by compelling evidence"(see *United States* v. *Balistrieri*). This was a matter of law which the Board overlooked and neglected to review de novo. Additionally it overlooked the evidence that;

a. At that time of the appeal entering into MSPB, Limon was a powerful authority at MSPB, "Senior Board Member" and perceived as such, it is not unreasonable to believe that any subordinate or "lower ranked" official at MSPB acting as an Adjudicate Judge (AJ) would be influenced, intimidated or wanting to please their up-line senior officials.

b. The agency and MSPB further omitted and ignored that Limon had deep and intimate knowledge of Ferrell's allegations from his Dept. of Interior service as the CHCO (Chief Human Resources Officer) and he was previously deposed by the appellant when he was employed at the Dept. of the Interior (agency), that Ferrell declared within his WILLIAM FERRELL v. DEPARTMENT OF THE INTERIOR Docket # AT-1221-22-0459-W-1 APPELLANTS PRE-HEARING BRIEF page 8, III. LIST of WITNESSES; "Witness #1 former CHCO, Raymon Limon, currently MSPB executive" which the MSPB later denied via sanction. There is substantial, clear and convincing evidence and facts of record that evidences that both the MSPB and The Board overlooked and ruled absent of the appellant's facts which a reasonable mind might accept as adequate to support a conclusion in departure from *Shapiro* v. *Social Security Administration*, 800 F. 3d 1332, 1336 (CAFC 2015). Overlooked UMFs in opposition of the ruling included his UMFs #s16,19,25,26,64,68,82,87,92, 103,107-108,114,126,153 which evidenced that Member Raymond Limon was previously employed at DOI, he had direct and intimate knowledge of and participation in the appellant's Whistleblower reprisal allegations while at the agency. This also demonstrated manifest errors of facts which are objected to such as overlooking;

c. UMF# 25 Raymond Limon, Chief Human Capital Officer, CHCO verifies that he was aware of the appellant's allegations of harassing conduct as early as 2018.(see PROSE_310446_09-27-21 FERRELL v HAALAND (LIMON).pdf p.10.pdf, Bruce admits he is

a RMO and emails Raymond Limon ROI DOI-OS-19-0756 pg 000462.pdf)."

These facts of record also evidences that the Board overlooked or departed from *Brenner*; *ibid.* and neglected to execute an independent examination of the unique facts and circumstances of the particular claim at issue in departure from *Bremers* and failed to review matters of law in departure from *The Servants of the Paraclete* v. *Does*. Specifically "was Limon's current position at MSPB likely, probable or possible to influence the MSPB subordinate Adjudicate Judge (AJ) or otherwise adversely impact or influence the appellant's appeal" and would that prejudice or impair the Board's willingness to include or review the facts of record gathered from and based on Limon's testimony specific to or impacting "Ferrell's allegations of violations of his U. S. Constitutional Due Process rights". The Board neglected to mention or cite any of these facts in its ruling in a departure from *Marchant* where a litigant had the benefit of a full and fair trial. This was a fatally harmful error in a series of continuous fatally harmful errors to Ferrell's ability to prove or provide evidence, facts and testimony to substantiate his allegations resulting a manifest error of law and miscarriage or travesty of justice (see *Wainwright* v. *Sykes*, 433 U. S. 72), which merits a reversal.

4. The appellant objects to Federal Circuit decision(s) which overlooked and departed from authoritative decisions of another United States court of appeals as cited below including *Kerrigan* v. *BSPB*, 833 F. 3d 1349, 1353 (CAFC 2016) of "Whether the Board has jurisdiction over a particular matter is a question of law that this court reviews de novo". Additionally

the panel committed a manifest error of law or fact when it conflicted with, overlooked, misapprehended or departed from *Cobert, Brenner* and *Horton.* by failing to execute an independent examination of the unique facts and circumstances in supporting the MSPB ruling while neglecting to review if the MSPB ruling;

a. ruled improperly when it only acknowledged or accepted the four listed Protected Activities under 5 U. S. C. § 2302(b)(8) or 5 U. S. C. § 2302(b)(9) and;

b. ruled improperly that the appellant did not make any protected disclosures Protected Activity under 5 U. S. C. § 2302(b)(8) nor 5 U. S. C. § 2302(b)(9)

c. properly ruled on a matter of law if any of the submissions were protected pursuant to 2302(b)(8) or 2302(b)(9)(A)(i), (B), (C), or (D).

The clearest and most indisputable evidence is that the appellant's protected submission OSC File Nos. DI-17-004363 and DI-18-001324 (Appellants Exhibit-G_OSC File Nos. DI-17-004363 and DI-18-001324) went up to the President of the United States (POTUS) yet the MSPB and then the Federal Circuit erroneously ruled that this was not a protected submission instead erroneously ruling "the record does not otherwise provide a basis from which we can conclude that the Board failed to review this evidence" thereby evidencing a departure from Kerrigan and Horton, which is objected to. A question of exceptional importance is that if this disclosure was not a protected disclosure, then why did OSC send it to POTUS as a 5 C.F.R. 1201.56(c)(2) protected disclosure? The Federal Circuit factual findings on this matter was incomplete, lacked the specificity in departure from Hurwitz. It neglected to cite any legal precedents and failed to

review controlling law in departure from Servants or Paraclete v. Does. The record contains approx. 20 separate instances of substantial, clear and convincing evidence and/or facts of record that a reasonable mind might accept as adequate to support a conclusion but the Board departed from Shapiro and that the verdict clearly contradicted the evidence in the case in departure from *Gasperini* v. *Center for Humanities, Inc.* finding that "The trial judge in the federal system,' we have reaffirmed, 'has... discretion to grant a new trial if the verdict appears to [the judge] to be against the weight of the evidence" (alterations in original) (quoting *Byrd*) including UMFs #s 11,12,17,32,33, 39,40,42, as Submitted in Ferrell's INFORMAL APPENDIX_ 25-1533_Documents-05-16-2025 (Case: 25-1533 Document: 18-13 Page: 23 Filed: 05/16/2025 (238-240 of 429) as well as; Appellants Exhibit-G_OSC File Nos. DI-17-004363 and DI-18-001324, Appellants Exhibit - D1_Protected submission _OSC DI-21-000420, Appellants Exhibit - D2_ Protected submission _Hotline Complaint Form E004394, Appellants Exhibit - D3_Protected submission _Sen Gary Peters.pdf,Appellants Exhibit - D4_Protected submission _ Hotline Complaint Form E002196,Appellants Exhibit - D5_Protected submission _ OIG Hotline Complaint Form E002045,Appellants Exhibit D6_Protected submission _OIG Hotline Complaint Form E001554,Appellants Exhibit – D7_Protected submission _ OIG Hotline Complaint Form E004026,Appellants Exhibit -D8_Protected submission _ OSC File No. DI-21-000716, Appellants Exhibit D9_Protected submission _ OIG Hotline Complaint Form E004746, Appellants Exhibit - D10_Protected submission _ OIG Hotline Complaint Form E001541, Appellants Exhibit -

D11_Protected submission _ OIG Hotline Complaint Form E003048, Appellants Exhibit D12_Protected submission _ OIG Hotline Complaint Form E004112, Appellants Exhibit - D13_Protected submission _ OIG Hotline Complaint Form E004076, Appellants Exhibit - D14_Protected submission _ OIG Hotline Complaint Form E001560, Appellants Exhibit - D15_Protected submission _ OSC File Nos. report DI-21-000420 AND DI-21- 000716_Mgt knew.pdf. All of which provided substantial, clear and convincing evidence that the Federal Circuit conflicted with overlooked or misapprehended *Brenner* v. *Department of Veterans Affairs* and neglected to execute an independent examination of the unique facts if each listed and cited protected submission met the litmus and standards as protected disclosures Protected Activity under 5 U. S. C. § 2302(b)(8) nor 5 U. S. C. § 2302(b)(9) or otherwise matters of law in a series of unpreserved errors which is codified in Fed. R. Crim. P. 52(b) as the "plain error" standard for which Ferrell objects. The Board improperly ruled capriciously in opposition to Hurwitz. Ferrell evidences these practices as ongoing, repeated, systemic and routine throughout the lifecycle of his appeals resulting a miscarriage or travesty of justice (see *Wainwright* v. *Sykes*, 433 U. S. 72. This was a fatally harmful error in a series of continuous fatally harmful errors resulting a travesty of justice to which he objects, merits a reversal and raises the spectre of 28 U. S. C. § 1295(a)(9)(b) (1) and (d) with the omission of (c).

5. The appellant objects to Federal Circuit decision(s) which overlooked, misapprehended and conflicted with Savage v. Department of the Army, 122 M.S.P.R. 612 (2015); Gardner v. Department of

Veterans Affairs, 2016 MSPB 36 (2016); Chavez v. Department of Veterans Affairs, 120 M.S.P.R. 285, ¶ 33 (2013); *Whitmore*, 680 F. 3d at 1374–1375; *Siler* v. *EPA*, 908 F. 3d 1291 (CAFC 2018); see also *Soto* v. *Department of Veterans Affairs*, 2022 MSPB 6, ¶ 18 (2022), *Miller* v. *Department of Justice*, 842 F. 3d 1252 (CAFC 2016), and Hillen v. Department of the Army, 35 M.S.P.R. 453, 458 (1987) when it departed from *Cobert* (citing 5 U. S. C. § 7703(c), *Brenner* and *Horton* and neglected to execute an independent examination of the unique facts and circumstances in the case to review if the MSPB ruling on Carr Factors 1, 2 & 3 was obtained without procedures required by law, rule or regulation having been followed; or unsupported by substantial evidence." The Board conflicted with *Consolidated Edison Co.* v. *NLRB*, 305 U. S. 197, 229 (1938) for the Carr factors because any Board determination that fails to account for contrary evidence is unreasonable and so not supported by "substantial evidence" resulting in a manifest error or travesty of law and/or facts. The Board also overlooked, misapprehended, and conflicted with Consol... when it ruled; "The Board did not err in finding this factor "neutral" because it found persuasive "the [A]gency's assertion that there simply was no similarly situated employee " but the record provided substantial, clear and convincing evidence contradicting the ruling which the Board overlooked, failed to review, factor nor include in departure from Shapiro v. Social Security Administration which is objected to. Evidence such as;

a. The AJ states in the ORDER; "*Westmark testified that at the time of the 2016 EPAP, he had only been with the agency for 15 to 16 weeks, so he decided to give*

everyone a Superior rating to close out the old work and brief them on the new work" and

b. Appellants Exhibit -F2_ Agency Prehearing Submission- Westmark Affidavit Two Pg. 244 #44 stating " the manager testifies; *"No. I treat them about the same. Obviously, different employees have different assignments but they're the same and fairly consistent assignments, with the work rotations, they've had in the past and there is some rotation of duties*" and;

c. Appellants Exhibit -F7_Agency Prehearing Submission ISSO tasking fy2020 Pgs. 284-286 Critical Element 1 Title: CSAM Support =>Performance Standards =>Fully Successful, states a work requirement as g. "Employee peer reviews and comments on draft documentation within five workdays upon request."

All provide substantial, clear and convincing evidence of record that there were in fact other similarly situated employees to "*give everyone a Superior rating*" and "*treat them about the same*" and is required to engage in "*Employee peer reviews*" in order to get rated but if he has no peers then this standard is unattainable and non compliant with agency policy,370DM430. Both Boards conflicted with *Carr* when they ignored "Appellants Exhibit -27 C7_Mgt. admits Whistleblower was singled out" and overlooked the following facts of the record in its ruling;

d. UMF #86. in Interrogatory question No. 16 of the AGENCY'S DISCOVERY RESPONSE TO COMPLAINANT'S INTERROGATORIES, October 27, 2021.pdf; The agency admits that no "other OS/OCIO employees by protected status that were in Downs chain of command in FY 2019 were issued pay cessations via AWOL for 40 hours or more for the same reasons the supervisor cited he levied the [appellant] the

pay-cessations via AWOL from November 14 to December 6, 2019" and;

e. UMF #69. the agency (Scoville) admits to executing Harmful Procedures against the appellant, that the Harmful procedures were never executed before nor afterwards against any other employee and that HR (Human Resources) and SOL (Solicitors Office) directed him to execute these Harmful Procedures. (see January 13, 2023, ZOOM DEPOSITION OF DOUGLAS SCOVILLE pgs. 61-66,68-73.pdf) and;

f. UMF #82.Raymond Limon, Chief Human Capital Officer, CHCO testifies that OCIO employees that suffer a permanent duty station change or had their permanent duty station changed, would then have rights to redress or aggrieve that change in the Part 370: Departmental Personnel Program Chapter 711: Labor-Management Relation(370DM711); Part 370: Departmental Personnel Program Chapter 752: Discipline and Adverse Actions (370DM752) and/or Part 370: Departmental Personnel Program Chapter 771: Administrative Grievance Procedures (370DM771) (see PROSE_310446_09-27-21 FERRELL v28 HAALAND (LIMON).pdf p.21-22,32- 33.pdf) but the agency fails to

evidence that the appellant was afforded his rights or allowed to contest, rebut, redress, aggrieve nor appeal the November 24, 2019 permanent duty station levied against him but The agency admit that it "*is not aware of another OCIO employee how [who] had their duty station changed in November 2019*".

The evidence of record was clear that no other non-protected employees suffered discriminatory practices thereby proving an open-and-shut conclusion for the appellant on Carr factor#1,2 & 3 but the Board still

ruled contrary to evidence of the record and without supporting evidence which overlooks, misapprehends, departs -from and conflicts- with Carr, *The Servants of the Paraclete* v. *Does* and Gasperini v. Center for Humanities, Inc(quoting *Byrd*, 356 U. S. at 540) in objection. The Board repeats its improper action for Carr factor #2 ruling that the supervisors had no motive to retaliate despite overwhelming, substantial, clear and convincing evidence. The MSPB and Federal Circuit supported an undefined, new and nebulous ruling of; "institutional bias may have existed due to their knowledge of [Ferrell's] protected activity" with no cited court precedent to support it in a departure from Savage. The substantial, clear and convincing evidence of record proved that the protected disclosures and activity directly cited and named the supervisory officials involved in the retaliatory actions, the proposing managers were named in over 12 of the appellant's submissions including OSC File Nos. DI-17-004363 and DI-18-001324 which is the subject of protected activity that went to the President of the United States (POTUS) finding specific misconduct by the named supervisory officials. Furthermore the record is clear and convincing that the managerial chain-of-command knew of the protected activities, as such, the appellant's protected activity is sufficient to establish substantial retaliatory motive pursuant to Chavez. The Board decision conflicts with *Consol.* for Carr factor #1, 2&3 because any Board determination that fails to account for contrary evidence is unreasonable and so not supported by "substantial evidence" which is objected to. The Board failed to review, factor or account for facts of the record such as Appellants Exhibit - C10_ Mgt admits it was aware of protected

activities, Appellants Exhibit - C7_Mgt. admits Whistleblower was singled out, Appellants Exhibit - E2_ Mgt interferes with protected activity_First, you are not an auditor and UMF# 2, 3, 4, 9, 11, 12, 13, 14, 15-19,21, 24, 25, 42 proving that it misapprehended, departed from and conflicted with *[[I:Whitmore*]] v. *Department of Labor* which is objected. Overlooked facts and evidence included;

g. UMF #2 states; the appellant's primary duty, job or task, the FISMA IT Security Audit and Oversight compliance review formally known as REVAMP was the basis and substance of OSC File Nos. DI-17-4363, DI-18-1324 which cited the OCIO Officials and managers as responsible named officials (RMO's) including Westmark, Downs for violations of laws, rules and regulations and has since been submitted to President Biden and Congress(see DI-17-4363 and DI-18-1324 - Letter to the POTUS.pdf) and other allegations, complaints, and disclosures to other oversight and reporting entities such as GAO "Fraudnet"(GAO-COMP-20-000304, GAO-COMP-000084 |), congresspersons Honorable Lauren Underwood, Val Demmings, Gary Peters,etc. and over 20 OIG complaints of violations of laws, rules and regulations (DOIOIG E004686, E002046,E004112, etc.) as well as OIG Whistlebower Retaliation complaints E004496.

h. UMF #16 states; RMO Bruce Downs was aware of protected submissions naming him as RMO and cites that he notified and requested direction from the CHCO, Raymon Limon as an upper-level supervisor and decision-maker was aware stating; "I forwarded the allegations to the CHCO per the policy, because I was named specifically and to assure the allegations could be objectively considered" (see Downs lies and

Limon_CHCO and knew of complaints_ROI DOI-OS-19-0756 pg 000455.pdf) but the record failed to cite or otherwise verify Limon'ss actions to protect the Whistleblower (what actions if any Raymond Limon took.pdfROI DOI-OS-19-0756 pg 000762). The panel decision overlooks, misapprehends, departs-from and conflicts-with *United States* v. *United States Gypsum Co.*,. See Clark & Stone, supra note 7, at 207-09 and *Gasperini* v. *Center for Humanities, Inc.*, which is objected and departed from Carr and *Whitmore* finding that an agency's failure to present evidence pertaining to this factor may be perilous to its case and "may well cause the agency to fail to prove its case overall." (see *Whitmore*, 680 F. 3d at 1374–1375, *Siler* v. *Environmental Protection Agency*,; see also *Soto* v. *Department of Veterans Affairs*,. The Board decision conflicts with with *Miller* v. *Department of Justice*, 842 F. 3d 1252 (CAFC 2016), which states; " if anything, cut slightly against the Government" due to the absence of evidence pertaining to that factor and also *Whitmore*, 680 F. 3d at 1262; Soto, 2022 MSPB 6 at ¶18 (the third Carr factor cannot weigh in the agency's favor where it failed to introduce "complete, fully explained comparator evidence". The facts also provide evidence that both Boards overlooks and misapprehends Hillen finding that any prior inconsistent statement by the witness and the contradiction of the witness's version of events by other evidence or its consistency with other evidence, which is objected. That is, the evidence proves that the agency lied which was not factored in the credibility determination yet still won Carr Factor #2& 3 with no evidence to support its ruling evidencing "miscarriage of justice and a prejudicial error that affected the outcome of the case (see *R.R. Dynamics,*

Inc. v. *A. Stucki Co.*, 727 F. 2d 1506) and issues of law that the Board neglected to review or rule on in objection.

6. The appellant objects to Federal Circuit decision(s) which overlooked, misapprehend and conflicted with Horton and

previously cited precedents when it neglected to weigh all of the facts of the record to determine if the Whistleblower's job had been illegally changed pursuant to 5 U. S. C. § 2302(a)(2)(A); but this circumvention is counter-evidenced by the record including the appellant's Appellants Exhibit- C1 through C5, Appellants Exhibit -F7 through F9, Appellants Exhibit – C8, Appellants Exhibit – E1 through E5, Appellants Exhibit-H, Appellants Exhibit-I and UMFs #s 29-78 which were specific to the changes in the Whistleblowers duties, task and job pursuant to 5 U. S. C. § 2302;

a. UMF #32 states; prior to the appellant's protected activity to include EEO circa December of 2016, his primary duty, job or task included the FISMA IT Security Audit and Oversight compliance review formally known as REVAMP and he continued to perform his duties and submit the work products through the period of the allegations cited in this complaint and by the FY2019 DI-3100 EPAP they were totally eliminated from the whistleblowers duties, job and task.

b. UMF #40 states; on March 31, 2017, approximately 60 days from OIG complaint form E002045 (see OIG complaint -E002045 AmazonWeb -01-25-2017.pdf), the OCIO manager directly cited the REVAMP reports when he terminated the work efforts and simultaneously changed the Whistleblowers DI-3100 EPAP primary job and duty which produced the

5 U. S. C. § 2302 protected submissions stating; "No more REVAM" and "EPAP CE-2 will change."

III. ISSUES OF EXCEPTIONAL IMPORTANCE

The MSPB is not a federal court of law but self-described as "an independent Government agency that operates like a court", with no governing procedures, training nor experience established pursuant to 28 U. S. C. § 2072 and no "de novo review". The record clearly demonstrates that the ruling routinely overlooked, misapprehended and departed from over 15 precedents. The record proves that the Board systemically and repeatedly sidestepped or neglected to rule on the matters of law in no execution of a de novo review and; the Board only ruled on 8 of the 17 matters of concern and summarily dismissed the other nine. Of the eight the Board's factual findings was incomplete, lacked the specificity and cited none of these facts of the record necessary for an appellate court to understand the basis for the Board's conclusions and failed to aid in the process of judgment and in defining for future cases the precise limitations of the issues and the determination thereon while systemically neglecting to cite any legal precedents nor weigh or discuss any of the legal precedent brought by the appellant in his submissions thereby making further appeal incredibly difficult which is objected to. Nor did the Board examine evidence taken from the record as a whole that provided a firm conclusion that the ruling did not have a legally sufficient evidentiary basis to find for the agency and that the MSPB ruling as supported by the Board was clearly erroneous, arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, obtained without

procedures required by law, rule, or regulation having been followed and routinely unsupported by substantial evidence of the record, in objection. Clearly 28 U. S. C. § 1295(a)(9) which only authorizes 5 U. S. C. § 7703(b)(1) and (d) while omitting (c) is the reason why. Yet the Federal Circuit Order deceptively and contradictorily stating, "We have jurisdiction pursuant to 28 U. S. C. § 1295(a)(9)" then just a few sentences later contradictorily stated "We review the Board's conclusions of law de novo and the Board's factual findings for substantial evidence" as a practice. The ruling was clearly wrong and against the weight of the evidence and the verdict clearly contradicted the evidence in the case but the Board neglected to grant a new trial to permit the courts the opportunity to rectify their own mistakes during the period immediately following the entry of judgment and correct the documented and evidenced clear errors [of law] and to clearly include and understand the facts of the record in order to prevent manifest injustice while it systemically neglected the plain errors which routinely and painfully impaired the substantial rights of Ferrell in departure from *United States* v. *Vonn*. These errors are obvious and seriously affect the fairness, integrity or public reputation of judicial proceedings in departure from *United States* v. *Atkinson* resulting in "plain error". These practices are ongoing, repeated and routine throughout the lifecycle of this appeal which were systemically destructive throughout his case at all levels resulting a miscarriage or travesty of justice and a different outcome would likely have occurred if not for the legal errors in objection. But again the judges wrote in the Order that there will be no de novo review just prior to telling him the opposite. 28

U. S. C. § 1295(a)(9) which only authorizes 5 U. S. C. § 7703(b)(1) and (d) while omitting (c) Federal employees are improperly forcibly separated from both *Wainwright* and *Vonn* unlike any other U. S. litigant. The question is, why perpetrate the ruse of a de novo review at all?

IV. REASONS FOR GRANTING THE PETITION, IT'S AN EXCELLENT VEHICLE

1.8 million current federal civilian employees are forced into this MSPB system and then Federal Circuit for appeals. In FY 2023, 4,572 cases were decided by MSPB, as of May 24th 2025 MSPB reported having received 11,166 appeals. The Federal Circuit overturns MSPB rulings less than approximately 4% of appeals, meaning that in this period nearly 15,000 employees suffer denial, estrangement and separation from the privileges, protections, assurances and responsibilities of U. S. Laws, established court precedents and their U. S. Constitutional rights including the 5th and 14th Amendments. The Supreme Court has recognized that the Federal Circuit's ability to review the merits of MSPB decisions is "extremely narrow", 28 U. S. C. § 1295(a)(9) authorizing only 5 U. S. C. § 7703(b)(1) and (d) while omitting 5 U. S. C. § 7703(c) is the reason why. But its unconstitutional or illegal because it is not the same for all U. S. litigants in Federal Circuit and it enacts a disguised, defacto and compelled arbitration system where the arbiter pursues the interest of the agency at the behest of the employee and denial of their privileges, assurances and protections of de novo review, U. S. Constitutional rights, 5th and 14th Amendments and

Marchant where a litigant had the benefit of a full and fair trial and denial of life, liberty, or property with Due Process of law; or otherwise denying to any person within its jurisdiction the equal protection of the laws as established in *Hurtado* v. *California*, 110 U. S. 516, 537 (1884), *Hagar* v. *Reclamation Dist.*, 111 U. S. 701, 708 (1884). In good faith, the U. S. Supreme Court cannot allow this travesty to continue

CONCLUSION

As demonstrated above, Ferrell and U. S. federal civilian employees subjected to the MSPB adjudication process which includes the Federal Circuit are being cheated, separated and denied the privileges and protections of de novo review, U. S. Constitutional rights, 5th and 14th Amendments, they are suffering a forced departure from *Marchant*, where a litigant had the benefit of a full and fair trial and denial of life, liberty, or property with Due Process of law; or otherwise denying to any person within its jurisdiction the equal protection of the laws as established in *Hurtado* and *Hagar*. In order to gain access to, enjoyment of and be protected by U. S. laws and U. S. Constitutional rights including but not limited to amendments 5 & 14, this petition for a writ of certiorari should be granted.

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APRIL 2026

Pro Se Petitioner