ORIGINAL

26-24

No. 25A1199

FILED
JUN 27 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

Tatyana Evgenievna Drevaleva

Petitioner,

vs.

1) Mr. Doug A. Collins in his Official Capacity as an Secretary of the U.S. Department of Veterans Affairs
2) The United States of America
3) The U.S. Department of Veterans Affairs

Respondents.

On Petition for Writ of Certiorari to the U.S. Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

s/ Tatyana Drevaleva, Petitioner Pro Se
644 San Antonio Rd., Apt. 104, Palo Alto, CA, 94306
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RECEIVED
JUN 30 2026
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SUPREME COURT, U.S.

QUESTIONS PRESENTED

1. How can a Plaintiff serve the Federal Agency that is the United States Department of Veterans Affairs with a Summons and with process in accordance with 28 U.S. Code § 1391(e)(2) and in accordance with the F.R.C.P. Rule 4(i)(2)? The plain language of the F.R.C.P. Rule 4(i)(2) says that, in addition to serving the United States, the Plaintiff must send a copy of each to the "Agency" by the registered or certified U.S. mail. However, when I asked Meta AI about how to serve Defendant the U.S. Department of Veterans Affairs with process, I got the answer that, in addition to serving the United States, I must send the process to the Office of General Counsel of the U.S. Department of Veterans Affairs by the registered or certified U.S. mail to the following address:

   The U.S. Department of Veterans Affairs
   Office of General Counsel
   810 Vermont Avenue, NW
   Washington, D.C. 20420.

2. In the employment discrimination lawsuits that involve the activities of the U.S. Department of Veterans Affairs and its Secretary who is being sued in his official capacity and who is a proper Defendant in the Title VII Cause of Action, in the ADEA Cause of Action, and in Section 501 of the Rehabilitation Act of 1973 Cause of Action, should the Courts follow the procedures that are described in 38 CFR § 14.514(a) such as:

a) "a copy of the petition will be forwarded to the General Counsel
b) who will take necessary action to obtain the pertinent facts,
c) cooperate with or receive the cooperation of the Department of Justice and,
d) where indicated, advise the Regional Counsel of any further action required"?

3. Do Assistant U.S. Attorneys have a statutory right to appear on behalf of Defendants the U.S. Department of Veterans Affairs and its Secretary who is being sued in his official capacity and who is a proper Defendant in the Title VII Cause of Action, in the ADEA Cause of Action, and in Section 501 of the Rehabilitation Act of 1973 Cause of Action?

   Pursuant to 38 CFR § 14.514(b) and pursuant to 38 CFR § 14.500(a) and (e), only the following Attorneys have a statutory right to appear on behalf of Defendants the U.S. Department of Veterans Affairs and its Secretary who is being sued in his official capacity and who is a proper Defendant in the Title VII Cause of Action, in the ADEA Cause of Action, and in Section 501 of the Rehabilitation Act of 1973 Cause of Action:

   a) General Counsel of the U.S. Department of Veterans Affairs
   b) The United States Attorney on the condition that Secretary of the U.S. Department of Veterans Affairs desired to be represented by the U.S. Attorney.

4. Do the Courts have a right to apply the doctrine of the Res Judicata or Claim Preclusion to my lawsuit No. 4:22-cv-00887-HSG and to my Appeals No. 22-16733 and 25-7512 if the underlying Judgment in the lawsuit No. 3:18-cv-03748-WHA was based on a fabricated Declaration of my former Supervisor Ms. Carla Dunkelberger under penalty of perjury that the former Assistant U.S. Attorney Ms. Kimberly Robinson fabricated herself and where Ms. Robinson intentionally, criminally, maliciously, and unlawfully lied about the material facts of the case? In the U.S. Department of Veterans Affairs, there is no such document as a "Declaration." The proper document is an "Affidavit" under penalty of perjury, *see* 38 U.S. Code § 5712. Additionally, the former Assistant U.S. Attorney Ms. Robinson didn't have a statutory right to appear on behalf of Defendants the U.S. Department of Veterans Affairs and its Secretary who was being sued in his official capacity, *see* 38 CFR § 14.514(b) and 38 CFR § 14.500(a) and (e.)

5. Whether a decision of the U.S. Supreme Court in *Phillips Petro. Co. v. Shutts*, 472 U.S. 797, 805 (1985) remains good law insofar as it holds that the doctrine of Res Judicata or Claim Preclusion doesn't apply if the underlying Judgment is void. The underlying Judgment is case No. 1:21-cv-00761-WJ-JFR is void for lack of service of process by the U.S. Marshals Service in accordance with 28 U.S. Code § 1391(e)(2) and in accordance with the F.R.C.P. Rule 4(i.) Also, the

underlying Judgment is case No. 1:21-cv-00761-WJ-JFR is void for multiple violations of the Due Process of the Law.

6. Whether a decision of the U.S. Supreme Court in *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955) remains good law insofar as it holds that, if the District Court dismissed the underlying lawsuit with prejudice without evaluating the material facts of the case and the legal arguments that were applicable to those material facts of the case, and if a Plaintiff filed a subsequent lawsuit, the doctrine of the Res Judicata doesn't apply, and the Plaintiff is entitled to proceed with all claims in the subsequent lawsuit.

7. Whether a decision of the U.S. Supreme Court in *Hohorst v. Hamburg-American Packet Co.*, 148 U.S. 262 (1893) remains good law insofar as it holds that a Court must decide all controversies between all Parties.

8. Whether a definition of a "final" judgment that the U.S. Supreme Court described for the purpose for an Appeal in *Parr v. United States*, 351 U.S. 513 (1956) is the same for the purpose of the Res Judicata or Claim Preclusion doctrine. Deciding in *Parr v. United States*, 351 U.S. 513 (1956), the U.S. Supreme Court held that a Judgment is "final" only when the District Court fully evaluates both the material facts of the case and the legal arguments, so there is nothing to add.

9. Should the 9th Circuit dismiss my Appeal No. 22-16733 on the Res Judicata ground and hold that my Appeal No. 25-7512 doesn't have merit if Defendant Secretary of the U.S. Department of Veterans Affairs who was being sued in his official capacity and who is a proper Defendant in a Title VII Cause of Action has a mandatory obligation (the word "shall") to reinstate me back to work at the VAMC after I returned from a pregnancy leave pursuant to 38 CFR § 23.530(d) and 29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978), Questions 7 and 9?

PARTIES TO THE PROCEEDINGS

Petitioner Pro Se Tatyana Evgenievna Drevaleva.

Respondent Mr. Doug A. Collins who is being sued in his official capacity as a Secretary of the U.S. Department of Veterans Affairs.

Respondent the United States of America.

Respondent the United States Department of Veterans Affairs.

A CORPORATE DISCLOSURE STATEMENT, RULES OF THE U.S. SUPREME COURT, RULE 29.6

Petitioner Ms. Tatyana Evgenievna Drevaleva is a Pro Se litigant, and I am not filing this Petition by or on behalf of any nongovernmental corporation. There is no parent or publicly held company owning 10% or more of the corporation's stock.

RELATED PROCEEDINGS

A. Cases in the U.S. District Court for the Northern District of California

<u>**Case No. 1**</u>.

Drevaleva v. *The U.S. Department of Veterans Affairs, et al.*, from No. cv-03748-SVK through No. 4:18-cv-03748-HSG, the U.S. District Court for the Northern District of California, Judgment is entered July 11, 2019 (the underlying case before transfer to the U.S. District Court for the District of New Mexico where the case got a number 1:21-cv-00761-WJ-JFR.)

Appeals in the U.S. Court of Appeals for the 9th Circuit:

a) No. 18-17241 (appointment of a Counsel in a Title VII case) - the appeal is frivolous (Decision April 18, 2019, Order denying my Motion for Reconsideration En Banc July 12, 2019, Mandate July 22, 2019)

b) No. 18-17307 – dismissed for lack of jurisdiction because there was no final Judgment (Decision January 24, 2019, Order denying my Motion for Reconsideration May 23, 2019, Mandate May 31, 2019.)

   The U.S. Supreme Court case No. 18-8764 – denied on June 03, 2019, Petition for Rehearing denied on August 23, 2019.

c) No. 18-17343 (a Preliminary Injunction Appeal) – affirmed denying my Motion for Preliminary Injunction (Decision February 28, 2019, Mandate April 22, 2019, Order denying my Motion to Recall the Mandate August 29, 2019.)

The U.S. Supreme Court case No. 18-9249 – denied on October 07, 2019

d) No. 19-16395 (on the merits) – partially affirmed, partially reversed and remanded (Decision November 18, 2020, Mandate March 11, 2021.) My First Motion to Recall the Mandate is pending since September 08, 2022 (Dkt. No. 119), and the U.S. Court of Appeals for the 9th Circuit took no action on that Motion

e) No. 20-17126 – dismissed as moot because on November 18, 2020 the 9th Circuit ruled in Appeal No. 19-16395 reversing the Judgment of the District Court and remanding for further proceeding (Decision March 03, 2021, Mandate April 26, 2021)

f) No. 21-15611 (a Preliminary Injunction Appeal) - the questions raised in this appeal are so insubstantial as not to require further argument (Decision August 19, 2021, Order denying my Motion for Reconsideration November 02, 2021, Mandate November 10, 2021)

g) No. 22-16735 – dismissed for lack of jurisdiction because the case No. 4:18-cv-03748-HSG had been transferred to the U.S. District Court for the District of New Mexico.(Decision January 25, 2023, Order denying my Motion for Reconsideration July 27, 2023, Mandate August 04, 2023)

Petitions for Writ of Mandate in the U.S. Court of Appeals for the 9th Circuit:

a) No 19-70073 – dismissed (Decision January 24, 2019)

The U.S. Supreme Court case No. 18-8315 – denied on April 15, 2019, Petition for Rehearing denied on May 20, 2019

b) No. 19-72796 – dismissed (Decision November 21, 2019)
c) No. 20-72581 – dismissed (Decision September 21, 2020)
d) No. 21-71004 – dismissed (Decision June 08, 2021)

Petition for Writ of Mandate in the U.S. Supreme Court No. 18-8919 – denied on June 17, 2019.

Case No. 2.

Drevalevá v. United States of America, et al., No. 4:19-cv-01454-HSG, the U.S. District Court for the Northern District of California – dismissed for lack of jurisdiction, Judgment was entered on September 20, 2019.

Appeals in the U.S. Court of Appeals for the 9th Circuit:

a) No. 19-17286 – affirmed (Decision November 18, 2020, Order denying my Petition for Panel Rehearing and for Rehearing En Banc March 03, 2021, Mandate March 11, 2021)
b) No. 21-15656 – the appeal is frivolous (Decision August 16, 2021, Mandate October 08, 2021)
c) No. 23-4429 – summarily affirmed (Decision April 26, 2024, Order denying my Motion for Reconsideration August 14, 2024, Mandate August 22, 2024.)

Case No. 3.

Drevaleva v. The U.S. Department of Veterans Affairs, et al., No. 4:19-cv-02665-HSG – dismissed, Judgment was entered on November 07, 2019,

Appeals in the U.S. Court of Appeals for the 9th Circuit:

a) No. 20-15109 – the appeal is frivolous (Decision November 16, 2020, Order denying my Motion for Clarification and Reconsideration March 03, 2021, Mandate March 11, 2021)
b) No. 21-16568 – the appeal is frivolous (Decision August 16, 2021, Mandate October 08, 2021)
c) No. 23-4392 – summarily affirmed (Decision April 19, 2024, Order denying my Motion to Stay and Appellate Proceeding and denying my Motion for Reconsideration August 14, 2024, Mandate August 22, 2024.)

<u>Case No. 4</u>.

Drevaleva v. Wilkie, No. 4:19-cv-05927-HSG, the U.S. District Court for the Northern District of California – dismissed on the Res Judicata ground, Judgment was entered on December 19, 2019.

Appeals in the U.S. Court of Appeals for the 9th Circuit:

a) No. 20-15374 – the appeal is frivolous (Decision November 16, 2020, Order denying my Motion for Clarification and Reconsideration March 03, 2021, Mandate March 11, 2021)
b) No. 21-15692 – the appeal if frivolous (Decision August 13, 2021, Mandate October 05, 2021.)

<u>Case No. 5.</u>

Drevaleva v. Wilkie, No. 4:19-cv-06127-HSG, the U.S. District Court for the Northern District of

California – the case was duplicate, opened in error, the Order to close case was entered on February 23, 2021.

Case No. 6.

Drevaleva v. United States of America, et al, No. 4:20-cv-00820-HSG – Order denying leave to proceed in forma pauperis and dismissing complaint as frivolous was entered on March 04, 2020.

Appeals in the U.S. Court of Appeals for the 9th Circuit:

a) No. 20-15596 – the appeal is frivolous (Decision November 16, 2020, Order denying my Motion for Reconsideration March 03, 2021, Mandate March 11, 2021)
b) No. 21-15694 – the appeal is frivolous (Decision August 13, 2021, Mandate October 05, 2021.)

Appeal in the U.S. Court of Appeals for the Federal Circuit No. 21-1213 – dismissed for lack of jurisdiction (Decision March 04, 2021, Order denying my Motion for Reconsideration April 20, 2021, Mandate April 26, 2021, Clerk's close case letter to Tatyana Drevaleva April 26, 2021.)

Case No. 7.

Drevaleva v. Glazer et al., No. 4:21-cv-00500-HSG, the U.S. District Court for the Northern District of California – dismissed on the Res Judicata ground, Judgment was entered on April 11, 2022.

Appeal in the U.S. Court of Appeals for the 9th Circuit No. 22-15731 – affirmed (Decision March 21, 2023, Order denying my Petition for Panel Rehearing and for Rehearing En Banc June 27, 2023, Mandate July 05, 2023.)

Case No. 8.

Drevaleva v. Hayo et al., No. 4:21-cv-00684-HSG, the U.S. District Court for the Northern District of California – dismissed on the Res Judicata ground, Order dismissing Plaintiff's claims was entered on October 26, 2022.

Appeal in the U.S. Court of Appeals for the 9th Circuit No. 23-4427 – summarily affirmed (Decision May 22, 2024, Order denying my Motion for Reconsideration October 17, 2024.)

Case No. 9.

Drevaleva v. Alsup et al., No. 3:21-cv-05348-CRB, the U.S. District Court for the Northern District of California – dismissed on the ground of the judicial immunity, Judgment was entered on August 24, 2021.

Appeal in the U.S. Court of Appeals for the 9th Circuit No. 21-17079 – the appeal is frivolous (Decision June 14, 2022, Mandate July 05, 2022.)

Case No. 10.

Drevaleva v. McDonough et al., the U.S. District Court for the Northern District of California – dismissed on the Res Judicata ground, Judgment was entered on February 17, 2023.

Appeal in the U.S. Court of Appeals for the 9th Circuit No. 23-15308 – affirmed (Decision March 29, 2024, Order denying my Petition for panel Rehearing and for Rehearing En Banc July 10, 2024, Mandate July 18, 2024.)

Case No. 11.

Drevaleva v. McDonough, No. 3 24-cv-02113-EMC, the U.S. District Court for the Northern District of California – sealed case, no Order was entered.

Case No. 12.
Drevaleva v. McDonough, No. 5:24-mc-80089-BLF, the U.S. District Court for the Northern District of California – Order denying permission to file Complaint was entered on April 16, 2024. Order denying Plaintiff's First Motion to Vacate the Judgment was entered on February 19, 2025.

B. Case in the U.S. Court of Appeals for the 9th Circuit

In re: TATYANA EVGENIEVNA DREVALEVA, Respondent, No. 24-784, a Pre-Filing Review Order that declared me a vexatious litigant in the U.S. Court of Appeals for the 9th Circuit was entered on April 26, 2024.

C. Cases in the U.S. District Court for the District of New Mexico (DNM)

Case No. 1.
Drevaleva v. The U.S. Department of Veterans Affairs et al., No. 1:21-cv-00761-WJ-JFR, the U.S. District Court for the DNM (after transfer of my case No. 4:18-cv-03748-HSG from the U.S. District Court for the Northern District of California) – the underlying case that was dismissed as a sanction for my non-existing misconduct. On September 14, 2021, the former Chief District Judge of the U.S. District Court for the DNM Mr. William Paul Johnson

disallowed me to file electronically in my case No. 1:21-cv-00761-WJ-JFR. Judgment was entered on November 02, 2021. First Order denying my post-Judgment Motions was entered on November 19, 2021. Second Order denying my post-Judgment Motions was entered on December 02, 2021, and that Order imposed filing restrictions on me prohibiting the Clerk to accept any paper filings from me except those that were necessary to perfect my Appeal No. 21-2139 in the U.S. Court of Appeals for the 10th Circuit.

On September 06, 2023, the former Chief District Judge of the U.S. District Court for the DNM Mr. William Paul Johnson closed case No. 1:23-cv-00635-LF that was filed against him and transferred case No. 1:23-cv-00635-LF into case No. 1:21-cv-00761-WJ-JFR that he was judging. On August 29, 2023, Judge Johnson entered an Order striking my case No. 1:23-cv-00635-LF, and Judge Johnson ordered me to show cause and to explain why I should not be sanctioned for filing case No. 1:23-cv-00635-LF. On September 06, 2023, Judge Johnson issued a NOTICE REGARDING ADDITIONAL VIOLATIONS AND POSSIBLE SANCTIONS. On September 19, 2023, the Clerk of the U.S. District Court for the DNM filed my Response to Judge Johnson's August 29, 2023 Order to Show Cause. Afterwards, since September 19, 2023, Judge Johnson hasn't issued any Order in case No. 1:21-cv-00761-WJ-JFR.

Appeal in the U.S. Court of Appeals for the 10th Circuit No. 21-2139 – affirmed (Decision July 11, 2022, Order denying my Petition for Panel Rehearing and for Rehearing En Banc August 15, 2022, Mandate September 02, 2022.) The 10th Circuit revoked my Electronic Case Filing privilege and later imposed filing restrictions on me and prohibited the Clerk to accept any paper filings from ne,

The U.S. Supreme Court case No. 22-1086 – Certiorari denied on June 20, 2023, Petition for Rehearing denied on August 21, 2023.

Petitions for Extraordinary Writs in the U.S. Court of Appeals for the 10th Circuit:

a) No. 21-2148 – denied (Decision January 13, 2022, Order denying my Petition for Rehearing February 07, 2022)
b) No. 21-2149 – denied (Decision January 13, 2022)
c) No. 21-2150 – denied (Decision January 13, 2022, Order denying my Petition for Rehearing February 07, 2022.)

The 10th Circuit prohibited me to file any Petitions for Extraordinary Writs unless I am represented by a lawyer who is licensed to practice law in the U.S. Court of Appeals for the 10th Circuit.

Case No. 2.

Drevaleva v. Johnson, et al., the U.S. District Court for the DNM – Order to Show Cause was entered on August 18, 2023. Afterwards Defendant the former Chief District Judge of the U.S. District Court for the DNM transferred case No. 1:23-cv-00635-LF into case No. 1:21-cv-00761-WJ-JFR that he was judging. On August 29, 2023, Judge Johnson entered an Order striking my case No. 1:23-cv-00635-LF, and Judge Johnson ordered me to show cause and to explain why I should not be sanctioned for filing case No. 1:23-cv-00635-LF. On September 06, 2023, Judge Johnson issued a NOTICE REGARDING ADDITIONAL VIOLATIONS AND POSSIBLE SANCTIONS. On September 19, 2023, the Clerk of the U.S. District Court for the DNM filed my Response to Judge Johnson's August 29, 2023 Order to Show Cause. Afterwards, since September 19, 2023, Judge Johnson hasn't issued any Order in case No. 1:21-cv-00761-WJ-JFR.

Case No. 3.

(no number and no name) In April 2024, Clerk of the U.S. District Court for the DNM denied leave to file my First Petition for a Judicial Review of the February 01, 2024 Final Decision of the Merit Systems Protection Board (the M.S.P.B.) in case No. DE-0752-19-0097-I-1. Because the Clerk didn't docket this Petition, I was unable to file a Notice of Appeal in the U.S. Court of Appeals for the 10th Circuit.

D. Complaint for a Judicial Misconduct against the former Chief District Judge of the U.S. District Court for the DNM Mr. William Paul Johnson in the U.S. Court of Appeals for the 10th Circuit

No. 10-21-90028 – dismissed on December 02, 2024.

Petition for Rehearing was denied (I couldn't find the date of the denial.)

E. Cases in the U.S. District Court for the District of Columbia

<u>Case No. 1.</u>

Drevaleva v. McDonough, et al., No. 1:22-cv-03453-DLF, the U.S. District Court for the District of Columbia – Order dismissing Complaint on the Res Judicata ground was entered on November 18, 2022. Minute Order denying leave to file my Application for a Preliminary Injunction was entered on September 13, 2023.

Appeal in the U.S. Court of Appeals for the D.C. Circuit No. 23-5274 – dismissed for lack of jurisdiction and summarily affirmed because the Notice of Appeal was untimely to the November 18, 2022 Order (Decision April 08, 2024, Order denying my Petition for Panel Rehearing May 23, 2024, Order denying my Petition for Rehearing En Banc May 23, 2024, Mandate May 31, 2024.)

<u>Case No. 2.</u>

Drevaleva v. The United States of America, et al., No. 1:24-cv-01023-DLF, the U.S. District Court for the District of Columbia – dismissed on the Res Judicata ground and on the ground that the M.S.P.B. didn't have jurisdiction over my case No. DE-0752-19-0097-I-1, Order dismissing my Petition was entered on February 10, 2025.

Appeal in the U.S. Court of Appeals for the D.C. Circuit No. 25-5056 – affirmed (Decision October 01, 2025, Order denying my Petition for Panel Rehearing December 05, 2025, Order denying my Petition for Rehearing En Banc December 05, 2025, Mandate December 15, 2025.)

The U.S. Supreme Court case – No. 25-1328, currently pending, was filed on March 05, 2026, was docketed on May 29, 2026.

F. Case in the U.S. Court of Federal Claims

Drevaleva v. The United States, No. 1:20-cv-00153-TCW – the Order dismissing my Complaint for failure to pay a filing fee was entered on February 24, 2020.

Appeal in the U.S. Court of Appeals for the Federal Circuit No. 20-1671 – summarily affirmed (Decision May 20, 2020, Order denying my Petition for Panel Rehearing and for Rehearing En Banc July 07, 2020, Mandate July 28, 2020, Order denying my Motion to Recall the Mandate December 01, 2020, Clerk's close case letter to Tatyana Drevaleva April 07, 2021, my Motion to recall the Mandate has been pending since May 20, 2021.)

The U.S. Supreme Court case No. 20-5581 – on October 13, 2020, the U.S. Supreme Court denied my Petition with the following reasoning, "The motion for leave to proceed in forma pauperis is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See Martin v. District of Columbia Court of Appeals, 506 U. S. 1 (1992) (per curiam)."

On December 07, 2020, the U.S. Supreme Court denied my Motion for Reconsideration of the October 13, 2020 Order.

G. Case in the Merit Systems Protection Board (the M.S.P.B.)

No. DE-0752-19-0097-I-1.

Petitions for Review in the U.S. Court of Appeals for the Federal Circuit:

a) No. 19-1912 – transferred to the U.S. District Court for the Northern District of California and got case numbers No. 3:19-cv-05927-WHA and 3:19-cv-06127-WHA (the transfer Order was issued on September 11, 2019, Mandate November 04, 2019)

b) No. 24-1656 – dismissed on the on the "Res Judicata" ground (Decision August 30, 2024, Order denying my Motion for Reconsideration October 18, 2024, Mandate October 21, 2024.)

H. My unsuccessful attempt to file a Petition for Review of the February 01, 2024 Final Decision of the Merit Systems Protection Board (the M.S.P.B.) in case No. DE-0752-19-0097-I-1 in the Equal Employment Opportunity Commission (the EEOC)

In March 2024, I mailed my Petition for Review of the February 01, 2024 Final Decision of the Merit Systems Protection Board (the M.S.P.B.) in case No. DE-0752-19-0097-I-1 to the Equal Employment Opportunity Commission (the EEOC.) Up to today, the EEOC hasn't filed my Petition for Review.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Pro Se Tatyana Drevaleva respectfully petitions for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Ninth Circuit in No. 25-7512.

OPINIONS BELOW

The Ninth Circuit's opinion in Appeal No. 25-7512 dated January 28, 2026 (Pet.App.1a) is unpublished.

The Order of the U.S. District Court for the Northern District of California that denied my Motions to Vacate the Judgment dated November 21, 2025 (Pet.App.3a) is unpublished.

The Ninth Circuit's denial of Petitioner's Petition for Panel Rehearing and for Rehearing En Banc in the underlying Appeal No. 22-16733 dated July 10, 2024 (Pet.App.6a) is unpublished.

The Ninth Circuit's opinion dismissing my underlying Appeal No. 22-16733 on the Res Judicata ground dated March 29, 2024 (Pet.App.8a) is unpublished.

The Order of the U.S. District Court for the Northern District of California in case No. 4:22-cv-00887-HSG that declared me a vexatious litigant dated October 26, 2022 (Pet.App.11a) is unpublished.

The Judgment of the U.S. District Court for the Northern District of California that dismissed my lawsuit No. 4:22-cv-00887-HSG on the Res Judicata ground dated October 26, 2022 (Pet.App.28a) is unpublished.

The Order of the U.S. District Court that dismissed my lawsuit No. 4:22-cv-00887-HSG on the Res Judicata ground dated October 26, 2022 (Pet.App.30a) is unpublished.

JURISDICTION

The Ninth Circuit issued an Order that held that my Appeal No. 25-7512 didn't have merit on January 28, 2026 (Pet.App.1a.) On April 30, 2026, the Hon. Justice Kagan granted my Application to Extend a Deadline to File a Petition for a Writ of Certiorari until June 27, 2026. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS.

> **(d)** ***Pregnancy leave.*** In the case of a recipient that does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence

> without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status that she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

38 CFR § 23.530 - Marital or parental status.

***

> **7. Q.** Can an employer have a rule which prohibits an employee from returning to work for a predetermined length of time after childbirth? **A.** No.
>
> **9. Q.** Must an employer hold open the job of an employee who is absent on leave because she is temporarily disabled by pregnancy-related conditions? **A.** Unless the employee on leave has informed the employer that she does not intend to return to work, her job must be held open for her return on the same basis as jobs are held open for employees on sick or disability leave for other reasons.

29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978.)

***

(i) Serving the United States and Its Agencies, Corporations, Officers, or Employees.

(1) *United States.* To serve the United States, a party must:

(A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought—or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk—or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;

(B) send a copy of each by registered or certified mail to the

Attorney General of the United States at Washington, D.C.; and

(C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

(2) *Agency; Corporation; Officer or Employee Sued in an Official Capacity.* To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.

(3) *Officer or Employee Sued Individually.* To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).

(4) *Extending Time.* The court must allow a party a reasonable time to cure its failure to:

(A) serve a person required to be served under Rule 4(i)(2), if the party has served either the United States attorney or the Attorney General of the United States; or

(B) serve the United States under Rule 4(i)(3), if the party has served the United States officer or employee.

Federal Rules of Civil Procedure, Rule 4.

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(e) Actions Where Defendant Is Officer or Employee of the United States.—

(2) Service.—

The summons and complaint in such an action shall be served as provided by the Federal Rules of Civil Procedure except that the delivery of the summons and complaint to the officer or agency as required by the rules may be made by certified mail beyond the territorial limits of the district in which the action is brought.

28 U.S. Code § 1391 - Venue generally

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(a) ***Suits against United States or Department of Veterans Affairs officials.*** When a suit involving any activities of the Department of Veterans Affairs is filed against the United States or the Secretary or a suit is filed against any employee of the Department of Veterans Affairs in which is involved any official action of the employee, not covered by the provisions of §§ 14.600 through 14.617, a copy of the petition will be forwarded to the General Counsel who will take necessary action to obtain the pertinent facts, cooperate with or receive the cooperation of the Department of Justice and, where indicated, advise the Regional Counsel of any further action required.

(b) ***Counsel and representation of employees.*** The Department of Justice may afford counsel and representation to Government employees who are sued individually as a result of the performance of their official duties. A civil action commenced in a State court against an employee, as the result of an action under color of his or her office, may be removed to the applicable Federal District Court. If a suit is filed against an employee as the result of the performance of his or her official duties, where the provisions of either 28 U.S.C. 2679 or 38 U.S.C. 7316 are not applicable (see § 14.610), and the employee desires to be represented by the U.S. Attorney, the Regional Counsel will obtain a written request to this effect from the employee and will also obtain an affidavit of the facility Director describing the incident in sufficient detail to enable a determination to be made as to whether the employee was in the scope of his or her employment at the time. These statements, together with a copy of the petition and two copies of a summary of pertinent facts, will be sent to the General Counsel, who will transmit copies thereof to the Department of Justice for appropriate action.

38 CFR § 14.514 - Suits by or against United States or Department of Veterans Affairs officials; indemnification of Department of Veterans Affairs employees.

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(a) All litigation arising in, or out of, the activities of the Department of Veterans Affairs or involving any employee thereof in his or her official capacity.

(e) Maintenance of a system of field offices capable of providing legal advice and assistance to all Department of Veterans Affairs field installations and acting for the General Counsel as provided by Department of Veterans Affairs Regulations and instructions, or as directed by the General Counsel in special cases. This includes cooperation with U.S. Attorneys in all civil and criminal cases pertaining to the Department of Veterans Affairs and reporting to the U.S. Attorneys, as authorized, or to the General Counsel, or both, criminal matters coming to the attention of the Regional Counsel.

38 CFR § 14.500 - Functions and responsibilities of General Counsel.

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(b) Federal agencies; affirmative action program plans

Each department, agency, and instrumentality (including the United States Postal Service and the Postal Regulatory Commission) in the executive branch and the Smithsonian Institution shall, within one hundred and eighty days after September 26, 1973, submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, instrumentality, or Institution. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

29 U.S. Code § 791 - Employment of individuals with disabilities

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(c) Civil action by employee or applicant for employment for redress of grievances; time for bringing of action; head of department, agency, or unit as defendant

Within 90 days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection (a), or by the Equal Employment Opportunity Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Equal Employment Opportunity Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the

> final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 2000e–5 of this title, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

42 U.S. Code § 2000e-16 - Employment by Federal Government

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> **(a)** As an alternative to filing a complaint under this part, an aggrieved individual may file a civil action in a United States district court under the ADEA against the head of an alleged discriminating agency after giving the Commission not less than 30 days' notice of the intent to file such an action. Such notice must be filed in writing with EEOC, at P.O. Box 77960, Washington, DC 20013, or by personal delivery or facsimile within 180 days of the occurrence of the alleged unlawful practice.

29 CFR § 1614.201 - Age Discrimination in Employment Act.

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(a) (1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e–5(f) through (k)) (and the application of section 706(e)(3) (42 U.S.C. 2000e–5(e)(3)) to claims of discrimination in compensation), shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

29 U.S. Code § 794a - Remedies and attorney fees

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4. PROCESS: ISSUANCE AND SERVICE

4-1. Limitation on Service by Marshal
Except for service on behalf of the United States or as required by Fed. R. Civ. P. 4(c)(2), or unless the Court orders otherwise for good cause shown, service of summons in a civil action shall not be made by the United States Marshal.

Commentary
28 U.S.C. § 566(c) provides that the United States Marshal shall execute writs, process and orders issued under the authority of the United States.

The Civil Local Rules of the United States District Court for the Northern District of California, Rule 4.

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5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(c) Registration, Appearance and Access

(2) Notice of Appearance

(A) A Notice of Appearance must be e-filed whenever counsel joins a case.

The Civil Local Rules of the United States District Court for the Northern District of California, Rule 5.

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> Any such oath, affirmation, affidavit, or examination, when certified under the hand of any such employee by whom it was administered or taken and authenticated by the seal of the Department, may be offered or used in any court of the United States and without further proof of the identity or authority of such employee shall have like force and effect as if administered or taken before a clerk of such court.

38 U.S. Code § 5712 - Validity of affidavits.

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> (b) Involuntary Dismissal; Effect. If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule—except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19—operates as

an adjudication on the merits.

Federal Rules of Civil Procedure, Rule 41. Dismissal of Actions.

STATEMENT OF THE CASE

On June 25, 2018, I filed my underlying Complaint for Employment Discrimination No. cv-03748-SVK in the U.S. District Court for the Northern District of California (NDC.)

In that Complaint, I described my full-time job as a Medical Instrument Technician Electrocardiograph at the Raymond G. Murphy VAMC[1] that started on April 03, 2017. I informed the Court about my long-time unsuccessful attempts to get pregnant despite I was married twice and despite I had sexual relationships with my boy-friends. I informed the Court about multiple unsuccessful Intra-Utero Insemination (IUI) attempts with donor's sperm at Kaiser Permanente in California. I also informed the Court about my multiple In-Vitro Fertilization (IFV) attempts with donor's sperm in Russia that resulted in one embryo that has been frozen in Russia since probably July 2016. I informed the Court that, as a citizen of the Russian Federation, I had a right for IVF attempts in Russia that were free of charge for me and that were at the expense of the Russian Government. I informed the Court that I was the only family member in the U.S.A., I didn't have a permanent place of living, my salary was not big, I

[1] The correct name of the facility is the New Mexico VA Health Care System in Albuquerque, NM.

didn't have support of my family members who were in Russia and who didn't have enough money, and therefore I couldn't afford to perform IVF procedures in the U.S.A. because of a very high price approximately 15-20 thousand U.S. dollars for one IVF attempt.

I also informed the Court that I was taking hormonal pills named Jeanine that were in aid of the IVF procedure, that were prescribed by my Russian OB/GYN in 2016, that were not available in the U.S.A. because they were not FDA approved, that I brought from Russia to the U.S.A. in 2016, and that I was taking non-stop one pill a day every day, that were aimed to prevent ovulation and to save my own eggs.

I explained to the Court that I was assigned to work at the 5D Telemetry Unit of the New Mexico VA Health Care System. The Manager of the 5D Telemetry Unit was Ms. Carla Dunkelberger, and the Assistant Manager was Mr. Phil Johnson.

I explained to the Court that I had contacted Management of the 5D Telemetry Unit regarding two separate issues:

1) I needed a time off to go to Russia to perform an In-Vitro Fertilization (IVF) procedure free of charge for me and at the expense of the Russian Government, and
2) I needed a time off to go to Russia to renew a prescription of my hormonal pills Jeanine that were in aid of the IVF procedure, that were prescribed by my Russian OB/GYN, that I

brought to the U.S.A. from Russia in 2016, that I was taking one pill a day every day since July or August 2016, that I couldn't miss because otherwise I would be subjected to heavy withdrawal gynecological bleeding that was not good for my health, and that I couldn't obtain in the United States of America because these pills were not FDA approved. On May 17, 2017, I had three pills left that were for three calendar days.

I informed the Court that on May 17, 2017 Assistant Manager Mr. Phil Johnson verbally allowed me to go to Russia for two reasons:

1) To perform another free of charge IVF procedure, and
2) To obtain my hormonal pills Jeanine that were not available in the United States because they were not FDA approved and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

I explained to the Court that on May 18, 2017, having a verbal permission of Assistant Manager Mr. Phil Johnson, I went to Russia for two reasons:

1) To perform another free of charge IVF procedure, and
2) To obtain my hormonal pills Jeanine that were not available in the United States because they were not FDA approved and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

I explained to the Court that on July 03, 2017, while being in Russia on a leave that was verbally approved by Assistant Manager Mr. Phil Johnson, I received an email from Ms. Dunkelberger with a June 30, 2017 Termination Letter. The Letter informed me that I had been fired for attendance issues.

I also informed the Court that in September 2017, while talking on the phone with my former co-worker Ms. Nadya Das, I learned that Ms. Dunkelberger substituted my job by two substantially younger male appointees who will definitely not have problems with pregnancies.

In my June 25, 2018 Complaint No. cv-03748-SVK, I listed the following Causes of Action:

1) First cause of action – Pregnancy Discrimination
2) Second case of action – Sex Discrimination
3) Third cause of action – Age Discrimination
4) Fourth cause of action – Disability Discrimination, Failure to Provide me with Reasonable Accommodations
5) Fifth cause of action – Libel
6) Sixth cause of action – Intentional Infliction of Emotional Distress (IIED)
7) Seventh cause of action – Depriving me Liberty and Property without a due process.

The First and the Second Causes of Action were filed pursuant to Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972 or Public Law 92-261 that extended the protection of Title VII to Federal employees, *see* 42 U.S.C. § 2000e-16.

The Third Cause of Action was filed pursuant to the Age Discrimination in Employment Act of 1967 or the ADEA.

In the Fourth Cause of Action, I wrote,

> Read the Agency's mandatory compliance with the Rehabilitation Act of 1973, as amended, "The Rehabilitation Act of 1973, as amended (29 U.S.C. 701, et seq.), requires each agency in the Executive Branch of the Federal government to establish programs that will <u>facilitate the hiring, placement, and advancement of individuals with disabilities</u>.

The June 25, 2018 Complaint for Employment Discrimination No. cv-03748-SVK, page 19, lines 23-26.

The phrase "the hiring, placement, and advancement of individuals with disabilities" is a part of Section 501 of the Rehabilitation Act of 1973 or 29 U.S.C. § 791(b.)

The proper Defendant in my Title VII Causes of Action was Secretary of the U.S. Department of Veterans Affairs who was being sued in his official capacity, *see* 42 U.S. Code § 2000e-16(c.)

The proper Defendant in my ADEA Cause of Action was Secretary of the U.S. Department of Veterans Affairs who was being sued in his official capacity, *see* 29 CFR § 1614.201(a.)

The proper Defendant in Section 501 of the Rehabilitation Act of 1973 was Secretary of the U.S. Department of Veterans Affairs who was being sued in his official capacity, *see* 29 U.S.C. § 794a(a)(1.)

In my June 25, 2018 Complaint for Employment Discrimination No. cv-03748-SVK, I named two Defendants:

1) The U.S. Department of Veterans Affairs
2) Mr. Peter O'Rourke, Acting United States Secretary of Veterans Affairs.

For the purpose of this Petition for a Writ of Certiorari, I will only mention that the U.S. Department of VA and its Secretary who was being sued in his official capacity were not proper Defendants in my Libel, the Intentional Infliction of Emotional Distress, and Constitutional Causes of Action.

With my June 25, 2018 Complaint No. cv-03748-SVK, I filed an Application to Proceed *in-forma pauperis* that the Magistrate Judge granted, and she ordered the U.S. Marshals Service to serve Defendants with process (not with a Summons) in accordance with the Civil Local Rules of the U.S. District Court for the Northern District of California, Rule 4-1.

Because my June 25, 2018 Complaint No. cv-03748-SVK was filed against the U.S. Department of VA and its Secretary who was being sued in his official capacity, service of this Complaint on Defendants was governed by 28 U.S.C. § 1391(e)(2) that imposed a mandatory obligation (the word "shall") to serve the process in accordance with the Federal Rules of Civil Procedure, Rule 4(i.)

See the following precedents of the U.S. Supreme Court that explained that the word "shall" imposes a mandatory obligation that is impervious to any discretion:

a) *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 69 (2004)
b) *Minis v. United States*, 40 U.S. (15 Pet.) 423 (1841)
c) *Lopez v. Davis*, 531 U.S. 230 (2001)
d) *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998.)

See the following precedents of the Circuits that explained that, in order for a District Court to obtain jurisdiction over Federal Defendants, the Federal Defendants must be mandatorily (the word "shall") served with process in accordance with 28 U.S.C. § 1391(e)(2) and in accordance with the F.R.C.P. Rule 4(i):

a) *Zepeda v. United States I.N.S.*, 753 F.2d 719 (9th Cir. 1983)
b) *Dwight Morton v. Robert Wilkie*, No. 21-3744 (6th Cir. 2022) (not recommended for publication)

c) *James R. Harris, v. William E. Brock, Secretary of Labor, United States Department of Labor, and United States of America*, 835 F.2d 1190 (7th Cir. 1987)
d) *Smith v. McNamara*, 395 F.2d 896 (10th Cir. 1968), cert. denied, 394 U.S. 934 (1969)
e) *Wallach v. Cannon*, 357 F.2d 557 (8th Cir. 1966)
f) *Natural Resources Defense Council, Inc. v. Tennessee Val. Authority*, 459 F.2d 255 (2d Cir. 1972)
g) *Tuke v. United States*, 76 F.3d 155 (7th Cir. 1996)
h) *Kurzberg v. Ashcroft*, 619 F.3d 176 (2d Cir. 2010)
i) *McMasters v. U.S.*, 260 F.3d 814 (7th Cir. 2001)
j) *Dorsey v. District of Columbia*, 839 A.2d 667 (D.C. 2003)
k) *Messenger v. United States*, 231 F.2d 328 (2d Cir. 1956)

However, the U.S. Marshals Service didn't serve Federal Defendants with process in accordance with 28 U.S.C. § 1391(e)(2) and in accordance with the F.R.C.P. Rule 4(i.) Specifically:

1) The U.S. Marshals Service never sent the process to the Civil Process Clerk of the U.S. District Court for the Northern District of California by the registered or certified U.S. mail in violation of the F.R.C.P. Rule 4(i)(1)(A)(ii)
2) The U.S. Marshals Service never delivered the process to the hands of the former U.S.

Attorney for the Northern District of California Mr. Alex Tse in violation of the F.R.C.P. Rule 4(i)(1)(A)(i.) Instead, the U.S. Marshals Service delivered the process to the hands of the employee at the U.S. Attorney's Office for the Northern District of California, the San Jose Division Mrs. Rose Toledo who is definitely not the U.S. Attorney

3) The U.S. Marshals Service never sent the process to the former Attorney General of the U.S.A. Mr. Sessions by the registered or certified U.S. mail in violation of the F.R.C.P. Rule 4(i)(1)(B)
4) However, the U.S. Marshals Service allegedly mailed the process to the former Secretary of the U.S. Department of Veterans Affairs Mr. O'Rourke who was being sued in his official capacity by the certified U.S. mail in compliance with the F.R.C.P. Rule 4(i)(2)
5) The U.S. Marshals Service mailed the process to the U.S. Department of Veterans Affairs by the certified U.S. mail in accordance with the F.R.C.P. Rule 4(i)(2.) However, in the Process Receipt and Return of the U.S. Marshals Service there was no indication that the U.S. Marshals Service mailed the process to the Office of General Counsel of the U.S. Department of Veterans Affairs.

Because my June 25, 2018 Complaint No. cv-03748-WHA involved the activity of the U.S. Department of Veterans Affairs and its Secretary who was being sued in his official capacity, and because my June 25, 2018 Complaint No. cv-03748-

SVK was not covered by 38 CFR §§ 14.600 through 14.617[2], Defendants the U.S. Department of VA and its Secretary were obligated to follow the procedures that were described in 38 CFR § 14.514a) such as:

1) "a copy of the petition will be forwarded to the General Counsel
2) who will take necessary action to obtain the pertinent facts,
3) cooperate with or receive the cooperation of the Department of Justice and,
4) where indicated, advise the Regional Counsel of any further action required."

Please, take a Judicial Notice that the plain language of 38 CFR § 14.514(a) explicitly stated that the General Counsel of the U.S. Department of Veterans Affairs was the person who was supposed to obtain the material facts of the case. Therefore, pursuant to 38 CFR § 14.514(a), the U.S. District Court for the Northern District of California was supposed to obtain the material facts of the case from the General Counsel of the U.S. Department of Veterans Affairs and not from my June 25, 2018 Complaint No. cv-03748-SVK.

Also, because my June 25, 2018 Complaint No. cv-03748-SVK was filed against Defendants the U.S. Department of VA and its Secretary who was being sued in his official capacity, only the following Attorneys had a statutory right to appear on behalf of Defendants the U.S. Department of Veterans

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[2] *See* 38 CFR §§ 14.600-14.605 – Federal Tort Claims Act.

Also, *see* 38 CFR §§ 14.615-14.617 - Administrative Settlement of Tort Claims Arising in Foreign Countries.

affairs and its Secretary who was being sued in his official capacity:

1) The General Counsel of the U.S. Department of Veterans Affairs, *see* 38 CFR § 14.500(a)
2) The former U.S. Attorney for the Northern District of California Mr. Alex Tse on the condition that Secretary of the U.S. Department of VA who was being sued in his official capacity explicitly desired to be represented by the U.S. Attorney, *see* 38 CFR § 14.514(b) and 38 CFR § 14.500(e.)

Any Attorney who appeared on behalf of Defendants the U.S. Department of VA and its Secretary who was being sued in his official capacity in my June 25, 2018 Complaint No. cv-03748-SVK had a mandatory obligation (the word "must") to enter a Notice of Appearance in accordance with the Civil Local Rules of the U.S. District Court for the Northern District of California, Rule 5(c)(2)(A.)

On October 09, 2018, Assistant U.S. Attorney (AUSA) Ms. Cormier filed a Motion to Dismiss my June 25, 2018 Complaint No. 3:18-cv-03748-WHA[3]. Before filing the Motion to Dismiss, Assistant U.S. Attorney never filed a Notice of Appearance in violation of the Civil Local Rules of the U.S. District Court for the Northern District of California, rule 5(c)(2)(A.)

In her Motion to Dismiss, AUSA Ms. Cormier obtained the material facts of the case from my June

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[3] District Judge Mr. William Alsup presided over my Complaint No. 3:18-cv-03748-WHA.

25, 2018 Complaint No. cv-03748-SVK in violation of 38 CFR § 14.514(a.) Ms. Cormier intentionally, criminally, maliciously, and unlawfully concealed from Judge Alsup that on May 17, 2017 I had a medical emergency that was three pills of Jeanine left, that I was at risk of heavy withdrawal gynecological bleeding that was not good for my health, that I was unable to obtain my pills Jeanine in the United States because they were not FDA approved, and that on May 18, 2017 I had no choice other than to urgently go to Russia to obtain my hormonal pills Jeanine and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

In her Motion to Dismiss, Ms. Cormier stated that my only reason to go to Russia was to perform an IVF procedure. Ms. Cormier lied that I hadn't followed the leave policies of the New Mexico VA Health Care System, that I left my job without permission, and that I was properly fired for the AWOL – for being absent without leave.

In her Motion to Dismiss, Ms. Cormier argued that the U.S. Department of Veterans Affairs was not a proper Defendant in my discrimination Causes of Action. Ms. Cormier urged the District Court to dismiss the U.S. Department of VA from the list of Defendants. Also, Ms. Cormier asserted that my Libel, the IIED, and Constitutional Causes of Action were preempted by Title VII.

I filed a Motion for a Preliminary Injunction. On October 30, 2018, another Assistant U.S. Attorney

Ms. Robinson filed two Notices of Appearance. In one Notice of Appearance (Document 48), Ms. Robinson didn't know on whose behalf she was appearing, and she appeared on behalf of the United States of America. However, I didn't name the United States of America as a Defendant in my June 25, 2018 Complaint No. cv-03748-SVK.

In the second October 30, 2018 Notice of Appearance (Document 49), AUSA Ms. Robinson unlawfully appeared on behalf of Defendants the U.S. Department of VA and its Secretary without clarifying that she was appearing on behalf of Secretary of the U.S. Department of VA who was being sued in his official capacity.

I am emphasizing that Assistant U.S. Attorneys Ms. Cormier and Ms. Robinson didn't have any whatsoever right to appear on behalf of Defendants the U.S. Department of VA and its Secretary who was being sued in his official capacity, *see* 38 CFR § 14.514(b), also *see* 38 CFR § 14.500(a) and (e.) Only the General Counsel of the U.S. Department of Veterans Affairs and the former U.S. Attorney for the Northern District of California Mr. Tse had a right to appear on behalf of Defendants the U.S. Department of VA and its Secretary who was being sued in his official capacity in my June 25, 2018 Complaint No. 3:18-cv-03748-WHA on the condition that all Federal Defendants were properly and mandatorily (the word "shall") served with process in accordance with 28 U.S.C. § 1391(e)(2) and in accordance with the F.R.C.P. Rule 4(i.)

On November 02, 2018, AUSA Ms. Robinson filed an Opposition to my Motion for a Preliminary Injunction where Ms. Robinson intentionally, criminally, maliciously, and unlawfully concealed from Judge Alsup that on May 17, 2017 I had a medical emergency that was three pills of Jeanine left, that I was at risk of heavy withdrawal gynecological bleeding that was not good for my health, that I was unable to obtain my pills Jeanine in the United States because they were not FDA approved, and that on May 18, 2017 I had no choice other than to urgently go to Russia to obtain my hormonal pills Jeanine and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

In her Opposition to my Motion for a Preliminary Injunction, AUSA Ms. Robinson stated that my only reason to go to Russia was to perform an IVF procedure. Ms. Robinson lied that I hadn't followed the leave policies of the New Mexico VA Health Care System, that I left my job without permission, and that I was properly fired for the AWOL – for being absent without leave.

In support to her Opposition to my Motion for a Preliminary Injunction, Ms. Robinson filed a document named "Declaration of Carla Dunkelberger" under penalty of perjury that Ms. Robinson had fabricated herself. Please, notice that my former Manager Ms. Carla Dunkelberger never wrote this Declaration herself. Moreover, in the U.S. Department of Veterans Affairs, there is no such a document that a Declaration. Please, *see* 38 U.S.C. §

5712 that explained that the proper document was an Affidavit and not a Declaration.

In the Declaration of Carla Dunkelberger that was under penalty of perjury, AUSA Ms. Robinson lied under penalty of perjury that I had violated the leave policies of the New Mexico VA Health Care System when I left my job without permission in order to go to Russia for only one purpose that was an IVF procedure. Ms. Robinson completely omitted that on May 17, 2017 I had a medical emergency that was three pills of Jeanine left, that I was at risk of heavy withdrawal gynecological bleeding that was not good for my health, that I was unable to obtain my pills Jeanine in the United States because they were not FDA approved, and that on May 18, 2017 I had no choice other than to urgently go to Russia to obtain my hormonal pills Jeanine and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

On December 03, 2018, Judge Alsup granted Ms. Cormier's Motion to Dismiss with leave to amend. In his Order, Judge Alsup obtained the material facts of the case from my June 25, 2018 Complaint in violation of 38 CFR § 14.514(a.) In his Order, Judge Alsup held that I had been properly fired from my job for failure to follow the proper leave policies to go to Russia for only one purpose that was an IVF procedure. In his Order, Judge Alsup completely failed to acknowledge that on May 17, 2017 I had a medical emergency that was that was three pills of Jeanine left, that I was at risk of heavy withdrawal gynecological bleeding that was not good for my health, that I was unable to obtain my pills Jeanine in the United States because they were not FDA approved, and that on May 18, 2017 I had no choice other than to urgently go to Russia to obtain my hormonal pills Jeanine and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

In his December 03, 2018 Order, Judge Alsup ordered a preemption of my Libel, IIED, and Constitutional claims by Title VII. Also, Judge Alsup dismissed the U.S. Department of VA from the list of Defendants because the U.S. Department of VA was not a proper Defendant in my discrimination Causes of Action.

In December 2018, I amended my Complaint. AUSA Ms. Robinson filed a Motion to Dismiss my Amended Complaint. On July 11, 2019, Judge Alsup granted Ms. Robinson's Motion to Dismiss my Amended Complaint. In his July 11, 2019 Order, Judge Alsup held that I had been properly fired from my job for failure to follow the proper leave policies to go to Russia for only one purpose that was an IVF procedure. In his Order, Judge Alsup completely failed to acknowledge that on May 17, 2017 I had a medical emergency that was three pills of Jeanine left, that I was at risk of heavy withdrawal gynecological bleeding that was not good for my health, that I was unable to obtain my pills Jeanine in the United States because they were not FDA approved, and that on May 18, 2017 I had no choice other than to urgently go to Russia to obtain my hormonal pills Jeanine and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

On July 11, 2019, Judge Alsup entered a Judgment. I appealed that Judgment in the U.S. Court of Appeals for the 9th Circuit in Appeal No. 19-16395. On November 18, 2020, the 9th Circuit held that I had been improperly fired from my job despite I had obtained a permission of my Supervisor to go to Russia for only one purpose that was an IVF procedure. In its unpublished November 18, 2020 Memorandum in Appeal No. 19-16395, the 9th Circuit completely failed to acknowledge that on May 17, 2017 I had a medical emergency that was three pills of Jeanine left, that I was at risk of heavy withdrawal gynecological bleeding that was not good for my health, that I was unable to obtain my pills Jeanine in the United States because they were not FDA approved, and that on May 18, 2017 I had no choice other than to urgently go to Russia to obtain my hormonal pills Jeanine and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health. The 9th Circuit partially reversed Judge Alsup's July 11, 2019 Judgment and remanded my sex discrimination and failure-to accommodate claims back to the District Court for a further proceeding.

Moreover, in its November 18, 2020 Memorandum in Appeal No. 19-16395 the 9th Circuit listed Defendant the U.S. Department of VA despite the U.S. Department of VA was not a proper Defendant in my sex discrimination claim and in my failure-to accommodate claim and despite the U.S. Department of VA was explicitly removed from the list of Defendants by the December 03, 2018 Order of Judge Alsup.

After remand to the U.S. District Court for the NDC, Judge Alsup recused himself from judging my lawsuit, and my lawsuit was assigned to the former Chief Magistrate Judge of the U.S. District Court for the NDC Mr. Joseph C. Spero. Later, my lawsuit was reassigned to District Judge Mr. Haywood S. Gilliam, Jr.

On August 12, 2021, Judge Gilliam, Jr. transferred my lawsuit to the U.S. District Court for the DNM where my lawsuit was assigned to the former Chief District Judge Mr. William Paul Johnson, and my lawsuit got a number 1:21-cv-00761-WJ-JFR. On November 02, 2021, Judge Johnson accused me in non-existing violations of the Court's Orders and the Civil Local Rules, and, without finding the material facts of the case and the legal arguments that were applicable to those material facts of the case, Judge Johnson dismissed my lawsuit with prejudice as a sanction for my non-existing misconduct. On November 02, 2021, Judge Johnson entered a Rule 58 Judgment dismissing all my claims with prejudice.

On November 02, 2021, Judge Johnson entered his Rule 58 Judgment to Defendant the U.S. Department of Veterans Affairs who was not a proper Defendant in my sex discrimination and my failure-to accommodate claims and that was explicitly removed from the list of Defendants by the

December 03, 2018 Order of Judge Alsup. On November 02, 2021, Judge Johnson never entered a Judgment in favor of Secretary of the U.S. Department of VA who was being sued in his official capacity and who was a proper Defendant in my Title VII Cause of Action and in Section 501 of the Rehabilitation Act of 1973 Cause of Action.

On September 14, 2021, Judge Johnson disallowed me to file electronically in case No. 1:21-cv-00761-WJ-JFR. On December 02, 2021, Judge Johnson imposed filing restrictions on me and prohibited the Clerk to accept any paper filings from me excepting those that were necessary to perfect my Appeal No. 21-2139 in the U.S. Court of Appeals for the 10th Circuit.

I appealed Judge Johnson's decision to the U.S. Court of Appeals for the 10th Circuit, *see* Appeal No. 21-2139. On July 11, 2022, the 10th Circuit held that I had been properly fired from my job for failure to follow the leave policies when I went to Russia for only one purpose that was an IVF procedure. In its July 11, 2022 Order and Judgment, the 10th Circuit completely failed to acknowledge that on May 17, 2017 I had a medical emergency that was three pills of Jeanine left, that I was at risk of heavy withdrawal gynecological bleeding that was not good for my health, that I was unable to obtain my pills Jeanine in the United States because they were not FDA approved, and that on May 18, 2017 I had no choice other than to urgently go to Russia to obtain my hormonal pills Jeanine and thus to prevent heavy withdrawal gynecological bleeding that was not good for my health.

The decision of the 10th Circuit in Appeal No. 21-2139 that I was properly fired for failure to follow the VA's leave policies conflicted with the decision of the 9th Circuit in Appeal No. 19-16395 that I was improperly fired despite I had obtained a permission of my Supervisor to go to Russia.

The 10th Circuit refused to evaluate the material facts of the case, revoked my Electronic Case Filing privilege, and later imposed filing restrictions on me prohibiting the Clerk to accept any paper filings from me.

The 10th Circuit entered its July 11, 2022 Order and Judgment in Appeal No. 21-2139 in favor of the U.S. Department of VA who was not a proper Defendant in my sex discrimination and my failure-to accommodate claims and that was explicitly removed from the list of Defendants by the December 03, 2018 Order of Judge Alsup.

I am repeating that on November 02, 2021 Judge Johnson entered his Rule 58 Judgment only in favor of the U.S. Department of VA who was not a proper Defendant in my Title VII Cause of Action and in Section 501 of the Rehabilitation Act of 1973 Cause of Action and who was explicitly dismissed from the list of Defendants by the December 03, 2018 Order of Judge Alsup. Regardless, the 10th Circuit entered its July 11, 2022 Order and Judgment in favor of Secretaries of the U.S. Department of VA Mr. Wilkie and Mr. McDonough without clarifying that the July 11, 2022 Order and Judgment was entered in favor of Secretaries of the U.S. Department of VA Mr. Wilkie and Mr. McDonough who were being sued in their official capacities.

On February 11, 2022, I re-filed all my claims in the U.S. District Court for the Northern District of California in my Complaint No. cv-00887-SK. Subsequently, that lawsuit was assigned to Judge Gilliam, Jr. and got a number 4:22-cv-00887-HSG. In my pleading, I added the material facts of the case that were hidden or not available during the underlying litigation No. 1:21-cv-00761-WJ-JFR.

On October 26, 2022, Judge Gilliam, Jr. dismissed my pleading No. 4:22-cv-00887-HSG on the Res Judicata ground (Pet.App.30a.) In his Order (Pet.App.46a), Judge Gilliam, Jr. held that, pursuant to the F.R.C.P. Rule 41(b), *any* dismissal—"except one for lack of jurisdiction, improper venue, or failure to join a party," or a dismissal order that specifically states otherwise ---"operates as an adjudication on the merits."

On October 26, 2022, Judge Gilliam, Jr.'s Clerk entered a Judgment (Pet.App.28a.)

On October 26, 2022, Judge Gilliam, Jr. declared me a vexatious litigant and entered a pre-filing Order (Pet.App.11a.)

I appealed Judge Gilliam, Jr.'s decision to the U.S. Court of Appeals for the 9th Circuit in Appeal No. 22-

16733. On March 29, 2024, without evaluating the material facts of the case and legal arguments, the 9th Circuit affirmed Judge Gilliam, Jr.'s decision, and the 9th Circuit cited irrelevant case laws *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002) and *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005.) The 9th Circuit also affirmed Judge Gilliam, Jr.'s Order declaring me a vexatious litigant (Pet.App.10a.)

However, the case law *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002) taught that the Res Judicata applied if the underlying lawsuit was dismissed for failure to state a claim upon which relief could be granted. It was definitely not my situation. The 9th Circuit also cited the case law *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005) where the Res Judicata doctrine applied because the underlying lawsuit was decided on a Summary Judgment stage. It was also not my situation.

In 2025, I filed three Motions to Vacate the Judgment in case No. 4:22-cv-00887-HSG, and I argued that, because both the U.S. District Court for the DNM and the 10th Circuit didn't evaluate the material facts of the case and the legal arguments, it means that the underlying Judgment is not "final", and therefore the doctrine of the Res Judicata doesn't apply, *see Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955.) Also, I argued that the F.R.C.P. Rule 41(b) doesn't say that *any* dismissal—"except one for lack of jurisdiction, improper venue, or failure to join a party," or a dismissal order that specifically states otherwise ---"operates as [a **final**] adjudication on the merits."

On November 21, 2025, Judge Gilliam, Jr. denied (Pet.App.3a) my Motions to Vacate the Judgment. I attempted to file an Appeal No. 25-7512 at the 9th Circuit. On January 28, 2026, the 9th Circuit held that my Appeal didn't have merit (Pet.App.1a.)

LEGAL STANDARD AMD REASONS FOR GRANTING THE WRIT

A. The Petition Should Be Granted Because the 9th Circuit's Decision Openly Conflicts with *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955)

Deciding in *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955), the U.S. Supreme Court reversed the decision of the Court of Appeals that erroneously applied the Res Judicata doctrine to a situation when during the litigation of the underlying lawsuit the District Court didn't find both the material facts of the case and the legal arguments that were applicable to these material facts, and the District Court dismissed the underlying lawsuit with prejudice. It is exactly my situation. During the litigations of my underlying lawsuit No. 1:21-cv-00761-WJ-JFR and my Appeal No. 21-2139, both the U.S. District Court for the DNM and the 10th Circuit didn't find the truthful material facts of the case and the legal arguments that were applicable to these material facts despite the U.S. District Court for the DNM dismissed my underlying lawsuit No. 1:21-cv-00761-WJ-JFR with prejudice as a sanction for my non-existing misconduct. Therefore, the doctrine of the Res Judicata is not applicable to my lawsuit No. 4:22-cv-00887-HSG and to my Appeals No. 22-16733 and 25-7512.

B. The Petition Should Be Granted Because the 9th Circuit's Decision Openly Conflicts with *Parr v. United States*, 351 U.S. 513 (1956)

Deciding in *Parr v. United States*, 351 U.S. 513 (1956), the U.S. Supreme Court held that a Judgment is "final" only when the District Court fully evaluates both the material facts of the case and the legal arguments, so there is nothing to add. Because the U.S. District Court for the DNM never evaluated the truthful material facts of the case and the legal standards that were applicable to these material facts, it means that there is no any "final" Judgment in my underlying case No. 1:21-cv-00761-WJ-JFR and in my Appeal No. 21-2139. Moreover, during the litigation of my lawsuit No. 4:22-cv-00887-HSG I presented to the attention of the U.S. District Court for the Northern District of California new material facts of the case and new legal arguments that were hidden and not available during the litigations of my underlying lawsuit No. 1:21-cv-00761-WJ-JFR and my Appeal No. 21-2139. Therefore, the Res Judicata doctrine is inapplicable to my lawsuit No. 4:22-cv-00887-HSG and to my Appeal No. 25-7512.

C. The Petition Should Be Granted Because the 9th Circuit's Opinion Openly Conflicts With *Phillips Petro. Co. v. Shutts*, 472 U.S. 797, 805 (1985)

Phillips Petro. Co. held that the doctrine of the Res Judicata doesn't apply if the underlying Judgment is void. Definitely, the underlying Judgment in case No. 1:21-cv-00761-WJ-JFR is void for lack of service of process by the U.S. Marshals Service in accordance with 28 U.S.C. § 1391(e)(2) and in accordance with the F.R.C.P. Rule 4(i.) Additionally, the Judgment in the underlying case No. 1:21-cv-00761-WJ-JFR is void for multiple violations of the Due Process of the Law such as failure to follow 38 CFR § 14.514(a) and (b) and 38 CFR § 14.500(a) and (e) as well as using the fabricated Declaration of Carla Dunkelberger under penalty of perjury in violation of 38 U.S.C. § 5712.

D. The Petition Should Be Granted Because the 9th Circuit's Opinion Openly Conflicts With *Hohorst v. Hamburg-American Packet Co.*, 148 U.S. 262 (1893)

Hohorst held that the Court must decide all matters between all Parties. It never happened in my situation. I am reminding that the U.S. District Court for the DNM entered a Judgment in favor of the U.S. Department of VA who was not a proper Defendant in my Title VII Cause of Action and in Section 501 of the Rehabilitation Act of 1973 Cause of Action and who was explicitly removed from the list of Defendants by the December 03, 2018 Order of

Judge Alsup. Consequently, judging Appeal No. 21-2139, the 10th Circuit entered an Order and Judgment in favor of the U.S. Department of VA and its Secretaries Mr. Wilkie and Mr. McDonough without clarifying that the Secretaries were being sued in their official capacities. Therefore, both the U.S. District Court for the DNM and the 10th Circuit didn't resolve the controversies between me and the proper Defendant Secretary of the U.S. Department of VA who was being sued in his official capacity.

E. The Petition Should Be Granted Because the 9th Circuit's Opinion Conflicts With 38 CFR § 23.530(d) And 29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978), Questions 7 and 9

The plain language of 38 CFR § 23.530(d) imposes a mandatory obligation (the word "shall") on Secretary of the U.S. Department of Veterans Affairs to reinstate me back to work at the VAMC after I returned from a pregnancy leave. However, the 9th Circuit dismissed my Appeal No. 22-16733 and held that my Appeal No. 25-7512 didn't have merit without mandatorily following 38 CFR § 23.530(d.) Therefore, I am respectfully asking the U.S. Supreme Court to intervene, to grant my Petition for a Writ of Certiorari, and to mandatorily (the word "shall") reinstate me back to work at the VAMC pursuant to 38 CFR § 23.530(d) after I returned from my pregnancy leave.

Also, because the Opinions of the 9th Circuit conflict with 29 CFR Appendix to Part 1604, Questions and Answers on the Pregnancy Discrimination Act, Public Law 95-555, 92 Stat. 2076 (1978), Questions 7 and 9, I am respectfully asking the U.S. Supreme Court to grant my Petition for a Writ of Certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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Date: June 25, 2026.