

ORIGINAL

No. 25-1217

FILED
APR 20 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In the Supreme Court of the United States

IN RE JUSTIN PAUL DREILING

Petitioner,

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

PETITION FOR A WRIT OF MANDAMUS

Justin Paul Dreiling
112 Highland Woods Dr.
Waynesville, MO 65583
(515) 520-9302
speier.justin@gmail.com

Pro Se Petitioner

APRIL MMXXVI

United States Commercial Printing Company • www.uspc.us • (202) 866-8558

RECEIVED
APR 24 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

Unfortunate circumstances have brought an appeal by the petitioner to come forth to the United States Court of Appeals for the Federal Circuit. These unfortunate circumstances inherently implicate all active, sitting circuit judges of the Federal Circuit as being both parties to the appeal and the very judges to adjudge upon the appeal. 28 U.S.C. § 455 requires the circuit judges to recuse themselves, and as a result, no quorum for the petitioner's appeal can legally be made with an unbiased panel. No other recourse exists except through mandamus.

The Questions Presented Are:

1. Can a judicial officer be both a judge and party at the same time?
2. Are all the active, sitting circuit judges of the United States Court of Appeals for the Federal Circuit *parties* to the petitioner's appeal whereby they are subsequently bound to recuse themselves in accordance with 28 U.S.C. § 455?
3. Does this Court have the power under a writ of mandamus to compel such recusal, and use its authority under 28 U.S.C. § 42 to temporarily assign Supreme Court justices to the Federal Circuit so a quorum can be formed to adjudge upon the petitioner's appeal with an unbiased panel?

PARTIES TO THE PROCEEDING

Petitioner in this Court is Justin Paul Dreiling, an active duty Staff Sergeant in the United States Army currently stationed at Fort Leonard Wood, Missouri.

Respondents in this Court, against whom relief is sought, are all the active circuit judges of the United States Court of Appeals for the Federal Circuit ("Federal Circuit") – minus one, the Honorable Judge Pauline Newman. The respondents are: (1) Chief Judge Moore, (2) Judge Lourie, (3) Judge Dyk, (4) Judge Prost, (5) Judge Reyna, (6) Judge Taranto, (7) Judge Chen, (8) Judge Hughes, (9) Judge Stoll, (10) Judge Cunningham, and (11) Judge Stark.

The real party in interest for the defendant in the lower appeal is the United States of America, acting through the Judicial Council of the Federal Circuit, which consists of the following council members: (1) Chief Judge Moore, (2) Judge Lourie, (3) Judge Dyk, (4) Judge Prost, (5) Judge Reyna, (6) Judge Taranto, (7) Judge Chen, (8) Judge Hughes, (9) Judge Stoll, (10) Judge Cunningham, and (11) Judge Stark.

The respondents and defendant-appellees in the lower appeal are in fact the same.

RELATED PROCEEDINGS

United States Court of Federal Claims:

Dreiling v. United States, No. 1:25-cv-02133-LAS
(Fed. Cl. Jan. 7, 2026)

United States Court of Appeals (CAFC):

Dreiling v. United States, No. 2026-1409 (pending,
filed Fed. Cir. Feb. 5, 2026)

*All briefings and orders listed in the above two proceedings have been reproduced in the appendix.

TABLE OF CONTENTS

Questions Presented	i
Parties to the Proceeding	ii
List of Proceedings Below	iii
Table of Authorities.....	vi
Petition for Writ of Mandamus.....	1
Introduction.....	2
Opinions Below.....	4
Jurisdiction.....	5
Statutory Provisions Involved	5
Statement of the Case	6
Reasons for Granting the Petition.....	7
I. No one person can be both a judge and party at the same time	7
II. Justices can be assigned to the federal circuit to act as circuit judges.....	10
III. There is no other relief available for the peti- tioner's appeal to be heard by an unbiased panel.....	11
Conclusion	12
Appendix	
Appendix A	
Order [complaint dismissed], United States Court of Federal Claims, <i>Justin Paul Dreiling v. The United States</i> , No. 25-2133 (Jan. 7, 2026)	App-1

Appendix B

Complaint, United States Court of Federal Claims, *Justin Paul Dreiling v. The United States*, No. 25-2133 (Dec. 17, 2025) App-4

Appendix C

Order To Show Cause, United States Court of Federal Claims, *Justin Paul Dreiling v. The United States*, No. 25-2133 (Dec. 19, 2025) App-20

Appendix D

Plaintiff's Response to Court's Order To Show Cause, United States Court of Federal Claims, *Justin Paul Dreiling v. The United States*, No. 25-2133 (Jan. 5, 2026) App-23

Appendix E

Combined Appellant's Opening Brief and Appendix, United States Court of Appeals for the Federal Circuit, *Justin Paul Dreiling v. United States of America*, No. 26-1409 (Feb. 23, 2026) App-77

TABLE OF AUTHORITIES

Statute and Rules

28 U.S.C. § 42	2, 4-5, 10-12
28 U.S.C. § 43	4-5, 10-12
28 U.S.C. § 46	12
28 U.S.C. § 332	2
28 U.S.C. § 455	1, 5, 7-8, 11
28 U.S.C. § 1651	5
S. Ct. R. 20.3.....	1
Judicial Code of 1911, Pub. L. 61-475, Mar. 3, 1911, ch. 231, § 121, 36 Stat. 1131.....	10

Other Authorities

The Federalist No. 10 (James Madison).....	1, 3, 6-7
The Federalist No. 33 (Alexander Hamilton).....	9
The Federalist No. 48 (James Madison).....	9
John Marshall, <i>The Political and Economic Doctrines of John Mar-</i> <i>shall</i> (The Lawbook Exchange, Ltd. 2007).....	1, 3
Joseph Story, <i>A Familiar Exposition of the Constitution of the</i> <i>United States</i> (1840).....	13

PETITION FOR A WRIT OF MANDAMUS

Petitioner Justin Paul Dreiling respectfully prays for this Court to grant a petition of writ of mandamus to compel the judges of the Federal Circuit to recuse themselves as required by 28 U.S.C. § 455 upon his pending appeal. No judge is allowed to be both a judge and party at the same time. See the Federalist No. 10 (James Madison) (“No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time.”).

Without this Court granting this petition, that is potentially exactly what will occur. The petitioner will be forced to have his appeal be heard by judges who are also *de facto* parties to the appeal. No circuit judge has recused themselves as of the date of this petition, and there is no guarantee that each judge will do so. As the longest serving justice of the Supreme Court has said, the Honorable Chief Justice John Marshall, a “bare sense of duty, or a regard to propriety, is too feeble to induce men to comply with obligations. We deceive ourselves if we expect any efficacy from these.” John Marshall, *The Political and Economic Doctrines of John Marshall*, 259, The Lawbook Exchange, Ltd. (2007).

There is no other relief in any form or court that can ensure the petitioner’s appeal is heard by an unbiased panel than through this mandamus petition.

As required by S. Ct. R. 20.3(a), this writ of mandamus seeks the Court to order the following circuit judges to recuse themselves upon the petitioner’s

pending appeal before the United States Court of Appeals for the Federal Circuit, viz.:

(1) Chief Judge Moore, (2) Judge Lourie, (3) Judge Dyk, (4) Judge Prost, (5) Judge Reyna, (6) Judge Tarranto, (7) Judge Chen, (8) Judge Hughes, (9) Judge Stoll, (10) Judge Cunningham, and (11) Judge Stark.

The petitioner also requests for this Court to exercise its authority under 28 U.S.C. § 42 and temporarily assign at least three justices to the Federal Circuit in order to form a quorum so the petitioner's appeal can be heard and adjudged upon by an unbiased panel.

INTRODUCTION

The petitioner brought forth a complaint in the United States Court of Federal Claims claiming the Judicial Council of the Federal Circuit was unable to remove an active circuit judge from voting on his initial petition for *en banc* hearing. Namely, that the Judicial Council lacked the constitutional authority to prevent the Honorable Judge Pauline Newman from voting on his petition and that only Congress could order such; that Congress is unable to delegate that authority at all – even to a judicial council. The petitioner also brought forth a claim that the Judicial Council of the Federal Circuit's composition was also contrary to law; that the Judicial Council members only consist of circuit judges with no district judges, contrary to the requirements set forth in 28 U.S.C. § 332(a)(1).

Within a mere few hours of the complaint being randomly assigned, the Honorable Senior Judge Loren A. Smith issued a show cause order, ordering the petitioner to address the jurisdictional requirements of

the complaint in the United States Court of Federal Claims. The petitioner responded to the show cause order, and shortly thereafter, the Honorable Judge Smith dismissed the petitioner's complaint as neither claim was money-mandating.

The petitioner appealed this decision to the United States Court of Appeals for the Federal Circuit (*which is still pending – Case No. 26-1409*), however, the true party in interest for the defendant-appellee is the *Judicial Council of the Federal Circuit itself*. And unfortunately, all the active, sitting judges of the Federal Circuit are also members of the Judicial Council. Each and every available judge which can form a panel for the petitioner's appeal is a *de facto* party to the appeal.

“No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and not improbably, corrupt his integrity. With equal, nay with greater reason, *a body of men are unfit to be both judges and parties at the same time.*”

The Federalist No. 10 (James Madison) (emphasis added).

As a result, each and every active, sitting judge of the Federal Circuit is bound by law and virtue to disqualify and recuse themselves upon the petitioner's pending appeal. But, as salutary experiences from every generation has shown, a “bare sense of duty, or a regard to propriety, is too feeble to induce men to comply with obligations. We deceive ourselves if we expect any efficacy from these.” John Marshall, *The Political and Economic Doctrines of John Marshall*, p.259, The Lawbook Exchange, Ltd. (2007).

One has to wonder if the circuit judges will respect the law and recuse themselves. The only guarantee for the petitioner's appeal to be heard by an unbiased panel, however, is through this petition for writ of mandamus.

But if the Court grants this petition, there will be no viable panel to form a quorum; the petitioner will be unable to exercise his right to appeal. The petitioner therefore also requests, under the authority granted to this Court under 28 U.S.C. § 42, to temporarily assign at least three justices to the Federal Circuit so a quorum of unbiased judges can be formed. Those justices assigned to the Federal Circuit are able and competent to sit as circuit judges as provided by 28 U.S.C. § 43(b).

If the petition is denied, one of two situations results, viz. (1) all the active, sitting judges actually recuse themselves whereby no final decision can be made upon the petitioner's appeal, causing a deprivation of his first amendment rights. Or (2), the circuit judges do not recuse themselves and the petitioner is forced to succumb to a biased panel, once more a violation of his first amendment right to redress his grievances (is it not a right to redress your grievances to an unbiased forum?).

OPINIONS BELOW

The Court of Federal Claims' opinion is reproduced in the Appendix at App. 1.

JURISDICTION

This Court has the authority to grant the writ of mandamus under 28 U.S.C. § 1651(a).

This Court also has the authority to temporarily assign justices to the Federal Circuit to act as circuit judges under 28 U.S.C. § 42., a common practice since the founding of our Nation.

STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 455(a): "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

28 U.S.C. § 455(b)(1) in relevant part: "He shall also disqualify himself ... where he has a personal bias or prejudice concerning a party."

28 U.S.C. § 455(b)(5)(i) in relevant part: "He shall also disqualify himself ... [if] [h]e ... [i]s a party to the proceeding."

28 U.S.C. § 455(b)(5)(iii) in relevant part: "He shall also disqualify himself ... [if] [h]e ... [i]s known ... to have an interest that could be substantially affected by the outcome of the proceeding."

28 U.S.C. § 42 in relevant part: "The Chief Justice of the United States and the associate justices of the Supreme Court shall from time to time be allotted as circuit justices among the circuits by order of the Supreme Court."

28 U.S.C. § 43(b) in relevant part: "The circuit justice and justices or judges designated or assigned shall be competent to sit as judges of the court."

STATEMENT OF THE CASE

"No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men

are unfit to be both judges and parties at the same time." The Federalist No. 10 (James Madison).

This case, this petition for writ of mandamus currently before the Court, is simply whether a judge can be both a party and judge upon an appeal at the same time; whether the impartiality of the judges of the Federal Circuit (as members of the Judicial Council of the Federal Circuit) has been meritoriously questioned. This issue should be self-evident – no person can be both a judge and party at the same time.

And if a judge cannot be both a party and judge at the same time, then the petitioner is unable to have his appeal be heard by an unbiased panel. The members of the Judicial Council of the Federal Circuit are required by law to recuse themselves, and if they do not recuse themselves nothing more but tyranny in the judicial process will result. The petitioner will be unable to exercise his first amendment right to redress his grievances through a fair and unbiased process.

This Court is the only body constitutionally authorized to ensure fair and impartial justice upon the petitioner's appeal, and mandamus is the only avenue available to achieve that result.

REASONS FOR GRANTING THE PETITION

I. No One Person Can Be Both a Judge and Party at the Same Time

Our Founding Fathers emphatically created a judiciary and judicial process that would be fair, independent and impartial. They were well aware how justice is served when the judgment was made from biased individuals. One of the hallmarks of this awareness was the formulation of the trial by a jury of peers, but another was ensuring judges hold their office indefinitely while they are in good behavior.

This reasoning, as the fabled James Madison has said, also opines that “[n]o man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time.” The Federalist No. 10 (James Madison).

Congress has required judges and justices to recuse themselves from any proceeding in which their impartiality might be questioned. Congress codified this under 28 U.S.C. § 455.

For the petitioner’s appeal, every circuit judge of the Federal Circuit fulfills the requirements set forth in multiple sections of § 455.

First, 28 U.S.C. § 455(a): “Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.” The petitioner’s appeal alleges actions taken by the members of the judicial council are contrary to the Constitution and contrary to law. Since all the circuit judges of the

Federal Circuit are members of the circuit's Judicial Council, their impartiality is beyond doubt questioned. It is in their interest to simply reject the petitioner's arguments so the alleged claims never come to light and cannot be litigated.

Second, 28 U.S.C. § 455(b)(1) in relevant part: "He shall also disqualify himself ... where he has a personal bias or prejudice concerning a party." Each judge has the personal bias to ensure the United States (the defendant-appellee in the petitioner's appeal) gets their way; to provide everything the government asks for, thus preventing the claims against the members of the judicial council from being heard and litigated.

Third, 28 U.S.C. § 455(b)(5)(i) in relevant part: "He shall also disqualify himself ... [if] [h]e ... [i]s a party to the proceeding." The petitioner's appeal is against the United States acting through the Judicial Council of the Federal Circuit. The true defendant – the true party to the appeal – is every member of the Judicial Council of the Federal Circuit. It just so happens that every member of the Judicial Council of the Federal Circuit is every active, sitting judge of the United States Court of Appeals for the Federal Circuit. Each and every judge is a *de facto* party to the appeal.

Fourth and lastly, 28 U.S.C. § 455(b)(5)(iii) in relevant part: "He shall also disqualify himself ... [if] [h]e ... [i]s known ... to have an interest that could be substantially affected by the outcome of the proceeding." It is in every judge's interest to have his appeal dismissed or affirm the lower court's judgment. It is definitely not in the interest of each of these judges to rule in favor of the petitioner, in which case their actions will be scrutinized by an inferior court, the

United States Court of Federal Claims. They indeed have personal bias to ensure that the Judicial Council of the Federal Circuit has complete immunity to act as they please without any recourse or accountability by the public.

There is no guarantee, however, that any of these judges will respect the foregoing requirements just mentioned under 28 U.S.C. § 455 and properly recuse themselves from the petitioner's pending appeal. It has been known that a "mere demarcation on parchment" is certainly "not a sufficient guard against" ensuring individuals follow the law and perform their duty. The Federalist No. 48 (James Madison).

And "[i]f the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, who creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify." The Federalist No. 33 (Alexander Hamilton).

The People have the right and power under the Constitution to ensure their servants – the judges of the Federal Circuit – follow and abide by the law. This petition for writ of mandamus is the only way for the petitioner to ensure the judges of the Federal Circuit follow the law in which they are bound by Congress to recuse themselves from his pending appeal where their impartiality has, beyond all contestation, been questioned.

II. Justices can be Assigned to the Federal Circuit to Act as Circuit Judges

Once all biased judges of the Federal Circuit recuse themselves upon the petitioner's appeal, as they must, there is no possible panel that can be formed to make a quorum.

This Court, under the authority of 28 U.S.C. § 42, is able to assign justices to sit and hear cases at the Federal Circuit level. This practice has been rooted in our history since the founding of our great Republic. For well over 100 years Supreme Court justices were required to circuit ride. And although the practice is no longer statutorily required, and has been largely unneeded in the current form and structure of the judiciary, it was still preserved under 28 U.S.C. § 42.

If the history of the statute is reviewed, it is found that the Chief Justice can indeed order an associate justice to sit as a competent judge of a Circuit Court of Appeals. Just see the Judicial Code of 1911, Pub. L. 61-475, Mar. 3, 1911, ch. 231, § 121, 36 Stat. 1131 ("The Chief Justice and the associate justices of the Supreme Court assigned to each circuit . . . shall be competent to sit as judges of the circuit court of appeals within their respective circuits."). It has been codified under 28 U.S.C. § 43(b) ("The circuit justice and justices or judges designated or assigned shall be competent to sit as judges of the court.").

Even though circuit riding has fallen to the way-side, Congress has never removed the ability of the Supreme Court to do so. The petitioner is simply requesting this court to assign at least three justices and have them sit at the Federal Circuit so he can continue to exercise his first amendment right to have his

appeal in the United States Court of Appeals for the Federal Circuit be heard and adjudged upon by an unbiased panel.

**III. There is No Other Relief Available for the
Petitioner's Appeal to be Heard by an Un-
biased Panel**

If this petition is not granted, and the judges of the Federal Circuit do not recuse themselves, the petitioner's appeal will be heard by a *biased* panel. There is nothing the petitioner could do but accept his fate that the circuit judges are biased. The only recourse to ensure these judges abide by their duty under 28 U.S.C. § 455 is from this petition.

Regardless of the merits of the petitioner's original complaint, regardless of the arguments made in the petitioner's appeal, the petitioner prays this court takes this petition for writ of mandamus seriously and the judiciary seriously. Under no circumstances should the petitioner's appeal be heard by any active, sitting judge of the Federal Circuit regardless of the contents of his complaint/appeal as the Judicial Council of the Federal Circuit is a party to the appeal – and *all* sitting, active judges of the Federal Circuit are members of the Judicial Council. (emphasis added).

Furthermore, if all the judges fulfill their duty under 28 U.S.C. § 455 and recuse themselves, the petitioner's appeal will sit in limbo. It cannot be adjudged upon as there is no quorum – no panel – that can be formed.

This Court can resolve this issue. A majority of judges of the Federal Circuit are not required to sit on the panel for the petitioner's appeal. See 28 U.S.C. § 46(b) ("majority of whom shall be judges of that court,

unless such judges cannot sit because recused or disqualified.”). And, as Congress has provided under 28 U.S.C. § 42 and 28 U.S.C. § 43(b), this Court can “assign justices from time to time to be allotted as circuit justices” and those justices “designated or assigned shall be competent to sit as judges of the court.”

The People are entitled to an unbiased, independent judiciary, and this petition for writ of mandamus allows the Supreme Court to at least ensure the petitioner receives such for his appeal. Where else, or what else is the petitioner to do, to ensure his appeal is heard by an unbiased panel?

CONCLUSION

Justice Story eloquently described the reasoning of ‘to establish justice’ from the preamble of the Constitution. He stated, this “is the first object of all good and rational forms of governments. Without justice being fully, freely, and impartially administered, neither our persons, nor our rights, nor our property, can be protected.” Story, *A Familiar Exposition of the Constitution of the United States*, § 49 (1840).

The petitioner’s right to have his appeal be heard by an unbiased, impartial panel is in jeopardy. The People are entitled to have their grievances heard fully, freely and impartially.

For the foregoing reasons, the petitioner respectfully prays for the Supreme Court to grant his petition for writ of mandamus, order the council members of the Judicial Council of the Federal Circuit to recuse themselves, and randomly assign enough justices to form a quorum for the petitioner’s pending appeal to heard.

Justin Paul Dreiling
112 Highland Woods Dr.
Waynesville, MO 65583
(515) 520-9302
speier.justin@gmail.com

APRIL 2026

Pro Se Petitioner