

SUPREME COURT OF THE UNITED STATES

No. 25-6072

WILLIAM DOUGLAS MARCUM,
Petitioner

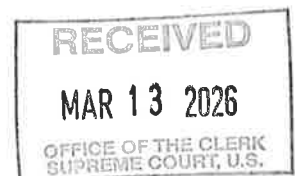
v.

MERIT SYSTEMS PROTECTION BOARD,
Respondent

PETITION FOR REHEARING

On Petition for Writ of Certiorari to the United States Court
of Appeals for the Federal Circuit, USCAFC No. 2023-2439

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PETITION FOR REHEARING

(Supreme Court Rule 44.2)

STATEMENT REQUIRED BY RULE 44

This petition is limited to intervening circumstances of a substantial or controlling effect and to other substantial grounds not previously presented.

I. INTRODUCTION

Petitioner William Douglas Marcum respectfully petitions for rehearing of this Court's denial of certiorari pursuant to **Supreme Court Rule 44.2**.

This petition is not a re-argument of the merits. It is based on newly discovered evidence, unknown and unavailable during the MSPB proceedings, Federal Circuit review, and certiorari briefing, which establishes that a government investigative agent whose credibility and investigative work were relied upon in Petitioner's case was convicted in federal court of felony perjury for lying under oath during EEO investigations at the same institution involving overlapping staff.

This evidence raises a structural due-process concern that was not previously presented and could not have been presented, and which goes directly to the integrity of the adjudicatory process relied upon below.

II. INTERVENING OR NEWLY DISCOVERED CIRCUMSTANCES

On **November 6, 2022**, Petitioner learned for the first time that **Special Investigative Agent Mendez**—whose investigative work and credibility informed agency testimony and MSPB credibility determinations—had been convicted in federal court of **felony perjury**.

The conviction arose from false sworn testimony during EEO investigations at the same federal institution where Petitioner was employed, involving staff connected to Petitioner's case.

This information was **not disclosed during the original MSPB proceedings** and was **not reasonably discoverable through due diligence** at that time.

III. FAILURE OF DISCLOSURE AND DUE PROCESS SIGNIFICANCE

The felony perjury conviction of Special Investigative Agent Mendez should have been disclosed during the original MSPB hearing because it directly concerned the credibility and reliability of the investigative process and testimony relied upon by the agency.

Had this information been disclosed, it would have materially altered the credibility analysis relied upon by the MSPB and the Federal Circuit. Disclosure of the conviction would have corroborated Petitioner's testimony, undermine the agency's credibility, and directly affect the determination that Petitioner's resignation was voluntary.

The nondisclosure therefore deprived Petitioner of a fair opportunity to present his case and rendered the resulting credibility determinations structurally unreliable.

IV. SUBSTANTIAL GROUND NOT PREVIOUSLY PRESENTED

The newly discovered felony perjury conviction presents a substantial ground not previously before the Court:

Whether an adverse employment judgment may constitutionally stand where credibility determinations central to voluntariness and intent were based on an investigative framework later shown—by criminal conviction—to include knowing falsehoods, and where such information was not disclosed during the administrative hearing.

A criminal conviction for perjury establishes knowing falsity, not mere impeachment.

V. CONTROLLING EFFECT ON THE JUDGMENT

The Federal Circuit characterized procedural and evidentiary defects as harmless. That analysis cannot apply where:

- The government failed to disclose information bearing directly on witness credibility
- Credibility determinations were central to the outcome
- The investigative process was later shown to involve felony perjury

A judgment resting on undisclosed, perjury-tainted credibility determinations is incompatible with due process and cannot be insulated by harmless-error review.

VI. CONSEQUENCES OF THE MSPB DECISION

The MSPB's acceptance of the agency's credibility assertions resulted in a determination that Petitioner's resignation was voluntary and unredacted.

That determination had direct and irreversible consequences. It eliminated Petitioner's federal retirement rights and foreclosed his ability to continue or resume a federal law-enforcement

career, including his prospective career path as a **Deputy United States Marshal**, where retirement eligibility, service continuity, and credibility are essential.

Allowing such a judgment to stand despite newly discovered evidence of felony perjury permits the loss of statutory retirement rights and career opportunities without a fair adjudicatory process.

VII. RELEVANT SUPREME COURT AUTHORITY

The suppression of material credibility evidence violates due process.
Brady v. Maryland, 373 U.S. 83 (1963).

Credibility evidence must be disclosed.
Giglio v. United States, 405 U.S. 150 (1972).

Use of false testimony violates due process.
Napue v. Illinois, 360 U.S. 264 (1959).
Mooney v. Holohan, 294 U.S. 103 (1935).

Where credibility is central to the outcome, such violations cannot be harmless.
Banks v. Dretke, 540 U.S. 668 (2004).

VIII. CONCLUSION

This petition presents newly discovered evidence of felony perjury, coupled with the failure to disclose material credibility evidence during the administrative proceedings below. These circumstances fundamentally undermine the integrity of the adjudicatory process upon which the MSPB and the Federal Circuit relied.

Because the determination that Petitioner's resignation was voluntary rested on credibility findings now shown to be structurally unreliable, the resulting judgment produced direct and irreversible legal consequences, including the loss of Petitioner's federal retirement rights and the termination of his federal law-enforcement career.

Where undisclosed perjury infects credibility determinations that are dispositive of a case, the resulting judgment cannot be reconciled with the due-process guarantees recognized by this Court. Allowing such a decision to stand would permit the deprivation of statutory rights through proceedings whose factual foundation has now been materially called into question.

Rehearing is therefore warranted so that the Court may ensure that the constitutional requirement of fair and reliable adjudication is preserved, particularly where the consequences include the permanent loss of a federal law-enforcement officer's retirement and career.

Petitioner further submits that rehearing is warranted not only to correct the specific injustice presented here, but also to ensure that federal administrative adjudications remain consistent with this Court's due-process jurisprudence. Where credibility findings central to an employee's separation are later undermined by newly discovered evidence of felony perjury that was not disclosed during the proceedings, review is necessary to preserve confidence in the integrity of federal adjudicatory processes and to ensure that statutory rights—including retirement protections earned through federal service—are not forfeited through proceedings infected by undisclosed false testimony.

For these reasons, Petitioner respectfully requests that the Court grant rehearing and provide such relief as justice requires.

Respectfully submitted

A handwritten signature in black ink that reads "William D. Marcum". The signature is written in a cursive style with a large, prominent "D" and "M".

William Douglas Marcum

Petitioner, Pro Se

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Date: March 10, 2026

RULE 44 CERTIFICATION

I certify that this petition for rehearing is **presented in good faith and not for delay**, in compliance with **Supreme Court Rule 44.1**.

William D. Marcum

William Douglas Marcum

Date: March 10, 2026

CERTIFICATE OF SERVICE

I, William Douglas Marcum, certify that on **March 10, 2026**, a true and correct copy of the foregoing **Petition for Rehearing** was served upon counsel for Respondent in accordance with Supreme Court Rule 29 by **Federal Express overnight delivery**, addressed to:

Elizabeth B. Prelogar
Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

William D. Marcum
William Douglas Marcum

Date: Marcum10, 2026