

25-5541

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

AUG 28 2025

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

CAMERON L. BRADBERRY — PETITIONER
(Your Name)

vs.

DEPARTMENT OF THE AIR FORCE — RESPONDENT(S)

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

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CAMERON L. BRADBERRY
(Your Name)

8150 W 6th PLACE
(Address)

LAKEWOOD, COLORADO, 80214
(City, State, Zip Code)

(785) 438-0835
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QUESTION(S) PRESENTED

1. Whether a federal agency denies a tenured career employee their Fifth Amendment due process rights when it terminates them using the summary procedures reserved for a probationary employee, and whether the U.S. Court of Appeals for the Federal Circuit errs by affirming a lower decision that fails to adjudicate this constitutional and procedural violation.
2. Whether the evidentiary framework for a whistleblower reprisal claim is fatally undermined when the agency's evidence of a legitimate, non-retaliatory reason for termination was developed through a process that improperly stripped the employee of their statutory due process rights to challenge that evidence.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

• BRADBERRY V. DEPT OF THE AIR FORCE, NO. 2025-1112,
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT.
JUDGMENT ENTERED APRIL 10, 2025

BRADBERRY V. DEP'T OF THE AIR FORCE, NO. DE-¹²²¹~~0752~~-23-0108-W-1
UNITED STATES MERIT SYSTEM PROTECTION BOARD.
FINAL ORDER ISSUED AUGUST 27, 2024

BRADBERRY V. DEP'T OF THE AIR FORCE, NO. DE-0752-25-1080-I-1
UNITED STATES MERIT SYSTEM PROTECTION BOARD.
INITIAL DECISION ISSUED MAY 13, 2025

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was APRIL 10th 2025.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: JUNE 5th 2025, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Due Process Clause of the Fifth Amendment to the U.S. Constitution

Text: "No person shall be... deprived of life, liberty, or property, without due process of law..."

Relevance: As a federal employee who had completed prior federal service without a break, Petitioner was a career employee, not a probationary one. This status grants him a constitutionally protected property interest in his continued employment. By terminating Petitioner using the summary procedures reserved for a probationary employee, the Agency deprived him of this property interest without the required due process protections, such as a formal notice of charges, the right to an oral reply, and full appeal rights under 5 U.S.C. Chapter 75.

2. The Whistleblower Protection Act (WPA), 5 U.S.C. § 2302(b)(8)

Text: "(b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority— ... (8) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of— (A) any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences— (i) any violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety..."

Relevance: This statute formed the basis of Petitioner's claim before the Merit Systems Protection Board (MSPB). Petitioner made a protected disclosure on January 15, 2020, and was subjected to a personnel action (termination) less than a month later. The lower courts' application of the WPA is a central issue in this petition.

3. The Civil Service Reform Act (CSRA), 5 U.S.C. § 7703

Text: "(a)(1) Any employee or applicant for employment adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board may obtain judicial review of the order or decision. ... (c) In any case filed in the United States Court of Appeals for the Federal Circuit, the court shall review the record and hold unlawful and set aside any agency action, findings, or conclusions found to be— (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..."

Relevance: This statute provided the jurisdictional basis for the U.S. Court of Appeals for the Federal Circuit to review the MSPB's decision in Petitioner's case. The Federal Circuit's application of its standard of review under this statute is at issue in this petition.

4. Federal Regulations on Probationary Periods, 5 C.F.R. § 315.801 & § 315.802

Text (Summary): These regulations govern when a federal employee is required to serve a probationary period. Specifically, 5 C.F.R. § 315.802(b) states that prior service under certain conditions (such as in the same agency and same line of work) can be counted toward the completion of a probationary period. It also provides that an employee who has completed a probationary period and is transferred without a break in service may not be required to serve a new one.

Relevance: These are the key regulations that support Petitioner's claim that he was a career employee and not subject to a new trial period upon his transfer from the Department of Veterans Affairs to the Department of the Air Force. The Agency's failure to correctly apply these regulations resulted in the denial of Petitioner's due process rights.

5. The Rehabilitation Act of 1973

Text (Summary): This Act prohibits discrimination against qualified individuals with disabilities in federal employment. It requires federal agencies to provide reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability, unless the agency can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

Relevance: While not the primary focus of the MSPB appeal being reviewed, the underlying facts of Petitioner's related EEO complaint involve the denial of a reasonable accommodation for his disability. This context is relevant to understanding the full scope of the Agency's actions against Petitioner during the same time period as his protected whistleblowing activity.

STATEMENT OF THE CASE

Petitioner, Camerron L. Bradberry, is a preference-eligible veteran and a former federal employee under a Schedule A excepted service appointment. Prior to the events in question, Petitioner was employed by the Department of Veterans Affairs (DVA) in Denver, Colorado, where he had completed his required service period.

On September 16, 2019, Petitioner transferred without a break in service to the position of Human Resources Assistant (Military), GS-0203-06, with the Department of the Air Force ("Agency") at Buckley Air Force Base, Colorado. The Agency designated this appointment as being subject to a two-year trial period.

During his employment with the Agency, Petitioner, an individual with a disability, alleges that he was denied a reasonable accommodation that had been previously provided to him at the DVA. On January 15, 2020, Petitioner made a protected disclosure to his supervisors via email, detailing a workplace incident involving a coworker that he reasonably believed constituted an abuse of authority and a violation of workplace conduct rules.

Less than one month later, on February 5, 2020, the Agency issued Petitioner a Notice of Termination During Trial Period, effective February 13, 2020. The termination was processed using the summary procedures for a probationary employee, thereby denying Petitioner the procedural due process rights afforded to career employees under 5 U.S.C. Chapter 75. Petitioner sought corrective action from the Office of Special Counsel, which terminated its investigation and notified him of his right to file an Individual Right of Action (IRA) appeal with the Merit Systems Protection Board (MSPB).

Petitioner filed a timely IRA appeal with the MSPB (Docket No. DE-1221-23-0108-W-1), arguing that his termination was reprisal for his whistleblowing activity. He also argued that the Agency had committed a procedural error by treating him as a probationary employee when his prior federal service made him a career employee with full due process rights.

After a hearing, the MSPB Administrative Judge (AJ) issued an initial decision on August 10, 2023, denying the appeal. The AJ found that while Petitioner's disclosure was a contributing factor in his termination, the Agency had proven by clear and convincing evidence under the factors of *Carr v. Soc. Sec. Admin.*, 185 F.3d 1318 (Fed. Cir. 1999), that it would have taken the same action absent the disclosure. In his analysis, the AJ assumed, for the sake of argument, that Petitioner was not a probationary employee but did not adjudicate the due process violation. The full Board denied Petitioner's petition for review on August 27, 2024, making the initial decision final.

Petitioner sought judicial review from the U.S. Court of Appeals for the Federal Circuit. On April 10, 2025, the Federal Circuit issued a nonprecedential decision (No. 2025-1112) affirming the MSPB. The court found the MSPB's weighing of the Carr factors was supported by substantial evidence. A timely petition for rehearing en banc was denied on June 5, 2025.

Concurrently, Petitioner pursued an EEO complaint with the Agency based on disability discrimination and reprisal. On June 19, 2025, the Agency issued a Final Agency Decision dismissing the complaint as untimely. That matter is currently on a separate appeal to the EEOC's Office of Federal Operations.

This petition seeks review of the Federal Circuit's decision affirming the denial of Petitioner's whistleblower reprisal appeal.

REASONS FOR GRANTING THE PETITION

This petition presents a question of exceptional importance to the integrity of the federal civil service and the efficacy of the Whistleblower Protection Act: Can an agency strip a tenured career employee of their constitutionally protected due process rights by misclassifying them as "probationary," and can that fundamental procedural violation then be dismissed as harmless by lower courts analyzing a related claim of whistleblower reprisal? The Federal Circuit's nonprecedential decision, which affirms this outcome, sets a dangerous precedent that warrants this Court's review.

I. The Federal Circuit Erred by Sanctioning the Deprivation of a Career Employee's Due Process Rights.

The bedrock of the federal civil service is the principle that non-probationary employees have a property interest in their employment, protected by the Due Process Clause of the Fifth Amendment. This Court has long recognized that this property interest cannot be extinguished without constitutionally adequate procedures. The Civil Service Reform Act and its implementing regulations, specifically 5 C.F.R. Part 315, provide a clear framework for determining employee status.

Petitioner, having completed prior federal service without a break, was a career employee under these regulations. The Agency's action to terminate him using the summary procedures reserved for a probationary employee was not a mere technical error; it was a fundamental denial of due process. Petitioner was denied his statutory rights to a formal notice of charges, the opportunity for an oral reply before a higher-level official, and full appeal rights to the Merit Systems Protection Board (MSPB) on the merits of the charges.

The Federal Circuit, in affirming the MSPB's decision, allowed this due process violation to stand uncorrected. The lower court accepted the MSPB's decision to merely "assume" Petitioner's career status for the sake of a narrow whistleblower analysis, without ever adjudicating the harm of the procedural violation itself. This creates a loophole that agencies can exploit: by misclassifying an employee, an agency can develop a one-sided, unchallenged record of alleged misconduct and then use that tainted record to defend against other claims, such as whistleblower reprisal. This Court should grant certiorari to affirm that a tenured federal employee's due process rights are not optional and that an agency's failure to provide them constitutes a reversible error that cannot be ignored.

II. The Lower Courts' Analysis of the Whistleblower Claim is Fatally Tainted by the Uncorrected Due Process Violation.

The Whistleblower Protection Act (WPA) is rendered meaningless if an agency can retaliate against a whistleblower while simultaneously stripping them of the procedural tools needed to mount a defense. The Federal Circuit's decision rested on its finding that the MSPB's weighing

of the Carr factors was supported by "substantial evidence." However, it failed to recognize that the "evidence" itself was a product of a fundamentally unfair and procedurally invalid process. The Carr analysis requires a careful weighing of the strength of the agency's evidence and its motives. This analysis is impossible to conduct fairly when the employee was denied the very procedures designed to test that evidence and expose improper motive. Denied an oral reply, Petitioner could not confront his accusers before a deciding official. Denied a full hearing on the merits of the charges, he could not use discovery and cross-examination to challenge the agency's narrative of his alleged performance deficiencies.

The agency's case against Petitioner was, therefore, developed in an echo chamber of its own making. The Federal Circuit's deference to a record built upon such a profound procedural violation is an error of law. It effectively holds that the protections of the WPA are weaker for whistleblowers who are also victims of due process violations. This Court should grant the petition to clarify that the evidentiary framework for whistleblower claims requires a procedurally sound foundation, and that an agency cannot meet its high burden of proof by relying on evidence gathered through a process that violated the employee's fundamental due process rights.

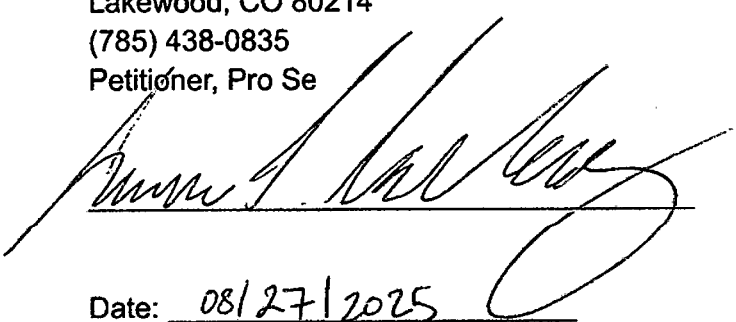
The integrity of the merit system principles and the protections afforded to those who expose waste, fraud, and abuse require nothing less.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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Date: 08/27/2025