

26-212

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

LUIS J. SOTO
Petitioner

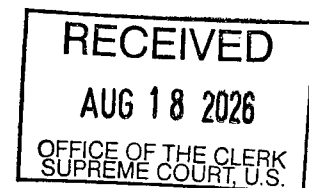
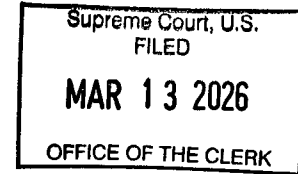
vs.

UNITED STATES POSTAL SERVICES
Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FEDERAL CIRCUIT (CAFC)

PETITION FOR WRIT OF CERTIORARI

LUIS J. SOTO
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(a). Questions presented

1. *Whether the Fifth Amendment's Due Process Clause requires a federal agency, when issuing a final removal decision against a preference-eligible veteran, to provide express notice of all legally available post-termination appeal mechanisms.*
2. *Whether a federal agency's failure to provide such notice prevents the statutory period for seeking post-termination review from commencing.*

(b)(i). List of Parties

The parts are as appear in the cover page:

PETITIONER is LUIS J. SOTO
(LUIS J. SOTO-SOTO, LUIS SOTO-SOTO and LUIS SOTO are this same part)
and.

RESPONDENT is UNITED STATES POSTAL SERVICE

(b)(iii). Prior proceedings on court and agencies

(1) **Adjudicative Proceedings before the USPS** – Determination adopted by the agency-designated officer, MMOO Herminio Rivera, contained in Appendix VII, pages 130-148.

(2) **Administrative Proceedings before the Administrative Judge on MSPB** – Determination adopted by the AJ in case *Soto v. United States Postal Service*, No. NY-0752-23-0059-I-1, 2023 WL 4051636 (M.S.P.B. June 13, 2023) contained in Appendix X, pages 162-212.

(3) **Determination of the MSPB Board**– Case *Soto v. United States Postal Service*, No. NY-0752-23-0059-I-1, 2024 WL 4457970 (M.S.P.B. Oct. 9, 2024) contained in Appendix XII, pages 246-255.

(4) **Determination of the Federal Circuit** –Case Soto v. USPS 2025-1275 (2025) contained in Appendix I, pages 36-42.

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(d). Opinions below

The final decision of the United States Court of Appeals for the Federal Circuit is unpublished and reproduced in the Appendix at 36 to 42.

MSPB BOARD determination appears at Appendix to the petition, pages 246 to 255, and is unpublished.

MSPB Administrative Judge determination appears at Appendix I to the petition, pages 162 to 212, and is unpublished.

USPS final determination appears at Appendix to the petition, pages 130 to 148, and is unpublished.

(e). Jurisdiction

The United States Court of Appeals for the Federal Circuit entered judgment on December 2, 2025. A timely petition for rehearing was presented on December 8, 2025 (*Appendix pages 43 to 61*) and thereafter denied on January 09, 2026 and a copy of the order denying rehearing appears at Appendix page 62.

The jurisdiction of this court is invoked under 28 U.S.C. § 1254(1). No further proceedings are pending, and no stay has been entered

(f). Constitutional and Statutory Provisions Involved

The Fifth Amendment to the United States Constitution provides, in relevant part, that: “*nor be deprived of life, liberty, or property, without due process of law*”

Relevant provisions of Title 39 of the United States Code governing the United States Postal Service are reproduced: General Policies and Personnel of USPS: 39 U.S. Code § 101 – 606, § 1011 - 1209

(g). Statement of the case

The United States Postal Service (hereinafter USPS) is a federal agency authorized by Congress to enter into contracts and labor agreements with its collectively organized unionized personnel. (39 U.S. Code § 1005(1)(a)) The USPS entered into a collective bargaining agreement (*hereinafter CBA*) in Puerto Rico with the American Postal Workers Union Puerto Rico, Local 1070, (*hereinafter Union*) for employees belonging to the appropriate unit to which Petitioner LUIS J. SOTO-SOTO (*hereinafter Petitioner*) belonged. That agreement was in effect from September 2021 to September 2024 and contained preference-eligible veteran clauses applicable to the Petitioner. (*Appendix pages 74-103*)

As of January 2022, the Petitioner was a regular USPS employee, recruited as a war veteran and assigned to the Canóvanas, Puerto Rico, post office as a senior sales and service associate. The Petitioner was also a Union Officer by virtue of his election by the membership of Local Union 1070. The Collective Bargaining Agreement (*CBA*) allows the representation of unionized employees through elected or appointed union officers, with prerogatives limited by the *CBA*.

On January 3, 2023, the Petitioner was served by his supervisor and his Postmaster, with a Notice of Proposed Removal (hereinafter NOPR) (*Appendix Pages 63-73*). The notice presented a first charge of Improper Conduct during a labor-management meeting and a second charge of Failure to Follow Instructions while performing certain duties for the Union. The notice granted him 10 days to respond to MPOO Herminio Rivera (*hereinafter designated employer official*) regarding the charges, and 14 days to exercise his right to file a grievance as provided by the CBA. The communication led to the adjudication process designated by the agency to handle the final determination on permanent separation from employment: adjudication by the assigned official.

On January 7, 2023, the Petitioner, through a Union representative, filed a grievance complaint as an informed remedy provided by the CBA. (*Appendix Page 104*) On January 12, 2023, the Petitioner also filed an appeal with the USPS¹ as a second remedy. (*Appendix Page 112*) In it, among other things, the Petitioner stated the need to delegate the matter to another official due to a serious conflict of interest involving the assigned officer to the case. (*Appendix Pages 104*)

¹ The Ninth Circuit's decision on page 3 misstated the facts, both in terms of dates and events. It omitted that Soto-Soto filed his appeal of the NOPR with the MMOO Rivera and not with the MSPB. This was clarified in a subsequent motion for reconsideration.

On February 10, 2023, the USPS issued the final termination determination and notified only the Petitioner; his Union was not notified. (Appendix Pages 129-148) The Final Termination Notice began by informing the Petitioner of the attention given to the two mechanisms provided and invoked by him. It stated:

"I am issuing this letter to inform you that I have decided to sustain the charge as outlined in the Notice of Proposed Removal ("Notice" or "NOPR"), issued to you on January 3, 2023. In that Notice, you were provided your right to respond to the Notice of Proposed Removal, either in person or in writing, or both, by responding and/or presenting evidence, including affidavits, within ten (10) calendar days of your receipt of that Notice. I note that, on January 10, 2023, at approximately 2:26 PM, your representative, American Postal Workers Union Representative Omar Ortiz, called me to discuss settlement of the Notice only. I note that on January 11, 2023, your representative, Mr. Ortiz, then sent me an email that stated I had refused to meet with him to discuss the Notice. On January 18, 2023, I responded to Mr. Ortiz's email and cc'd you, Mr. Luis Soto, on that email and gave you another opportunity to meet with me in person if you and/or your representative wanted to do so. However, I did not hear from either you or your representative in regard to scheduling an in-person meeting or an oral response to the Notice. I note that I did receive your written response to the Notice, dated January 12, 2023, and have considered it in making my decision.

After considering the evidence of record and the criteria for establishing a penalty for the charges, I have decided to sustain the charges and impose the proposed penalty of removal. This action will be effective February 17, 2023. The reasons for my decisions are outlined below." (Emphasis added)

The Petitioner was informed by a single document issued by the USPS concerning each of the two proceedings invoked as a preferred veteran. The

USPS issued a single document to inform the Petitioner of its determinations and to notify him of his final dismissal. The notification provided informed him of appeal actions only for an appeal to the Merit System Protection Board (*hereinafter MSPB*) and omitted to inform him of the appeal actions available for his complaint and grievance, which was also dismissed.

Neither he nor his union were informed that, given the decision to reject his grievance and consequently dismiss him, he had the right to appeal, either to request the continuation of the dismissed grievance at a new stage or to file a new grievance. In other words, the notification of his dismissal from the USPS merely informed him that his only appeal option was to go to the MSPB.

The actions taken by the USPS prompted an appeal to the MSPB as the only available recourse against the final determination of eviction and deprivation of property rights. The appeal was filed on April 17, 2023 (*Appendix Pages 149-154*) and included a motion requesting the Administrative Judge of the MPSB (*hereinafter AJ*) to dismiss the appeal due to the USPS's failure to perfect the final notification by omitting to inform the appellant of all available recourse mechanisms. (*Appendix Pages 155-160*)

The Petitioner claimed that the lack of proper notification deprived the administrative appellate body of jurisdiction, as found by the record. Subsequently, during the initial hearing of the administrative process before

the MSPB, through his legal representation, he again raised the issue of the agency's lack of jurisdiction. All of the Petitioner's requests were denied and an administrative proceeding was conducted for which the appellate body lacked jurisdiction, rendering it null and void.

Upon presentation of the appeals procedure, the USPS refused to allow labor arbitration to be conducted to adjudicate the disputes in the case. The USPS not only failed to report this appeals action in the notification, but also, through its actions, prevented the possible implementation of this appeals mechanism. Once the administrative judge issued her determination, the USPS agreed to submit the case to arbitration solely to determine the arbitrability of a complaint and grievance. The arbitrator who heard the case ruled that, given the existence of a final determination by the MPSB Administrative Judge in the case, he was barred from adjudicating the matter.

(Appendix Pages 212-224)

Under these same terms of lack of jurisdiction, he petitioned the MPSB Board for review of the administrative judge's decision. *(Appendix Pages 225-244)* The forum denied the review and upheld the Administrative Judge's decision. *(Appendix Pages 245 - 254)*

The Petitioner appealed the determination to the forum designated by USPS law, the Federal Circuit, *(Appendix Pages 255-285)*, which affirmed the MSPB. *(Appendix Pages 36 - 42)* In its determination, the Judicial Forum

affirmed that the AJ's interpretation of the CBA was correct, based on interpretations published by union officials on the internet. Furthermore, it held that the required proper notice was given to the agency before the termination and the final determination, and therefore the Petitioner was duly informed. It affirmed that the Petitioner's prior knowledge of the mechanisms available to him in a termination satisfied the constitutional requirement of proper notice.

The Petitioner interprets that the Federal Circuit's ruling deprived him of his protections as a veteran, affected his acquired rights without complying with the required due process of appeal, and created a conflict between circuits, and therefore requests review before this higher court.

(h) Reasoning for granting the Writ

I. THE DECISION BELOW CONFLICTS WITH DECISIONS OF THIS COURT AND OTHER COURTS OF APPEALS:

We are challenging the decision adopted by the Federal Circuit Court in which the court held that an employee's prior knowledge of the available appeals remedies before their final termination was adjudicated and the determination was notified is sufficient to fulfill the constitutional due process requirement. Essentially, the Federal Circuit Court held that although the USPS did not notify the employee of the available appeals mechanism regarding the denied labor complaint or arbitration, it was

sufficient that the employee or their union was already aware of it, thus meeting the constitutional judicial standard required for due process in administrative proceedings.

The Judgment specifically stated: “We do not perceive any error in the Board’s conclusions regarding proper notification, as the record reflects that the petitioner was aware of his rights under the CBA and did indeed file a union grievance. 2024 Decision, in *1–2.” (Emphasis added)

We request clarification from this Honorable Court regarding which interpretation should prevail when, as in the present case, the opinion issued by the Federal Circuit conflicts with that of other Circuits.

The First Circuit, in 1981, in the case of *Roslindale Cooperative Bank v. Greenwald*, 638 F.2d 258, established the principle that the administrative process must offer a real and effective opportunity for review, and that a notification that omits the appeals mechanism is insufficient. Subsequently, in 1987, it stated that due process requires that the notice allow the citizen to rationally evaluate whether and how to appeal. *Chongris v. Board of Appeals of Andover*, 811 F.2d 36.

That same year, it drew attention to the fact that, in the administrative context, deficient notification regarding post-decisional rights can invalidate state action. *Kercado-Meléndez v. Aponte-Roque*, 829 F.2d 255. In *Rivera-Rodríguez v. Frito Lay Snacks Caribbean*, 265 F.3d 15 (2001), it stated that a

notification that does not adequately communicate the review mechanisms does not satisfy due process, even if the affected party has general knowledge of the system, and therefore the citizen's "implied" knowledge does not substitute for the State's obligation. Finally, in *González-Droz v. González-Colón*, 660 F.3d 1 (2011), it established that the notification must be reasonably calculated to inform the affected party of their procedural rights, and therefore, a lack of clarity regarding how and when to appeal can constitute a violation of due process.

The Seventh Circuit held in 1999 in *Singh v. Reno*, 182 F.3d 504 (7th Cir. 1999), that a defective notice of appellate rights prevents the jurisdictional term from beginning to run.

The Ninth Circuit in *United States v. Pallares-Galan*, 359 F.3d 1088 (2004), established as a rule that a court must ensure that the affected party truly understands their right to appeal; therefore, a mere formal mention is insufficient. In 2015, in *Garcia v. Lynch*, 786 F.3d 789, it also adopted the rule that due process requires that the notice of appellate rights be clear, understandable, and effective. It clarified that a notice that did not adequately inform of the right to appeal or the steps to exercise it could invalidate any waiver by the party. The Tenth Circuit established as a rule that the government cannot rely on advance notice when the final determination does

not adequately inform the party of the right to review. *United States v. Lopez*, 184 F.3d 1139 (1999)

For its part, this Honorable Court has issued numerous judicial pronouncements on the issue at hand in the controversy under heading. In *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), it held that when notice does not adequately inform the party of the action or its consequences, it cannot produce final legal effects, including the commencement of appeal periods. In *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1 (1978), it established that due process requires express notice of the appeal procedures, not assumptions, because the agency alleged that the client “should have known” that he could challenge the decision. In *Peralta v. Heights Medical Center, Inc.*, 485 U.S. 80 (1988), it held that a determination issued without adequate notice is void for violating due process, regardless of the underlying merits.

In *City of West Covina v. Perkins*, 525 U.S. 234 (1999) established the key rule that the State must notify not only the decision but also the procedures available to challenge it. If the notification omits or obscures the review mechanisms, the appeal period cannot validly begin to run. In *Bowles v. Russell*, 551 U.S. 205 (2007), this Court reaffirmed that appeal periods are jurisdictional, based on the premise that the period begins with a valid notification, but that periods triggered by defective notifications are not valid.

In *Shinseki v. Sanders*, 556 U.S. 396 (2009), it recognized that notification errors affecting substantive procedural rights are not trivial.

By simultaneously addressing both appeal mechanisms before its adjudicative body regarding the intended dismissal, the agency only informed the employee of the available appeal for one of them. Given the previously summarized case law, conflicting interpretations have emerged within the Circuit. While other appellate courts require clear and precise notification of the appeal options, they also stipulate that the obligation to comply rests with the administrative agency, and consider the absence of an appeal option when more than one exists to be detrimental, the Federal Circuit interprets that the affected employee's prior knowledge of the options before the final dismissal determination is sufficient to fulfill the constitutional due process requirements.

II. THE QUESTION PRESENTED IS AN IMPORTANT AND RECURRING FEDERAL ISSUE AFFECTING VETERANS:

It is crucial to clarify that the procedural events that occurred on **January 7, 2023, when the Petitioner filed the Complaint**, and on **January 11, 2023, when he filed the appeal, took place before the USPS prior to the final determination**. Both proceedings were adjudicated by the USPS to address its intent to terminate the Petitioner. The USPS adjudicated both proceedings and notified the Petitioner, a preferred veteran, of its

determination. It was from this final determination and notification by the USPS that the Petitioner filed his appeal with the MPSB on February 14, 2023, as the only remedy reported by the agency.

At the time he filed the appeal with the MPSB, there was no pending complaint with the USPS because it had been denied in the agency's final determination. Regarding this action, it was required to file a new complaint or an affirmative action to request appellate review through arbitration of the previously filed and denied complaint.

The MSPB's Administrative Judge determined that: *"The appellant failed to prove, by preponderant evidence, that his due process rights were violated."* The USPS **only notified the veteran of one of the two available appeal actions**. There is no controversy about acts of regarding the actions taken, but rather regarding the constitutional consequences of this notification.

Under the CVA in effect at the time, a veteran entitled to preferential treatment who was discharged from the USPS generally had two separate appeal mechanisms: an appeal to the Merit System Protection Board and a grievance and/or arbitration procedure. While the veteran had to choose one path first, this right is meaningless unless they are informed of both options, including their deadlines, the consequences of the choice, and the implications of each choice. Failure to disclose an option impairs the choice itself. This

matter is especially important for veterans, who receive greater legal protection. Partial notification frustrates Congress's intent and undermines basic fairness.

When a veteran has a legal right to two distinct appeals procedures following a final termination decision by the USPS, a termination notice that reveals only one avenue of review violates the veteran's Fifth Amendment right to due process because it fails to provide constitutionally adequate notice of available remedies, rendering the termination procedurally defective. Contrary to what was stated in the Federal Circuit's decision, the lack of jurisdiction was never based on the assertion of the existence of a complaint, but rather on the absence of adequate notification regarding the final determination of the Petitioner's dismissal by the USPS.

A.

Under the Fifth Amendment's Due Process of Law, the termination of a veteran eligible for preferential treatment involves the deprivation of a **constitutionally protected property interest** in continued employment. Congress has expressly conditioned the dismissal of such employees on compliance with due process guarantees, including access to multiple avenues of post-termination review. Once the government confers such an interest and the agency acknowledges it, it cannot deprive the veteran "*without due process*

of law." This constitutional mandate applies in full force to adverse actions by the USPS

B.

The fundamental requirement of due process is reasonably timely notice to inform the affected individual of the rights available to challenge the deprivation. When Congress and agency regulations provide two distinct appeal mechanisms, notice of only one: distorts the legal consequences of the agency's action; deprives the employee of an informed decision; and functionally extinguishes the unmentioned appeal. (The subsequent labor arbitrator's denial of arbitrability is the best example of this.) Even more significant is the fact that a choice of remedies cannot be "*conscious and voluntary*" when the employee is misinformed about the existence of a second action and can be induced to select the only one filed

C.

In the controversy presented here, the partial notice is constitutionally flawed, not merely incomplete. The Federal Circuit's finding that the partial notice complies with due process is contrary to the rulings of this court and other circuits. A notice that omits substantial information about available procedures is clearly misleading. In this case, the USPS's failure to disclose both avenues of appeal distorts the legal framework enacted to protect veterans; undermines the fairness and legitimacy of the removal process; and

turns a constitutional safeguard into a procedural trap. Due process does not tolerate a system in which a veteran loses a legal right because the government failed to adequately disclose it. *"Where notice fails to adequately inform an affected party of the existence, scope, or manner of exercising appellate rights, due process is violated, and the appellate period does not begin to run."* (Mullane; West Covina; Jones)

D.

Congress has long recognized that veterans are entitled to enhanced procedural protections in federal employment. These protections would be meaningless if agencies could uphold their terminations by quietly withholding crucial appeals rights notice. The Constitution does not allow the government to benefit from its own failure to provide required notice, particularly when the affected group is one that Congress specifically sought to protect.

It is inconceivable that war veterans, who enjoy special employment protections granted by Congress, could lose their procedural rights due to technicalities or interpretive convoluted arguments. An adjudicating officer's failure to inform a veteran of all their rights to challenge the deprivation of protected rights is not justifiable under the theory that they should have been aware of them. For the veteran, there cannot be a different standard where the responsibility for providing an appellate notification shifts from the agency to the veteran themselves.

III. THE ISSUE EVADES REVIEW AND WARRANTS THIS COURT'S INTERVENTION

The facts of the case indicate that the agency, based on prior considerations, intended to terminate a permanent employee. To this end, it created an internal appeals process based on the decision of a designated official with adjudicative authority. After reviewing the appeals provided in the letter regarding the intended termination, the official determined the employee's final dismissal. The agency's evaluation determined that two appeals had been filed, but reported the existence of external appeals regarding only one of them.

The Federal Circuit, accepting the AJ's account of the facts, stated that:

“The AJ rejected petitioner’s contentions that he had not been advised of his right to file a grievance under the CBA, finding that such advice was given to him in the January 2023 Notice of Proposed Removal and the Union had in fact filed a grievance on his behalf. Id. at 29, 34–36. The AJ also discussed the CBA, both giving an online source for the CBA itself and quoting the Union’s manual interpreting the CBA. Id. at 36... While his union grievance was pending, petitioner also filed an appeal to the Merit Systems Protection Board (Board).” (Emphasis added)

In doing so, it changed the actual chronology of the procedural events, losing sight of the argument presented by the Petitioner. This Honorable Court should note that, according to the information contained in the NOPR, the Petitioner had only 14 days to exercise the options presented to him. These were to file a Complaint and Grievance through the Union and to file a direct appeal to the USPS, before the responsible official responsible for issuing the determination on the NOIR for both appeal options before the agency.

Referring to the petitioner's actions, the Federal Circuit interpreted and determined the facts as follows: "*He filed a formal complaint on January 7, 2023, and appealed to the Board on February 14, 2023. 2023 Decision, p. 1; ECF No. 2, p. 262 (petitioner's initial uncorrected brief).*"

The essence of the error in the INITIAL DECISION of, which was accepted and adopted by the Federal Circuit, is found in the section on "Failure to notify the appellant of his right to file a grievance." (Appendix Page 201)

There, it was stated:

*"I have carefully considered the evidence on the due process issue. As to his first claim (that the notice of decision failed to advise him of his right to file a grievance in regards thereto), **the NOPR specifically provided him with his right to file a grievance.** See IAF, Tab 8 at 37. During cross-examination, **the appellant was asked to read his right to file a grievance into the record and did so.** HR2. Moreover, the APWU did file a grievance pertaining to the appellant's removal, to which appellant testified during his cross-examination. Consequently, there is no dispute that the appellant pursued his grievance-arbitration rights up until the date of his Board hearing in this appeal as he had to elect which forum he wanted to proceed to hearing in. As noted by the agency, this procedure is governed by the CBA between the agency and the APWU." (Emphasis added)*

The MSPB Administrative Judge, the MSPB Board, and the Federal Circuit Court understand that notifying the right to appeal mechanisms in communications prior to the final determination remedied errors in subsequent procedures. The NOPR informed the Petitioner of the availability of two appeal actions that were used before the USPS. Both adjudicative actions were adjudicated and informed by the same USPS official. If those

same appeal actions remained available after the final decision, they should have been disclosed by the USPS. The notification that failed to comply with due process was the one issued by the USPS regarding its FINAL TERMINATION DETERMINATION after denying the Petitioner's actions.

It is a universal principle, that in administrative and judicial proceedings, among others, the appeal rights arise with the final determination. Until that occurs, any other matter is interlocutory. The interpretation of these facts that places the emergence of these appeal rights upon the final determination in the NOPR is patently erroneous, as it creates uncertainty regarding the point in time for the right to review final determinations. This interpretation does not provide a specific timeframe for the existence of a final action by the agency. Note that the NOPR has no effect on loss of property rights; the damage arises or occurs after the NOPR is awarded with final dismissal.

The USPS official's determination and notification effectively terminated the administrative proceedings before the agency. Following this final decision, the matter would be handled by external review bodies. What the official omitted was information regarding one of the two review actions available to the preferred veteran employee, which were forums outside the agency.

In our view, the action raised a constitutional issue because the Fifth Amendment's due process requires notification of all significant appeal rights. Under due process principles, when the government deprives an individual of a protected property right (such as continued federal employment for a preferred veteran), it must provide notice and a meaningful opportunity to be heard. Adequate notice is not satisfied by a mere partial disclosure of only one appeal option. If two legally available and invoked avenues of appeal exist, notification of only one distorts the legal landscape and impairs the employee's ability to make an informed decision.

The courts have consistently held that notice must be "*reasonably measured*" to inform the individual of their rights, not just some of them.

This disclosure is critical because when an agency fails to provide full and due process notice, the appeal deadlines never begin to run, and a subsequent adverse decision could be jurisdictionally flawed. Federal courts and the MSPB have repeatedly recognized that defective notice excuses untimely filings and may require the reinstatement of the right to appeal.

The actions of the USPS did not constitute a case of "*harmless error*." The real harm occurred when the employee was deprived of knowledge of a legal right and the ability to choose the forum that best protected their interests. Since the Petitioner asserted that the MSPB was not the forum designated by federal law with the best expertise to handle labor issues

between the union and the employer, it was not the best-placed forum to evaluate and determine the conduct of officers serving on behalf of their unions.

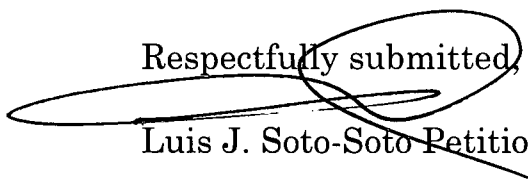
Given the defective performance of the USPS, the Petitioner promptly requested attention to the constitutional defect in the notice provided. Instead of addressing the Petitioner's timely request to dismiss the appeal and remand the matter to the USPS for new and proper notice, the MSPB chose to proceed with the proceedings. The MPSB was responsible for returning the case with instructions to provide adequate notice that would allow the Petitioner choice. Upon its return, the USPS was required to issue a new, constitutionally adequate notice; inform the employee of all available appeal mechanisms; and allow for a conscious and voluntary choice of remedies. and allow the petitioner to select the final forum. Any other measure would benefit the agency's unconstitutional conduct and erode the protections guaranteed by the Fifth Amendment.

CONCLUSION

This case presents a clear and recurring constitutional issue regarding interference with the employment protections of preference-eligible veterans. It presents violations of federal administrative due process in the handling of an agency's final determinations. It presents a lack of integrity in the notification requirements for the appeal mechanisms provided by federal law.

The Fifth Amendment's due process clauses are violated when the USPS terminates a preference-eligible veteran but, in notifying the employee of the final decision, informs the employee of only one of the available appeal mechanisms, while omitting the second avenue of review guaranteed by collective bargaining, thus depriving the veteran of meaningful notice and the ability to make a conscious and informed choice of remedies. The decision adopted by the Federal Circuit contradicted the opinions of other appellate courts of the Circuit. Since no other remedy exists, the petition for a writ of certiorari should be granted

Respectfully submitted,


Luis J. Soto-Soto Petitioner

Rio Grande, Puerto Rico