

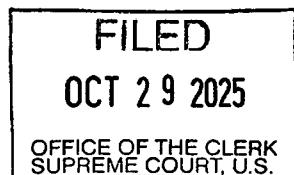
25-6184

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

**ALBERT JACKSON JR,**  
Petitioner /  
Appellant,  
v.

ORIGINAL



**HORIZON SHIPBUILDING, INC. AND  
AMERICAN LONGSHORE MUTUAL ASS'N, LTD.  
(ALMA),  
Respondent / Appellees.**

On Petition for a Writ of Certiorari to the  
Eleventh Circuit Court of Appeals  
24-12858-J  
(D.C. 3:22475MCR-HTC)

**PETITION FOR WRIT OF CERTIORARI**

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original

The questions presented are:

- I. When an Administrative law Judge ("ALJ") issued orders to review, modify and terminate a Longshore Harbor Worker's Act (LHWCA) claim previously adjudicated (issued a compensation award) without following the rules set forth in § 922, Are those orders to review, modify and terminate a LHWCA claim previously adjudicated (issued a compensation award) without following the rules set forth in § 922 lawful?
- II. Does the District Court have Subject Matter Jurisdiction over a LHWCA claim that was previously adjudicated (issued a compensation award) brought before it if the ALJ did not follow the rules set forth in § 922?
- III. Is it a violation of a Claimant's rights under the Fifth Amendment for an OALJ to review, modify and terminate a Longshore Harbor Worker's Act (LHWCA) claim previously adjudicated (issued a compensation award) without following the rules set forth in § 922?

## **PARTIES TO THE PROCEEDINGS**

The parties to the proceedings in the Eleventh Circuit Court of Appeals include the United States of America, Petitioner Albert Jackson Jr., Appellees Horizon Shipbuilding and American Longshore Mutual ASS'N, Ltd. (ALMA).

## **RELATED PROCEEDINGS**

Albert Jackson Jr. v. Horizon Shipbuilding and American Longshore Mutual ASS'N, Ltd, Office of Workers' Compensation Programs Division of Longshore and Harbor Workers' Compensation (OWCP) CASE NO.: LS-06316258, Office of Administrative Law Judges case 2019-LHC-143, compensation award issued (October 11, 2019)

Albert Jackson v. Horizon Shipbuilding and American Longshore Mutual ASS'N, Ltd, U.S. Department of Labor, Benefits Review Board (BRB). BRB No. 20-0074, compensation award issued affirming previous award (April 15, 2020)

Albert Jackson Jr. v. Horizon Shipbuilding and American Longshore Mutual ASS'N, Ltd, (OWCP) case NO.: LS-06316258 and LS-06464213, (OALJ) case NO.: 2022-LHC-01332 and case NO.: 2023-LHC-00118 order certifying facts to district court with recommendation of dismissal of longshore proceeding (November 16, 2023)

Horizon Shipbuilding and American Longshore Mutual ASS'N, Ltd. (ALMA) v. Albert Jackson, D.C. Docket No. 3:23-cv-24755-MCR-HTC, opinion issued & recommendation (April 26, 2024)

Horizon Shipbuilding and American Longshore Mutual ASS'N, Ltd. (ALMA) v. Albert Jackson, D.C. Docket No. 3:23-cv-24755-MCR-HTC, opinion issued & recommendation (August 8, 2024)

Horizon Shipbuilding and American Longshore Mutual ASS'N, Ltd. (ALMA) v. Albert Jackson. 11<sup>th</sup> Cir. Court of Appeals: No. 24-12858-J Judgment & opinion issued (July 31, 2025)

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**PETITION FOR WRIT OF CERTIORARI**

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On Petition for a Writ of Certiorari to the  
Eleventh Circuit Court of Appeals  
24-12858-J  
(D.C. 3:22475MCR-HTC)

Petitioner, ALBERT JACKSON, respectfully petitions this Court for a writ of certiorari to review the *Opinion* rendered by the Eleventh Circuit Court of Appeals on July 31, 2025. See Appendix A.

**OPINIONS BELOW**

The *Opinion* rendered by the Eleventh Circuit Court of Appeal is attached as Appendix A. The *Judgment* rendered by the Eleventh Circuit District Court of Appeals is attached as Appendix B. The Order issued by the Eleventh Circuit District Court is attached as Appendix C.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The Fifth Amendment guarantees the right not to be deprived of life, liberty or property without due process of law

### **JURISDICTION**

The *Opinion* of the Eleventh Circuit Court of Appeal was rendered on July 31, 2025. (App. A) This petition is filed within 90 days of that date. Rule 13.1. Petitioner invokes this Court's jurisdiction under 28 U.S.C. § 1254(1) (2025).

### **STATEMENT OF THE CASE**

This petition arises from the *Opinion* of the Eleventh Circuit Court of Appeals, which held that a district court under 33 § 927 of the Longshoreman Harbor Workers Compensation Act ("LHWCA") which states:

**(a)**

The deputy commissioner or Board shall have power to preserve and enforce order during any such proceedings; to issue subpoenas for, to administer oaths to, and to compel the attendance and testimony of witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths; to examine witnesses; and to do all things conformable to law which may be necessary to enable him effectively [1] to discharge the duties of his office.

**(b)**

If any person in proceedings before a deputy commissioner or Board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the deputy commissioner or Board shall certify the facts to the district court having jurisdiction in the place in which he is sitting (or to the United States District Court for the District of Columbia if he is sitting in such District) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the

forbidden act had occurred with reference to the process of or in the presence of the court.

The Eleventh court of Appeals Affirmed the district court order to dismiss Petitioner, ALBERT JACKSON'S LHWCA claims, Left knee OWCP NO. LS-06316258, OALJ NO. 2022-LHC-01332) and OWCP NO. LS-06464213, OALJ NO. 2023-LHC-00118 left arm and fingers. (*Opinion* p. 7-10)

The district court stated that Petitioner failed to follow the "Lawful" orders issued by the Office of Administrative Law Judge ("ALJ") Angela J. Donaldson over the consolidated LHWCA claims. The ALJ issued an order that certified certain facts to the district court and recommended that the district court dismiss Petitioner's claims with prejudice. The district court found that Petitioner was in contempt of court because the ALJ's orders compelling Petitioner to undergo a medical examination by a physician selected by Horizon and to execute various authorizations were "lawful". Stating

"Indeed, the statutes and regulations make clear that the ALJ had discretion in conducting the administrative proceedings and was broadly authorized to compel Jackson to attend a medical examination and execute the necessary authorizations to effectively carry out her duties. See 33 U.S.C. § 907(d), 927(a); 29 C.F.R. § 18.12(b), 18.62." (Dkt 80-1, p. 9)

The Appeals court states

“As the record shows, Jackson engaged in a “clear pattern” of “willful contempt” by repeatedly disobeying the ALJ’s orders compelling him to execute the authorizations and attend the medical examination.” (Dkt 30-1, p. 9)

“Moreover, before dismissing Jackson’s claims, the district court considered less severe sanctions and concluded that they would not be effective. *Id.* In particular, it found no indication that Jackson would execute the authorizations or attend the medical examination in the future, and his ongoing refusal to do so had interfered with Horizon’s ability to effectively dispute his claims. And Jackson had been put on notice of the possible consequences -- the ALJ advised him multiple times that his failure to comply with her orders could result in sanctions, including the dismissal of his claims. *Moon*, 863 F.2d at 837.

On this record, the court did not abuse its discretion in granting Horizon’s motion to dismiss after finding that Jackson repeatedly engaged in willfully disobedient conduct and that other sanctions would not suffice.<sup>1</sup> See *World Thrust Films*, 41 F.3d at 1456; *Gratton*, 178 F.3d at 1374. Accordingly, we affirm as to this issue.” (DKT 30-1, pgs. 9, 10).

The court of Appeals stated "Thus, the district court did not abuse its discretion in determining that the ALJ's orders were lawful. *See Riccard*, 307 F.3d at 1296." (Dkt 30-1 p. 13)

On direct appeal Petitioner argued that the district court abused its discretion by dismissing his LHWCA claims. Petitioner argued that the ALJ's orders were unlawful and that the ALJ failed to follow the Administrative Procedures Act ("APA") The Eleventh Circuit disagreed holding that no error occurred, as the district court found that the ALJ's orders were lawful. This in direct disagreement with the First through Eleventh Circuit, DC and the United States Supreme Court. This petition for a writ of certiorari now follows.

## REASONS FOR GRANTING THE WRIT

The LHWCA “establishes a comprehensive federal workers’ compensation program that provides longshoremen and their families with medical, disability, and survivor benefits for work-related injuries and death.” *Howlett v. Birkdale Shipping Co., S.A.*, 512 U.S. 92, 96 (1994).

Petitioner’s filed a claim for his left knee OWCP NO. LS-06816258, 2019-LHC-143, this claim was adjudicated and a compensation order was issued by ALJ, Alick J. Henderson on October 7, 2019 (Dkt 12-4).

Petitioner appealed that order to the Benefits Review Board (“BRB”) and the BRB issued and order on April 15, 2020 (Dkt 12-5) increasing Petitioner’s average weekly wage but affirming the ALJ’s October 7, 2019 compensation order.

Appellees did not appeal the ALJ’s order or the BRB’s order. The compensation order became final on the 30<sup>th</sup> day after the compensation order is filed in the district director’s office, see 20 CFR § 702.350

### § 702.350-Finality of compensation orders.

Compensation orders shall become effective when filed in the office of the district director, and unless proceedings for suspension or setting aside of such orders are instituted within 30 days of such filing, shall become final at the expiration of the 30<sup>th</sup> day after such filing, as provided in section 21 of the Act 33 U.S.C. 921. If any compensation payable under the terms of such order is not paid within 10 days after it becomes due, section 14(f) of the Act requires that there be added to such unpaid compensation an amount equal to 20 percent thereof which shall be paid at the same time as, but in addition to, such compensation unless review of the compensation order is had as provided in such section 21 and an order staying payment has been issued by the Benefits Review Board or the reviewing court.

The compensation order for OWCP NO. LS-06316258, 2019-LHC-143 became final on November 6, 2019. Any modification of the compensation order can only be done through §922, 20 CFR 725.310.

§922 provides the only means for changing otherwise final compensation orders. §922 authorizes the fact-finder to, “upon his own initiative, or the application of any party-in-interest...on the grounds of a change in conditions or because of a mistake in a determination of fact,” reopen a claim and issue a new compensation order. This action may be taken “at any time within one year of the last payment of compensation, whether or not a compensation order has been issued, or within one year of the rejection of a claim.” The new compensation order “may terminate, continue, reinstate, increase or decrease such compensation or award compensation.

Petitioner filed a request for modification of claim OWCP NO. LS-06316258, OALJ NO. 2019-LHC-143, BRB No. 20-0074, OALJ NO. 2022-LHC-01332 on March 28, 2023 for his left knee injury which was denied by the ALJ on May 18, 2023 (Dkt 12-25 pgs. 2-6).

The District court agreed with the denial of Petitioner's motion for §922 modification but failed to recognize their lack of subject matter jurisdiction. §922 modification is the only method for an ALJ to modify a final compensation order.

In *Intercounty Constr. Co. v. Walter*, 422 U.S. 1, 2 BRBS 3 (1975)

The Supreme Court held that the filing requirements of §922 apply only where a formal order has been issued. A claim which is timely filed and which has not been closed by an order awarding benefits or denying the claim remains open and pending for adjudication. The Court held that the phrase "whether or not a compensation order has been entered" is properly interpreted in context to mean that the one year limit on the power to modify existing orders runs from the date of the final payment of compensation even if the order sought to be modified is entered only after such date.

While §922 specifically refers to the "deputy commissioner," the 1972 Amendments transferred the hearing functions formerly exercised by those officials to administrative law judges. 33 U.S.C. §919(d). Under § 922, the administrative law judge has broad discretion to correct mistakes of fact whether demonstrated by wholly new evidence, cumulative evidence, or merely further reflection on the evidence initially submitted. An administrative law judge does not have subject matter jurisdiction to reopen a case that has reached finality and is not subject to modification. *Greenhouse v. Ingalls Shipbuilding, Inc.*, 31 BRBS 41 (1997)

This petition for a writ of certiorari now follows.

### REASONS FOR GRANTING THE WRIT

- I. Under §922 of the LHWCA an ALJ does not have subject matter jurisdiction over a claim that has previously been issued a compensation award unless a § 922 modification has been granted. The ALJ presided over Petitioner's claims knowing she did not have subject matter jurisdiction. The district court failed to correct the ALJ's procedural error.

In short, this issue represents a deviation from decisions held in the first, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, D.C., circuits and The United States Supreme Court<sup>1</sup>.

<sup>1</sup>Williams v. Jones, 11 F.3d, 27 Fed. R. Serv. 3d 1258 (1st Cir. U.S. App. 1993); Universal Maritime Service Corporation v. Louis Spitalieri, and Director, Office of Workers' Compensation Programs, 226 F.3d 167 (2nd Cir. U.S. App 2000.); Delaware River Stevedores Liberty Mutual Ins. Co. v. Edward Difidelto Director, Office of Workers' Compensation Programs, 440 F.3d 615. (3rd Cir. U.S. App 2022); Westmoreland Coal Co. v. Sharpe Ex Rel. Sharpe, 692 F.3d 317, (4th Cir. U.S. App 2012); Downs v. Director, Office of Workers Compensation Programs, 803 F.2d 193, (5th Cir. U.S. App 1986); Arkansas Coals, Inc. v. Albert Lawson, 739 F.3d 309, (6th. Cir. U.S. App 2014); Crowe Ex Rel. Crowe v. Zeigler Coal Co., 646 F.3d 435, (7th Cir U.S. App 2011); Robert West v. Director, Office of Workers' Compensation Programs, United States Department of Labor, 896 F.2d 308, (8th Cir U.S. App. 1990); Ssa Terminals and Homeport Ins v. Robert Carrion, 821 F.3d, 1168 (9th Cir U.S. App 2016); Bridger Coal Co. v. Director, Office of Workers' Compensation Programs, 669 F.3d 1183, (10th Cir U.S. App 2012); USX Corp. v. Director, OWCP, 978 F.2d 656, 658 (11th Cir. 1992); Washington Society for the Blind v. Allison, 919 F.2d 763, U.S. App. D.C. (1990); Metropolitan Stevedore Co. v. Rambo, 515 U.S. 291(1995).

Thus, this well-developed deviation from circuit decisions on an important issue of constitutional law is ripe for resolution by this Court.

orders must be lawful in order to punish a Claimant for contempt. The ALJ lacked subject matter jurisdiction and that error was not cured by the district court. The ALJ was required to remand the claim back to the district director when she received the claim, and at the latest when she denied Petitioner's request for §922 modification (Dkt. 19 pgs. 14-15). Petitioner's claim, OWCP NO. LS-06316258, OALJ NO. 2019-LHC-143, OALJ NO. 2022-LHC-01332 was previously adjudicated and a compensation award was ordered, that compensation award went before the BRB which increased Petitioner's average weekly wage and affirmed the ALJ's order. It became final on November 6, 2019. The ALJ and district court deprived Petitioner of his right to Due Process. The ALJ was aware that a request for §922 modification was required to have jurisdiction over Petitioner's claim see Palmer v. H&E Equipment Se 2024LHC00962 (July 21, 2025). The district court failed to exercise independent judgment when determining the interpretation of §922 see Loper Bright Enterprises v. Raimondo, 603 US 369 (2024).

### CONCLUSION

Petitioner requests that this Court grant a writ of certiorari and award him any and all further relief to which he is entitled.



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*October 29, 2025*