

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Diana Zuniga Kammunkun — PETITIONER
(Your Name)

vs.

Department of Defense — 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

Diana Zuniga Kammunkun
(Your Name)

91-1109 Kaihohonu Street
(Address)

Ewa Beach, Hawaii 96706
(City, State, Zip Code)

808.382.3591
(Phone Number)

QUESTION(S) PRESENTED

Whether the Fifth Amendment's guarantee of due process permits an agency official to materially revise investigative findings after the investigative process has concluded, direct adverse action based upon those revised findings, and then serve as final adjudicator of the employee's response to those revised findings.

Whether an appellate court may affirm rejection of a federal employee's due process claim by resolving a materially different legal question than the constitutional issue actually presented for review.

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

Petitioner:

Diana Zuniga Kammunkun

Respondent:

Department of Defense

RELATED CASES

Kammunkun v. Department of Defense

United States Court of Appeals for the Federal Circuit

No. 2024 - 1900

Judgement entered January 26, 2026

Petition for rehearing denied March 30, 2026

Underlying Merit Systems Protection Board proceedings:

SF-0752-17-0667-I-1

SF-0752-17-0667-M-1

SF-0752-17-0667-M-2

SF-1221-17-0675-W-1

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Entered January 26,2026

APPENDIX B - Order Denying Petition for Panel Rehearing
Entered March 30, 2026

APPENDIX C -
Final Decision of the Merit Systems Protection Board
Docket No. SF-0752-17-0667-M-2
Dated April 5, 2024

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
DeSarno v. Department of Commerce	5
Cleveland Board of Education v. Loudermill	5
Stone v. FDIC	5
Ward v. U.S. Postal Service	5
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STATUTES AND RULES

U.S. Const. amend. V	3, 4, 5
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OTHER N/A

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

X[] 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,

X[] is unpublished.

The opinion of the United States district 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.

[] 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

X[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 26, 2026.

[] No petition for rehearing was timely filed in my case.

X[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: March 30, 2026, and a copy of the order denying rehearing appears at Appendix B.

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

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

U.S. Const. amend. V: "No person shall...be deprived of life, liberty, or property, without due process of law."

28 U.S.C. Sec. 1254(1)

5 U.S.C. Sec. 7703

STATEMENT OF THE CASE

Petitioner Diana Z. Kammunkun was employed by the Department of Defense. Following an internal investigation, the agency proposed her removal from federal service. Petitioner responded to the proposal and was subsequently removed from employment.

Petitioner contends that the agency's deciding official played multiple roles in the underlying proceedings. According to the record, the deciding official initiated or framed allegations against Petitioner, directed an investigation into those allegations, reviewed the resulting Report of Investigation, materially revised certain investigative findings, and communicated those revised findings through agency channels for consideration of adverse action. A subordinate official thereafter proposed Petitioner's removal based upon findings that reflected those revisions. Petitioner contends that these revisions were substantive rather than merely editorial and elevated qualified investigative conclusions to substantiated findings. The deciding official subsequently served as the agency deciding official who adjudicated Petitioner's response and affirmed the removal.

Petitioner challenged the removal before the Merit Systems Protection Board, arguing, among other things, that these circumstances deprived her of a meaningful opportunity to respond and created an unconstitutional risk of bias in violation of the Due Process Clause of the Fifth Amendment. The Board rejected those claims and sustained the removal.

Petitioner sought review in the United States Court of Appeals for the Federal Circuit. The Federal Circuit affirmed, relying principally upon precedents recognizing the general permissibility of overlapping agency roles in administrative proceedings. Petitioner subsequently sought panel rehearing, arguing that the court's decision addressed a broader question concerning overlapping roles rather than the specific constitutional issue presented by her case. The Federal Circuit denied rehearing.

This petition seeks review of whether due process permits an agency official to materially revise investigative findings, direct adverse action based upon those revised findings, and thereafter serve as the final adjudicator of the employee's response to those revised findings, and whether an appellate court may affirm by resolving a materially different legal question than the constitutional issue presented for review.

REASONS FOR GRANTING THE PETITION

This petition presents an important recurring constitutional question affecting federal civil service disciplinary proceedings nationwide.

First, review is warranted because this case presents a substantial question concerning the constitutional requirement of an impartial decisionmaker under the Fifth Amendment. The deciding official initiated allegations against Petitioner, directed an investigation into those allegations, reviewed and materially revised investigative findings, directed consideration of adverse action based upon those revised findings, and later adjudicated Petitioner's response to the resulting charges. Whether due process permits this degree of combined investigative and adjudicative participation presents an important constitutional question that warrants this Court's review.

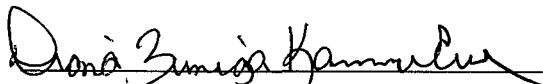
Second, review is warranted because clarification is needed regarding the constitutional limits on participation by agency deciding officials in federal adverse-action proceedings. Federal agencies routinely employ internal disciplinary processes in which deciding officials may possess varying degrees of prior involvement in the underlying investigation. Clear guidance is needed to ensure uniform application of due process protections for federal employees and to define when investigative participation creates an intolerable risk of unfairness.

Third, review is warranted because the decision below resolved a broader proposition concerning the general permissibility of overlapping agency roles rather than the narrower constitutional question presented here. Petitioner did not contend that any overlap of agency functions automatically violates due process. Instead, Petitioner challenged the specific circumstances under which the deciding official materially revised investigative findings and thereafter adjudicated the employee's response to those revised findings. Clarification is needed regarding the proper constitutional framework for evaluating such claims and to ensure that constitutional questions are resolved under the legal standards they actually present.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Diana Zuniga Kammunkun

Date: 9 June 2026