

REHEARING PETITION

No. 25-7100

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANDREW DALE FARIS,

Petitioner,

v.

MERIT SYSTEMS PROTECTION BOARD,

Respondent.

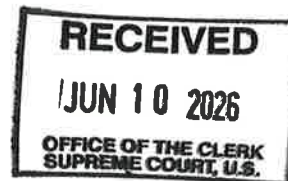
On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Federal Circuit

Andrew Dale Faris
4520 Bellingham Terrace, Apt. 173
Indianapolis, Indiana 46221
(317) 986-9457
Farisx1978@live.com

Petitioner, Pro Se

D. John Sauer Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W
Washington, D.C. 20530-0001
(202)-514-2203

Respondent Merit Systems Protection Board



PETITION FOR REHEARING

Pursuant to Rule 44.2 of the Rules of this Court, petitioner respectfully petitions for rehearing of this Court’s May 18, 2026 order denying the petition for a writ of certiorari.

This petition is restricted to a substantial ground not previously presented in the form now stated, as required by Rule 44.2. The issue arises from two undisputed documents reproduced in the appendix to the certiorari petition: Appendix F, containing the November 19, 2019 Last Chance Settlement Agreement, and Appendix H, containing the February 3, 2020 Letter of Decision removing petitioner from federal employment and expressly advising that petitioner possessed a right to appeal that removal to the Merit Systems Protection Board (“MSPB”).

Neither the MSPB, the United States Court of Appeals for the Federal Circuit, nor this Court addressed the legal effect of the agency’s subsequent written notice expressly advising petitioner that he possessed a right to appeal his removal to the MSPB after execution of the purported waiver.

TABLE OF CONTENTS

Question Presented for Rehearing 1

Grounds for Rehearing 1

I. The proceedings below never addressed the legal effect of the agency’s subsequent notice of MSPB appeal rights 1

II. The agency’s subsequent notice directly contradicts the premise underlying the jurisdictional dismissal 2

III. The unaddressed contradiction bears directly upon the MSPB’s jurisdictional determination
..... 3

IV. No tribunal addressed the legal effect of the agency’s subsequent notice
..... 4

V. This ground was not previously presented in the form now stated
..... 4

VI. Relief after Finality.....5

Conclusion6

Rule 44.2 Certificate 7

Certificate of Compliance 8

Proof of Service 9

TABLE OF AUTHORITIES

Cases

Johnson v. Zerbst, 304 U.S. 458 (1938)2

Rules

Sup. Ct. R. 33.1 9

Sup. Ct. R. 34 9

Sup. Ct. R. 44.2..... i 4 6

QUESTION PRESENTED FOR REHEARING

Whether a federal agency may obtain dismissal of an MSPB appeal based on a purported waiver executed before disclosure of MSPB appeal rights when the agency subsequently issues a removal decision expressly advising the employee that he possesses a right to appeal the removal to the MSPB and explaining how that right may be exercised.

GROUND FOR REHEARING

I. The proceedings below never addressed the legal effect of the agency's subsequent notice of MSPB appeal rights.

The dispositive facts are undisputed and appear in the record.

On November 19, 2019, petitioner signed a Last Chance Settlement Agreement, Appendix F page 19a-21a). Although the agreement contains waiver language concerning future appeals and grievances, it does not explain MSPB review rights, identify the MSPB as the statutory forum for review of a future removal action, or advise petitioner that he was relinquishing a future statutory right to appeal a removal to the MSPB.

More than two months later, on February 3, 2020, the United States Postal Service issued a Letter of Decision removing petitioner from federal employment. As reproduced in (Appendix H page 26a second paragraph) the Postal Service expressly advised petitioner: "As a preference eligible, you have the right to appeal this action to the Merit Systems Protection Board (MSPB)." The decision further informed petitioner of the deadline for exercising that right.

The Postal Service did not advise petitioner that any such appeal would be barred by the Last Chance Settlement Agreement. Petitioner thereafter exercised the appeal right identified in the removal decision.

The MSPB dismissed the appeal for lack of jurisdiction based on the waiver language contained in the Last Chance Settlement Agreement, and the Federal Circuit affirmed. Neither tribunal addressed the legal significance of the Postal Service's subsequent written notice expressly informing petitioner that MSPB appeal rights existed and could be exercised.

Although the petition for certiorari challenged the waiver as unknowing and involuntary, it did not present in the form now stated the narrower question whether an agency may rely upon a purported waiver of an undisclosed statutory appeal right while later expressly advising the employee that the same statutory right exists and may be exercised.

II. The agency's subsequent notice directly contradicts the premise underlying the jurisdictional dismissal.

This Court has long held that waiver is the "intentional relinquishment or abandonment of a known right or privilege." *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938).

The jurisdictional dismissal below rests on the premise that petitioner knowingly relinquished MSPB appeal rights through the November 19, 2019 agreement.

The agency's own subsequent conduct directly contradicts that premise. After execution of the agreement, the Postal Service expressly advised petitioner that he possessed a right to appeal his removal to the MSPB. The notice did not state that MSPB appeal rights had previously been waived. Nor did it advise petitioner that any appeal would be barred by the agreement. Instead, it

informed petitioner that he possessed an MSPB appeal right and explained how that right could be exercised.

The Postal Service's written notice therefore treated MSPB appeal rights as existing and available after execution of the purported waiver. The MSPB nevertheless dismissed petitioner's appeal on the theory that those same rights had already been extinguished. Neither the MSPB nor the Federal Circuit addressed the legal significance of this contradiction.

At a minimum, the agency's subsequent notice raises a substantial question whether a purported waiver executed before disclosure of MSPB appeal rights can extinguish those rights and whether an agency may later invoke such a waiver after expressly advising the employee that the rights remain available.

III. The unaddressed contradiction bears directly upon the MSPB's jurisdictional determination.

The MSPB's dismissal depended entirely upon the validity and scope of the asserted waiver.

If the waiver did not validly extinguish petitioner's MSPB appeal rights, the Board possessed jurisdiction to hear the appeal. The Postal Service's February 3, 2020 notice is therefore not a peripheral fact. It goes directly to the legal foundation of the jurisdictional dismissal.

Federal tribunals possess an independent obligation to assure themselves of jurisdiction before declining review. Yet neither tribunal analyzed whether an agency may simultaneously maintain that MSPB appeal rights were extinguished on November 19, 2019 while later issuing a formal removal decision expressly advising that those same rights existed and could be exercised.

Because the agency's own notice is inconsistent with the premise that MSPB appeal rights had already ceased to exist, the legal effect of that notice should have been resolved before jurisdiction was denied.

IV. No tribunal addressed the legal effect of the agency's subsequent notice.

The MSPB did not analyze the legal effect of the February 3, 2020 notice. The Federal Circuit did not analyze the legal effect of the February 3, 2020 notice.

The petition for certiorari challenged the waiver more broadly as unknowing and involuntary, but did not isolate, in the form now stated, the distinct question created by the agency's later written notice expressly advising petitioner that MSPB appeal rights existed and could be exercised.

As a result, no tribunal has addressed the legal effect of the Postal Service's subsequent notice despite its direct bearing on the validity of the jurisdictional dismissal.

V. This ground was not previously presented in the form now stated.

The petition for certiorari challenged the Last Chance Settlement Agreement as unknowing and involuntary and raised broader due-process concerns.

This rehearing petition presents a narrower and distinct issue arising from the interaction between the purported waiver and the Postal Service's subsequent written notice expressly advising petitioner that MSPB appeal rights existed and could be exercised.

The legal effect of that subsequent notice was not analyzed by the MSPB, was not addressed by the Federal Circuit, and was not presented to this Court as a separate Rule 44.2 ground in the form now stated. Because that issue directly affects the validity of the jurisdictional dismissal below, it constitutes a substantial ground within the meaning of Rule 44.2.

VI. Relief after Finality

Clothed in black with the power of the state and authorized to pass judgment on the most basic aspects of everyday life, a judge can deprive a citizen of liberty and property in complete disregard of the Constitution which states those rights and is the supreme law of the land.

It is as simple as this the postal service did not advise me of my MSPB rights or what the MSPB was when I signed a last chance agreement, then in the letter of decision the postal service told me what those rights were and that I had the right to appeal the decision when I filed with the MSPB the judge stated I had no right to appeal because I waived those rights, When I did file the APPEAL to the appeals court they ignored it.

To go overseas and fight and help foreigners build a democratic society that has protections of civil rights and due process, then to come home and not only have your due process rights violated, but because you did not know that those rights existed the government is able to just trample all over them, the word betrayal cannot even begin to express the stab in the back that is felt, All of the statements that we were protecting our way of life and our freedoms by deploying to Iraq multiple times were really only empty statements, Allowing this only makes it easier for the government next time and so on until one day the citizens wake up and ask where did our elected republic go.

Allow me the satisfaction of knowing that this was at least read by the court

CONCLUSION

For the foregoing reasons, petitioner respectfully requests that the Court grant rehearing, vacate its May 18, 2026 order denying certiorari, and grant the petition for a writ of certiorari.

In the alternative, petitioner respectfully requests that the Court grant rehearing, vacate the judgment of the United States Court of Appeals for the Federal Circuit, and remand for consideration of the legal effect of the Postal Service's February 3, 2020 notice expressly advising petitioner that he possessed MSPB appeal rights after execution of the purported waiver.

Just kick it back down to the MSPB so it will be a level playing field, by doing so it will not only promotes the general welfare the public gain of my continued service and paying taxes along with being a productive citizen outweigh the public loss, a disgruntled homeless veteran who hates the government and has nothing.

Respectfully submitted,

Andrew Dale Faris
4520 Bellingham Terrace, Apt. 173
Indianapolis, Indiana 46221
(317) 986-9457
Farisx1978@live.com
Petitioner, Pro Se

Date: June 1, 2026



RULE 44.2 CERTIFICATE

Pursuant to Rule 44.2 of the Rules of this Court, petitioner certifies that this Petition for Rehearing is restricted to a substantial ground not previously presented in the form now stated and is presented in good faith and not for delay.

Date: June 1, 2026

Andrew Dale Faris

A handwritten signature in black ink that reads "Andrew Dale Faris". The signature is written in a cursive, slightly slanted style.

CERTIFICATE OF COMPLIANCE

This petition complies with the formatting and length requirements applicable to a petition for rehearing under Rules 33.1, 34, and 44 of the Rules of this Court. Excluding the portions exempted by Rule 33.1(d), this petition contains fewer than 3,000 words if prepared in booklet format, or fewer than 15 pages if prepared on 8½- by 11-inch paper.

Date: June 1, 2026

Andrew Dale Faris

A handwritten signature in black ink that reads "Andrew Dale Faris". The signature is written in a cursive style with a large initial "A" and "F".