

10/23/24

No. 25-659

In the
Supreme Court of the United States

MICHAEL L. LEVINSON

Appellant/Petitioner,

v.

THE UNITED STATES SOCIAL SECURITY
ADMINISTRATION

Appellees/Respondent

On Petition for Writ of Certiorari to the United States
Court of Appeals for the Federal Circuit

**CORRECTED PRO SE PETITION FOR A WRIT OF
CERTIORARI**

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February 10, 2025

QUESTIONS PRESENTED

- A. Whether the clandestine replacement of Jewish Michael Levinson's initial Administrative Law Judge ("ALJ") Hearing Officer with a Muslim ALF was prejudicial, violating his constitutional right to a fair and impartial hearing and his right to Due Process of Law?
- B. Whether the initial ALJ hearing decision ordering Michael Levinson's two-year suspension and reduction in status lacks substantial evidence to support its decision and is therefore null and void?
- C. Whether the delay of the Merit Systems Protection Board ("MSPB") in rendering Petitioner's termination decision until the Republican Member left office, resulting in only the two MSPB Democrat Members to render Petitioner's Decision of Termination violated Petitioner's right to Due Process of Law?
- D. Whether the MSPB's decision removing Petitioner, Michael Levinson, from office lacks substantial evidence to validate or support his removal and is therefore null and void?
- E. Whether the decision of the United States Court of Appeals for the Federal Circuit ("USCAFC") affirming the MSPB's decision of removal lacks substantial evidence and is therefore null and void?
- F. Whether Social Security Administration's use of the vague, all encompassing "Comply with Office Policy" attempting to legitimize its illegal conduct and decisions violates Michael Levinson's right to Due Process of Law?

G. Whether Social Security Administration's series of baseless, punitive never-ending measures against Michael Levinson violated his constitutional Due Process rights and Eighth Amendment protections?

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Per U.S.C. § 7521, an ALJ termination is restricted to, "...only for good cause established and determined by the Merit Systems Protection Board on the record after an opportunity for a hearing before [either the MSPB or USCAFC]."

While there are zero ground for my dismissal, neither the MSPB nor USCAFC permitted me to orally point out Social Security Administration's continuous harassment and torture.

Constitution

U.S. Constitution Amendment V

U.S. Constitution Amendment VIII

PETITION FOR WRIT OF CERTIORARI

I, Michael L. Levinson, in 2004, was appointed as a Social Security Administrative Law Judge. I respectfully Pro Se Petition this Honorable Court to review the July 30, 2024, judgement on the USCAFC #23-2277.

My Petition is not solely based on lack of evidence; it is enhanced by USCAFC's and the MSPB's intentional misstatements and false findings to support decisions which lack total justification.

OPINIONS BELOW

On July 12, 2023, The MSPB authorized my removal for good cause shown. I was never afforded the opportunity to personally argue against this unlawful, baseless decision.

On July 30, 2024, the USCAFC (2023-2277) affirmed the decision of the MSPB (CB 7521-17 0023-T-1). The USCAFC also never afforded me the opportunity to personally argue my unlawful removal as an ALJ.

STATEMENT OF BASIS OF JURISDICTION

The judgement of the USCAFC was entered on July 30, 2024. The Jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

STANTUTORY PROVISIONS INVOLVED

28 U.S.C. § 1254

28 U.S.C. § 7521

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STATEMENT OF THE CASE

In April 2004, I was appointed as an ALJ with Social Security (“SS”). I was initially assigned to the SS’s Office of Disability and Review (“ODAR”) in Macon, Georgia. In December 2007, I transferred to ODAR in Birmingham, Alabama. (Respondent’s Transcript of November 5, 2019; Page 32, Line 16 – Page 33, Line 4).

During the fifty years preceding my SS appointment, I was a Trial Attorney, U.S. Department of Justice, Antitrust Division; Assistant U.S. Attorney; General Counsel for both the Illinois and the Chicago Boards of Elections; and a Judicial Officer handling Domestic Relations for the Chief Judge of Cook County, Illinois. During this fifty-year period, there was never a single issue or complaint regarding my conduct. (Respondent’s Transcript of November 5, 2019; 18-26).

My ALJ hearings and decisions were trouble-free up until the time I refused Birmingham’s Hearing Office Chief Administrative Law Judge (“HOCALJ”) Edward S. Zanaty’s (“Zanaty”) directive (Agency Exhibit #2) to allow him to appoint all my Medical Expert Witnesses (“MES”) for his attorney-son’s hearings.

Medical Expert (“ME”) testimony constituted a critical component of my ODAR hearings. For my already scheduled disability hearings, I would routinely contact potential MES to solely determine *availability*, but never to discuss the merits. SS’s Hearings, Appeals, and Litigation Law Manual (“HALLEX”) is no more than SS’s policy statements. These guidelines lack total compliance with the mandatory elements of the Administrative Procedure Act

Agency. (Exhibits #3 and #4). HALLEX did not prohibit my preparatory actions for disability hearing.

Due to my refusal to transfer to the Birmingham HOCALEJ the appointment of MES for my hearings so the HOCALEJ's father could illegally choose his attorney-son's witnesses, the SS unleashed a continuous torrent of unfounded investigations, threats, warnings and torture. This oppression was continuous and spanned several years with increasing cruelty.

GROUNDS FOR ISSUING THE WRIT

An outline of SS's actions of retribution and punishment include the following:

- A) Altering the ALJ Appointment to a Muslim ALJ for my initial disciplinary hearings.
- B) Baseless Allegation of Harassment.
- C) Intentional, Baseless allegation that my ALJ decisions were incomplete and defective.
- D) SS's intentional false findings of my "neglect of duty."
- E) The SS's intentional and calculated manipulative of Ryder Hearing to justify my "Censure."
- F) HOCALJ Zanaty's illegal directive that I transfer to him selection of Mes for all his son's disability hearings.
- G) SS's punishment: Compelled Administrative Leave.
- H) SS's illegal and unauthorized cancellation of my ALJ Hearings.
- I) SS's presenting me with a false Vocational Expert ("VE") invoice.
- J) SS submitted for my approval, numerous false and duplicative ME invoices.
- K) SS intentionally deprived me of any clerical assistance during my hearings.
- L) SS's malicious cancelation of my PIV computer ID card and access.
- M) "Judge Levinson" in Macon's Version of Auschwitz.
- N) Levinson is Absent Without Leave ("AWOL")!
- O) My administrative leave/termination.
- P) Recap of ALJ Uren's and her Supervisors' treatment of Judge Levinson.

EVIDENCE OF SS'S PERSECUTION

A) Altering the ALJ Appointment to a Muslim ALJ for my initial disciplinary hearings.

I was totally unaware the MSPB in conjunction with SS, illegally and surreptitiously replaced my original ALJ with a Muslim ALJ. I maintain that said surreptitious re-assignments should nullify all SS, MSPB, and USCAFC actions.

Of note, I am grateful to my Muslim ALJ appointee for his sensitivity and concern shown throughout the hearings. I believe that he was forced into a situation that disadvantaged both of us; I beseech this Honorable Court to sanction the SS and MSPB for said unholy manipulations.

Still, the Muslim ALJ's decision is meritless. To illustrate, this ALJ's first reference of an "improper hearing" refers to my decision of no less than 25 transcript pages of dialogue on whether claimant's amended onset date was voluntary. The remaining five cited decisions are also fully compliant. His two-years suspension is baseless.

B) Baseless Allegation of Harassment.

The SS initiated false claims that I was harassing employees. However, their own Regional Chief concluded that I never harassed any SS employee. Moreover, during SS's interviews with Macon employees, the SS investigators were told by the Macon clerks, "You're trying to get us to say

something negative about Judge Levinson.” There is no evidence of harassment.

C) Intentional Baseless allegations that my ALJ decisions were incomplete and defective.

Out of a thousand hearings and decisions, the SS has totally failed to demonstrate a single incomplete hearing or decision. As a disguise, they cite numbers but never make manifest a clear solitary example.

Sarah Robichaud, a SS employee, testified that all my oral Bench decisions were fully compliant with Federal Regulations and HALLEX. (Sarah Robichaud’s Transcript of December 12, 2018:130)

D) SS’s intentional false findings of my “neglect of duty.”

The USCAFC following statements on page 8 of their findings are flawed; “[I] did not dispute the neglect-of-duty charge or the related finding that [I] failed to follow a directive...” and that “[I did] not meaningfully dispute that [I] committed the acts [I] was charged with”.

“MSPB’s findings...” is intentionally meritless. (Sarah Robichaud’s Transcript of December 12, 2018: 131). The USCAFC intentionally fabricates my “neglect-of-duty”.

On page 5 of my *Pro se Motion for a Summary Judgement*, I wrote, “Were this honorable court to examine every decision and hearing of mine, “you will not find a single case or example”

of, “neglect of duty;” it bears repeating, … not a single example of “neglect of duty.”

The USCAFC, by federal statute, adjudicates disciplinary and removal issues. There’s a major imbalance between Democrat and Republican members in this Court. Three USCAFC Democrat appointees denied my Motion for a Summary Judgement.

E) The SS’s intentional and calculated manipulative of Ryder Hearing to justify my “Censure.”

In April 2013, I conducted Ryder Hearing (“RYDER”). I remained on record for all my ALJ disability hearings. Examining every shred of evidence; every fact relating to the RYDER, there is *zero* evidence to support the MSPB and USCAFC finding that was “insensitive” to this federal felon with two serious convictions. (Respondent’s Exhibit X). The evidence is undisputed that Mrs. Ryder threatened to poison SS employees, *poison her SS employees!*

The SS plot thickens; Regional Chief Judge Ollie Garmen (“Garmen”) issued a memo *asserting* that *my* behavior was “outrageous?”

Judge Garmen unfortunately never described the proper protocols when dealing with an SS employee who threatens to murder coworkers and perjures herself throughout my entire hearings. The SS then joins the parade and falsely rewrites the RYDER as to justify my censure. That the MSPB and

USCAFC intentionally fictionalize RYDER cries out for this Honorable Court's attention.

As a sidenote, perjurer and felon Mrs. Ryder remarked that she didn't like the way I spoke or looked. The prejudice of this felon was manifest. Regrettably, as reflected above, the MSPB and the USCAFC create an entire untruthful and totally fictional rewrite of the RYDER experience but are mum as to her prejudicial slurs.

F) HOCALJ Zanaty's illegal directive that I transfer to him selection of Mes for all his son's disability hearings.

In Fall of 2014, I received a verbal directive from the Birmingham HOCALJ, Zanaty. He requested that I transfer full authority to him to choose MES for my hearings. Then, Judge Zanaty's attorney-son supervised thirteen (13) disability law offices throughout Alabama.

First, in contrast to many ALJs, I utilized MES extensively. Second, Zanaty's son's law firm Handled and overwhelming proportion of Alabama disability claims. Third, from my perspective, as a former Federal Department of Justice Trial Attorney and Assistant U.S. Attorney, Zanaty's order embodied an enormous conflict of interest enhanced with potential criminal liability.

G) SS's punishment: Compelled Administrative Leave

ON or about January 23, 2017, (a couple of days after President Trump was sworn into office), I was notified of my “administrative leave pending proposed disciplinary action.” Therefore, the January 23, 2017 notice from Assistant Chief Regional ALJ, Judge O. Lisa Dabreu, informing me of “administrative leave” along with a similar notification from Chief ALJ, Judge Nagel, barred me from hearing disability cases.

Per 26 U.S.C. §7521, an ALJ termination is restricted to: “[O]nly for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for [a] hearing before the Board.” I was never offered the opportunity to appear either before the MSPB or the USCAFC; therefore their removal decisions as noted are baseless and calculated.

H) SS's illegal and unauthorized cancellation of my ALJ Hearings.

Two and four months after the RYDER, following Orders, ALJ Uren (“Uren”) illegally cancelled my fifty scheduled hearings. The reason? I was forced to waste four weeks reading and listening to outdated, worthless educational material. The HOALJ, with clandestine direction from undisclosed supervisors, lacked total legal authority to cancel my ALJ’s

scheduled hearings. This action deprived fifty claimants of their timely hearings. SS's reassignment was a subterfuge resulting in unnecessary postponements.

I) SS's presenting me with a false Vocational Expert ("VE") invoice.

During October 14, 2014, the VE's invoice for that Day had an entry for a VE hearing that never occurred or was reviewed. I requested the scheduler to correct the invoice, and she responded, "Once I do it, I don't change it." However, faced with my clear refusal to sign, the scheduler finally corrected the invoice. Obviously, SS's intent was for me to sign the incorrect statement! They failed this time but never stopped trying.

J) SS submitted for my approval, numerous false and duplicated ME invoices.

In 2015-2016, the SS launched its new game plan. I began receiving ME invoices which no longer indicated the actual names of the MES. A large sample of these invoices was introduced into evidence. (Respondent's Exhibit J). I testified that several invoices contained merely the name of a corporate entity or had only stamped signatures.

I was flooded with duplicate and triplicate invoices to sign. As I kept records and copies of my signed invoices, I refused to sign these invoices. I could not determine the actual identity of the MES, nor whether there was any testimony or hearing.

For my refusing to sign off for work never performed, or were duplicative, I was rewarded with a “reprimand” plus a restriction on telecommuting disability hearings. SS’s major participation in this scheme similarly call for further examination.

K) SS intentionally deprived me of any clerical assistance during my hearings.

Upon SS’s direct orders, Uren deprived me of any realistic assistance for my hearings, i.e. no clerk was assigned to personally assist me. Uren falsely justified singling me out as the only ALJ at the time who, if needed, would attempt to reach the Clerk at home. The SS had no authority to deprive me of clerical assistance during hearings. No other Macon ALJ was so burdened with this restriction.

I scheduled Mondays for my hearings so I could write the decisions, make necessary docket

entries, and ensure few or no claims were pending by the month's end. Uren's flawed justification was that their Union authorized work-at-home on my hearing days. Not so! I wasn't the only victim of this scheme; my witnesses suffered as well.

L) SS's malicious cancelation of my PIV computer ID card and access.

The PIV computer ID ("PIV") card electronically identifies the user and permits computer access to the computer system. In 2016, I was first falsely informed that my PIV card was "defective" and Ms. Kelly ("Kelly"), a supervisor, requested that I give Her my computer ID card for Macon.

Per SS directive, my PIV card was illicitly destroyed to prevent my performance of ALJ duties. Uren and Kelly sent me multiple memoranda advising me to wait for my new ID. (Respondent's Exhibit F). At the time, Uren and Kelly lied that they had ordered a replacement PIV card. After waiting approximately two months without a replacement, and by then, I strongly suspected that no replacement was ever ordered by Uren or Kelly.

I travelled three hours to the Birmingham

Disability Office, where I had formed a close professional relationship with the computer supervisor for the entire SS building in Birmingham. In my presence and in the presence of a Birmingham Disability Clerk, who I knew when I worked there, the supervisor called the SS Headquarters in Baltimore. **SHE WAS INFORMED THAT A REPLACEMENT CARD HAD NEVER BEEN ORDERED.** The computer supervisor ordered my card on September 25, 2019, the date I went to Birmingham (Respondent's Exhibit G). But this plot didn't end; the scheme continued.

After two weeks passed since discovering no replacement had been ordered, I instinctively knew that Uren and Kelly were holding on to my PIV card. I walked into Kelly's office and saw that she had my PIV card in her hand!!! Did she tender me the card? No, she refused because it was "BENT." I told her I was going to call the SS Commissioner regarding her actions. After several frantic secret calls between her and Uren, she surrendered my card.

Amazingly, my card was not "BENT." It was as straight as an arrow. But prior thereto, I had to

cancel my cases and beg ALJ's to provide me with access to the computer for hearings. ALJ Uren's destruction of my PIV card warrants her removal as an ALJ.

M) "Judge Levinson" in Macon's Version of Auschwitz.

Is there any question why I referred to Uren Nazi? In 2016, I discovered an unsigned, handwritten, and undated post-it-note attached to my invoices. This secret note was on my Clerk's desk. Since the note is directing a major altercation in a SS procedure, it's clear who's the author. This note instructed my Clerk to remove my name from all invoices and replace it with a number!

At least she didn't suggest that I be tattooed. However, when I read the note, a feeling of emptiness engulfed me.

N) Levinson is Absent Without Leave ("AWOL")!

By the Fall of 2016, SS was really getting desperate to find grounds to victimize me. So, they pulled out of their hat, that I was AWOL. since I participated in ROTC at college, I had some familiarity with this status. [However, I recall that my uniforms never fit!].

I was working in the Atlanta Hearing Office North for approximately 7.5 months. I was

working there between August 8-12, 2016. For three days of this week, August 9-11, I scheduled disability hearings. Surprisingly, my timesheet mysteriously disappeared. Gone!

Now, when there is a single incident of a Missing attendance document, one merely resubmits it. Oh no! Levinson receives no credit for the entire week. So, considering my painful history with Uren, I elected to treat this week as a vacation, even though I had hearings for the bulk of the week. But then I discovered my handwritten notes for this week's dates and times, which coincided exactly with my hearings and attendance.

Did Uren accept this information? Of course not! I then retained an attorney at significant, personal, financial, and emotional costs. Only then did Uren authorize my credit for the week.

O) My administrative leave/termination.

I was placed on Administrative Leave, Effective January 16, 2017. Uren had a field day with this action. I understand that Uren changed the codes for entrance to rooms and so forth. It took SS approximately five months to file a complaint for permanent termination. After this "Interim Period" from January 16, 2017, through June 28, 2017, I was first advised of the false reasons for such action.

SS had no legal grounds to suspend or terminate me in January 2017. So, what was the hurry? Interestingly, my Administrative Leave occurred around the same day, President Trump was sworn into office. During this Interim Period, SS tried their hardest to find grounds to substantiate said January suspension. (Respondent's Exhibit L).

The following exhibit contains 10 redacted letters from Regional Chief Judge Sherianne Laba, the Independent Reviewer for SS, who concluded that I performed zero harassing behavior. (Respondent's Exhibit O).

Judge Carol Moore testified that SS was "soliciting" And encouraging employees to file untrue complaints. (ALJ Carol Moore's Transcript of May 8, 2019; Page 323, Line 17 and following). Regional Chief Judge Laba found that there was no harassing behavior on my part. (Respondent's Exhibit M). It was her letter of exoneration.

P) Recap of ALJ Uren's and her Supervisor's treatment of Judge Levinson.

- (1) She signed numerous warnings and threats on letters she never composed, but only to disguise the names of the actual SS authors.
- (2) She intentionally deprived me of any clerical assistance on my disability hearing days.
- (3) She orchestrated the illegal destruction of my PIV card, making it impossible to perform my duties.
- (4) She illegally suspended me from official duty and salary when my timesheet was mysteriously missing, instead of merely allowing me to file a copy.

- (5) She illegally changed the codes and locks on the Macon ODAR entrance to fictionalize that I was going to burst into the office.
- (6) In substantial violation of federal law, Uren wrote and undated, unsigned handwritten note (which I found on my Clerk's desk) directing the Clerk to change my name to a *number*.
- (7) She illegally and intentionally failed to award me credit for the week I held three days of disability hearings.

THE MSPB AND USCAFC DECISIONS ARE SHAMEFUL

MSPB's decision fails to identify with any specificity, a single insufficient hearing or decision. The MSPB opinion peppered with overly extensive case citations and false findings is meritless. MSPB finding on page 6 of their Opinion, "...when he [me] failed to follow a directive when he continued to issue decisions which do not comply with ... directive to issue legally sufficient decisions". Did the MSPB cite or illustrate at least one legally insufficient decision? No, because there are none, not even a single decision for my entire tenure was faulty or incomplete. I refer to the testimony of the SS witness Sarah Robichaud (Sarah Robichaud's Transcript of December 12, 2018; Page 130, Line 15 and following) and (Sarah Robichaud's Transcript of December 12, 2018; Page 131, Line 11-17). The multiple reviewed decisions of Judge Levinson complied with federal law.

On July 30, 2024, the USCAFC affirmed the MSPB decision. For me, the USCAFC's decision represents a classic judicial shell game. Their "neglect of duty" is based on "identified deficiencies in multiple arrears of Levinson's decisions" as determined by the SS. (USCAFC DECISION, p2). Neither the USCAFC nor the MSPB could *honestly* cite a single decision of mine, out of thousands, which were "deficient in multiple areas." Not *ONE*.

On the penalty of my *failure to follow orders*, I rotated my selections and most important, the SS lacked any rotational system for selection of MEs. So, I filled the gap with my own rotational ME arrangements. Their fiction continues when USCAFC refers to ALJ's Sucharzewski's testimony regarding the major irreparable problems in "All 25 decisions." But there are no 25 flawed decisions. This attack, absent verbatim specifics, is so terribly misleading.

The USCAFC in its dramatic narrative writes on page 5 of Uren's distortion that I was "physically shaking." What a monumental lie! The last time I was "physically shaking," was when, as a teenager in the 50's I listened to "Shake, Rattle, and Roll" by Big Joe Turner.

There's more fiction: on page 5 of USCAFC's decision, Uren notes that I got "red faced." I am dark complexion and regardless of my emotions, high or low, I never get "red faced." These "shaking" and "red faced" insults are akin to Ryder's insulting remarks regarding my appearance and voice. Uren and Ryder

know that these observed slurs can neither be proven nor disproved. For a Federal Appellate Court to include these baseless slurs only underscores the emptiness of it's decision.

USCAFC's verbiage regarding my alleged unbecoming conduct as an ALJ, ranks along with other fictional Great Books of the Western World.

CONCLUSION

Why is the granting of my Petition so imperative? For one, the MSPB should not be allowed to issue opinions signed only by two members of the same major political party. My removal decision was rendered only after the Republican member left the MSPB. Given its expansive authority coupled with the role politics play in these decisions, bipartisan administrative adjudication should be mandated.

A federal employee may obtain administrative and judicial review of specified adverse: "findings of fact underlying the "MSPB" jurisdiction and decision are reviewed for substantial evidence". (*Bledsoe v Merit Sys. Protection Board*, 659 F. 3d 1097, 1101 (Fed. Cir. 2011)). (*Elgin v Dept. of Treasury*, 567 U. S. 19 (2012)).

I implore this Honorable Court to grant my Petition, not just for my benefit, but to prevent the proliferation of said ungovernable and unconstitutional pretext such as "office policy" to legalize governmental actions.

Respectfully submitted,

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By: Pro Se

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