ORIGINAL

OFFICIAL TRANSCRIPT
PROCEEDINGS BEFORE

THE SUPREME COURT OF THE UNITED STATES

DKT/CASE NO. 81-469

TITLE WILLIAM C. BUSH, Petitioner
v.
WILLIAM R. LUCAS

PLACE Washington, D. C.

DATE January 19, 1983

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IN THE SUPREME COURT OF THE UNITED STATES

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WILLIAM C. BUSH, :

Petitioner :

v. : No. 81-469

WILLIAM R. LUCAS :

- x

Washington, D.C.

Wednesday, January 19, 1983

The above-entitled matter came on for oral argument before the Supreme Court of the United States at 1:49 p.m.

APPEARANCES:

WILLIAM HARVEY ELROD, ESQ., Decatur, Alabama;
on behalf of the Petitioner.

KENNETH S. GELLER, ESQ., Office of the Solicitor General, Department of Justice, Washington, D.C.;
on behalf of Respondents.

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P R O C E E D I N G S

CHIEF JUSTICE BURGER: Mr. Elrod, I think you may proceed whenever you are ready.

ORAL ARGUMENT OF WILLIAM HARVEY ELROD, ESQ.,
ON BEHALF OF WILLIAM C. BUSH, PETITIONER

MR. ELROD: Mr. Chief Justice, and may it please the Court:

The petitioner in this case filed a complaint containing a Bivens-type claim in a state court. The respondent, who like the petitioner is a civilian employee of the Federal Government, obtained the removal of the case to the United States District Court for the Northern District of Alabama.

From that point forward, the government, for all intents and purposes, appears to have been cast in the role of defendant. I say appears to have been cast in the role of defendant. We are not suing the government.

The petitioner's Bivens-type claim was that the respondent had violated the petitioner's First Amendment rights by participating as chief conspirator, if not principal procuror, in the concocting and consummating of the petitioner's demotion under color of federal law and by virtue of the positions which the conspirators held.

The avowed intent and purpose of the conspiracy is to punish the petitioner, to strike back, to retaliate, to pervert official power from its proper purpose for having publicly observed and spoken up about what he perceived to be rampant waste at George F. Marshall Space Flight Center in North Alabama.

QUESTION: Had he -- does the record show to what extent, if any, he had passed these notions and ideas and his recommendations on up through channels before he went public?

MR. ELROD: The record reflects in a truncated fashion, since this comes up from summary judgment, the record reflects that the petitioner made some efforts within the organization through his representative in the manpower office to obtain some alleviation as to his personal problem. And at -- as he observed that he was not alone in being misclassified or a round -- or a square peg in a round hole, it ate on him. And he went public.

After a series of proceedings, administrative proceedings, Mr. Bush's having gone public eventually was perceived to be within the protection of the First Amendment.

I understand that the government from its --

QUESTION: It was perceived by -- perceived by

whom, Mr. Elrod?

MR. ELROD: By the what was then called the Appeals Review Board of what was then called the Civil Service Commission. That happened in mid-passage. This lawsuit, the Bivens claim and all, was already pending, not before the administrative proceedings had begun but they were pending concurrently because an Alabama statute of limitations would, in my judgment, possibly have cut off one of the claims that is not present before the Court had the suit not been filed when it was filed. I say not present before the Court, it's not included within the petition. It's in the record.

As I understand the government's brief in this case, the government concedes what it candidly describes as petitioner's well -- the well-established constitutional right which the petitioner asserts. What the government disputes is the petitioner's right -- or is whether the petitioner has a Bivens-type remedy for the impairment of that right.

In effect, the government currently, in defense of an opinion rendered on remand by a Court of Appeals, currently espouses the second branch of the Carlson against Green formulation as to whether an alternative remedy or as to whether there is a basis for barring or defeating at the threshold a Bivens-type

claim. And that second ground, of course, is that Congress had manifested its intent. I don't want to get into an area of semantics, but it specifically -- explicitly states, but I will say clearly manifests its intent that an alternative remedy which it has adopted is intended as a substitute for a Bivens-type action and is viewed by Congress --

QUESTION: Mr. Elrod.

MR. ELROD: Yes, ma'am.

QUESTION: I suppose it's your position on behalf of Mr. Bush that what was lacking here was a right to obtain compensatory damages for embarrassment or anxiety resulting from the demotion, and the failure to have a means of getting punitive damages and attorney's fees. Is that right?

MR. ELROD: In damage terms --

QUESTION: Those are the elements that are lacking in the Civil Service remedies?

MR. ELROD: It is --

QUESTION: And is it your position then that denying Mr. Bush the right to get those elements of damages violates the Constitution?

MR. ELROD: It is my position that it would, although I am speaking to a judicial tribunal, that it would be an invidious kind of distinction.

QUESTION: Well, would it violate the Constitution --

MR. ELROD: Yes, ma'am, I think it would.

QUESTION: -- to -- and what provision of the Constitution?

MR. ELROD: I did not -- it would -- it would, in my judgment, and I realize that I am venturing where in -- rushing in where some people fear to tred -- in my judgment, a decision that the denial of the dignitary elements of a government employee's claim in a Bivens-type suit otherwise well grounded, assuming that, of course, as we will upon summary judgment, that denying him that would be denying a discrete isolated group of people the same protection of the law that the citizenry at large has.

QUESTION: An equal protection clause --

MR. ELROD: Access of courts --

QUESTION: -- violation?

MR. ELROD: -- whether it be viewed as part of equal protection or as an extension of freedom of expression. Prisoners have access to court. Aliens have access to court on Bivens-type claims. Only, apparently, government employees, if the lower court is correct, so far as a class, as a discrete class, those who have had the benefits of Civil Service remedies

which come down on the bottom line to reinstatement and back pay.

QUESTION: Well, if a government -- a government employee who was beat up or unreasonably searched by FBI people would certainly have a Bivens claim.

MR. ELROD: Yes, sir, he would, and he would not be covered by any Civil Service act that I know of.

QUESTION: No, because the Civil Service doesn't purport to regulate -- the Civil Service doesn't purport to regulate that relationship. But the Civil Service Act certainly can be argued, don't you think, to regulate the relationship between the government as employer and its employees from the Pendleton Act on?

MR. ELROD: That act -- that argument has certainly surface plausibility. I am not sure that it applies in this case. I am sure that there -- that the government as employer has been interested in civilian employees since even before the adoption of the Pendleton Act.

I think the government does have other interests as an employer than it has -- from those that it has in some other capacity.

I suggest to this Court -- I submit to this Court that the Civil Service remedies which the

government postulates here as a bar to the maintenance of a Bivens suit in the premises of this case do not meet the test standard prescribed by this Court in Carlson against Green, for as Justice O'Connor pointed out, among other things, they afford no recompense whatever with respect to the dignitary elements of the petitioner's claim.

And we consider that interest in personality, how it is shielded by the Bill of Rights. And we would consider the policy often enunciated by this Court, a policy of maximizing the vindication of constitutional rights.

QUESTION: Well, your position necessarily means, I take it, that in unlawful discharges or demotions or failure to get a promotion that was due, the Civil Service remedy enacted by Congress is not the exclusive remedy?

MR. ELROD: It is unless it's constitutional deprivation bar.

QUESTION: Unless what?

MR. ELROD: Unless the promotion -- the advserse action, as they used to call it, I think we call it unwarranted or unjustified now -- unless the adverse action is unconstitutional, the Bivens -- there is no Bivens remedy, of course. The administrative

remedies are excluded.

QUESTION: Bivens had nothing to do with an employee of the government, did it?

MR. ELROD: Sir?

QUESTION: The Bivens remedy, as defined in the Bivens case, was not a remedy for government employees, was it?

MR. ELROD: As -- in the Bivens case it was a remedy for Webster Bivens, who as the Court perceived, or a majority of the Court, no other remedy that was made. In Carlson against Green, which expanded Bivens, as I perceive it, it was stated that Bivens established that a citizen, the victim of an unconstitutional -- of unconstitutional ieprivation had a right of action, sounding and damages -- I am paraphrasing, of course -- against --

QUESTION: A citizen -- a citizen who was not an employee, however. Is that not true?

MR. ELROD: So far as I know, this is the -- the first employee case to reach this Court with a -- where a government employee was asserting a Bivens-type claim.

QUESTION: Well, he might -- the government employee might, as Justice Rehnquist suggests, have a Bivens-type claim in some circumstances. The question

is whether he has a Bivens-type claim arising out of government conduct or alleged government conduct for which other remedies have been provided.

MR. ELROD: Well, with some deference, I suggest that I have failed adequately to state what we are complaining about. Your perception probably is absolutely accurate on the basis of what I have said. I want to make it abundantly clear that what we complain of is something that took place before the wheels of the governmental machinery were engaged.

It is a tort antecedent to the engagement of the wheels of that machinery. It is a tort by one in place of power where the other -- in a place where the -- the tort feasors entering into the conspiracy would otherwise not have any meaning unless he were in that place of power.

We are not complaining about the personnel action as qua personnel action. We are complaining about a tort by Doctor or Mr. Lucas in concocting and arranging and procuring what amounts by -- by analogy to the malicious prosecution of administrative proceedings.

QUESTION: Mr. Elrod, in the Bivens case, following up on the Chief Justice's question, there was no other remedy available to Bivens, was there?

MR. ELROD: There -- arguably, the New York

remedy as tort law remedies were rather meaningless, and of course, the --

QUESTION: Well, you realize that my next question is going to be that this one wasn't remedyless?

MR. ELROD: He had -- he had --

QUESTION: You had a remedy in your case.

MR. ELROD: He had a remedy. He had a partial remedy just as --

QUESTION: Well, how do you say this is a Bivens case? The Bivens case didn't have but one remedy.

MR. ELROD: Well, in Carlson --

QUESTION: Your case has two remedies.

MR. ELROD: In Carlson, Mr. Justice Marshall, in Carlson against Green, the first issue assumed that the allegations of the complaint would support an action under the Federal Tort Claims Act. Notwithstanding that, this Court held that the remedies were cumulative and parallel and that the, as I -- as I perceive Green, the ruling, and that the FTCA claim or remedy did not bar a Bivens remedy.

QUESTION: Well, why do you say it's a Bivens-type case?

MR. ELROD: Because it's directly under the Constitution --

QUESTION: You're relying on another case, not

Bivens.

MR. ELROD: Well, Bivens is an extension of Carlson. It's a Bivens type. We would speak of Clifford Trust and Totten Trust and so forth. It's taken on a generic secondary meaning. An action brought directly under the Constitution without intervening enactment by Congress authorizing the federal courts to entertain such an action.

QUESTION: Mr. Elrod, I suppose one could say that there are some advantages in going the Bivens route, if you have it, over the administrative route. But there are other advantages in going the administrative route over the Bivens route. Am I correct in --

MR. ELROD: Eminently so, sir. As a practical matter, I do not know why anybody other than a pioneer would start a Bivens-type suit, a crusader, a pioneer, or a Don Quixote.

QUESTION: Now, did he recover some $30,000 in back pay before he was reinstated?

MR. ELROD: At the time of his reinstatement under the Back Pay Act, as amended, he received full pay.

QUESTION: And that amounted to some $30,000?

MR. ELROD: Some $30,000. It's not in this record, but it had to be true. Upon which he paid taxes

and upon which his insurance was deducted.

He has -- his economic losses, while they embrace the matter of attorney's fees and of lost leave time, they are not of great moment in this case. The dignitary elements are: the right of the individual to -- to be free from this type of tyrannical action by a middle-level martinet.

QUESTION: On your theory, is it not true that a great, great number of employee discharges or failures to get promotions or tenure or whatever in government might well be open to both the Civil Service remedy and the remedy that you are seeking here? That is, in many, many cases, the allegations -- in 27 years I have seen hundreds of them now in the federal courts -- many, many cases the allegation is that the boss was biased, that the hearing board was not impartial, that somebody was out to get him and that sort of thing. All those would add up to a Bivens tort claim, at least, too, would they not?

MR. ELROD: On paper. Particularly since Harlow against Nixon -- or rather Fitzgerald against Harlow, I should think that they would be rather easily disposed of, if not on motion to dismiss, then by -- on motion for summary judgment interposed by a government lawyer at no expense to the defendant.

QUESTION: Well, in 1883, if that was the year when Congress created what we now call the Civil Service System, was not the purpose of providing a remedy that would be inexpensive and fair and not put him -- put the employee to going into the courts?

MR. ELROD: I don't read anything in the Pendleton Act that has anything to do with remedies. I may have misread it. It created a merit system, partially eliminated the spoils system, said that people who habitually used too much alcohol couldn't be employees, and created a Civil Service Commission. And then over the course of time we have the housekeeping details gradually developing until we have some remedies coming in with more to follow.

QUESTION: Prior to that -- prior to that there was no real remedy at all, was there?

MR. ELROD: Initially, it was hortatory , insofar as -- in remedial terms.

The government in this case, I don't believe, will make or has made any serious pretense of demonstrating that Congress explicitly has provided an alternative remedy. I said this was an alternative for a Bivens-type remedy, in effect.

I do not read the several successive Civil Service statutes to which the government refers as

occupying the field or as evincing an intention on the part of Congress to preclude this Court from inferring remedies. Bivens was decided in 1971. Congress has been in session several times since then. In 1974 it adopted the -- amended the Federal Tort Claims Act by creating a remedy which it explicitly stated to be parallel -- I suppose I could I get into the quagmire of the legislative history -- for which there is some data to support the conclusion that it conceived it was creating a parallel remedy.

In 1978, which -- in an act which take effect -- took effect after the effective date of Mr. Bush's reinstatement, Congress undertook to enact whistle-blower protection legislation. It did not in terms exclude Bivens, nor do I -- I submit did it manifest an intent to occupy the field. But Congress has left Bivens in place for whatever the claimant.

Now, we have then a civil servant who either has or doesn't have the -- is entitled or is not entitled to the same measure of recovery for the same wrong as the citizenry at large. If he's not -- I frankly do not perceive a viable reason why he shouldn't be -- but if he's not, we all need to know it.

The -- we have a civil servant who is either entitled to full recovery -- in full recovery against

the federal functionary as he would be against a state functionary under 1983 28 -- 42 U.S.C. in 1983, the Civil Rights Act. There is no question that recovery could be had, that they could carry out under the Civil Rights Act or under the Common Law analogues of malicious prosecution.

This alternative, this postulated remedy does not make Mr. Bush whole, it does not deter like-minded bureaucrats from doing by some other means what we aver that Dr. Lucas did in this case.

QUESTION: Mr. Elrod, do you suppose Congress could expressly adopt remedies saying that they intended to provide a cause of action here that would be a substitute for Bivens but a cause of action that would not grant punitive damages or attorney's fees?

MR. ELROD: Yes, ma'am.

QUESTION: Would that be all right?

MR. ELROD: I have to --

QUESTION: So it isn't a constitutional requirement thing that these remedies be provided.

MR. ELROD: It's a constitutional requirement that all litigant assemblies situated receive similar treatment.

QUESTION: So Congress couldn't provide something otherwise even if it expressly intended to do

so?

MR. ELROD: It could limit it to government employees, in my judgment.

QUESTION: Congress could not --

MR. ELROD: Without some demonstration --

QUESTION: -- expressly limit a remedy to government employees, in your view, under the Constitution?

MR. ELROD: Not -- and not in view of the careful treatment which this Court has given similar problems in such cases as CSC against Letter Carriers and in BMW against Mitchell where it has searched and strained and required experiential empirical data to justify the restriction.

CHIEF JUSTICE BURGER: Mr. Geller.

ORAL ARGUMENT OF KENNETH S. GELLER, ESQ.,
ON BEHALF OF THE UNITED STATES, RESPONDENT

MR. GELLER: Thank you, Mr. Chief Justice, and may it please the Court:

The fundamental flaw in petitioner's position is that it starts from the erroneous premise that a cause of action for damages based on an alleged constitutional violation is an essential ingredient of the constitutional right itself.

Based on this faulty assumption which confuses

rights and remedies, petitioner asks as he did a moment ago why should federal employees be deprived of this right when state employees, for example, in a comparable situation would be able to bring a personal damages action in federal court.

And the answer is an obvious but nonetheless extremely important one. State employees can bring suit because Congress in Section 1983 has expressly legislated a cause of action for damages.

Now, Congress has not done so with respect to federal employees such as petitioner. Instead, Congress has set up an elaborate and comprehensive administrative mechanism, followed by judicial review, as a means of remedying adverse personnel decisions in federal employment, including personnel decisions alleged to be based on some unconstitutional motivation.

Now, this administrative scheme can provide adequate make-whole relief, and it represents the product of literally a century's worth of careful balancing of the rights of federal employees and the demands of the federal employment relationship. And we submit that it would be an unwarranted intrusion into an area plainly reserved to Congress if this Court were to create an additional damages remedy superimposed on top of the remedy Congress has provided, absent any

statutory authority to do so.

Now, this case is, of course, merely the latest in a series of constitutional damages actions that this Court has considered in the dozen years since Bivens was decided. But it's important to realize at the outset that this case is fundamentally different from any of the prior cases. This case is unlike Bivens itself because in Bivens Congress hadn't addressed the remedial question at all. The argument made in Bivens was that the claimant in that case should be relegated to his remedies under state tort law.

And this case is also unlike Davis against Passman because in Davis the claimant was expressly included -- excluded by Congress from a comprehensive statutory remedial scheme and would have been left entirely remedyless absent the Bivens action.

Finally, it is unlike Carlson against Green because in Carlson Congress had set up a judicial remedy that was not designed with constitutional violations in mind and was plainly intended to serve as a complement to rather than as a replacement for a Bivens remedy.

Now, in each of these cases, before allowing a Bivens remedy, the court ensured that Congress either had not addressed the question of what remedy to provide or had addressed it in a way that was not intended to

occupy the field. The court, in effect, was legislating interstitially. It was carrying out Congress' intent by providing a remedy in a case properly within its jurisdiction, but in a way that didn't frustrate Congress' primary lawmaking power.

Now, the question here is very different. Congress has provided an express statutory remedy. That remedy is in the Civil Service laws. And it's expressly designed to deal with, among other things, constitutional violations of the kind alleged by petitioner here. And Congress has done so in a comprehensive way that really leaves very little doubt that that remedy is intended to be exclusive.

We believe that Congress' intent should be followed here as well as it was in Bivens, Davis, and Carlson.

Now, the Court has organized uniquely into Congress' intent in the past by essentially asking two questions: First, does there exist another federal remedy equally effective in the view of Congress? Second, if there is no other available remedy, are there nonetheless special factors counseling hesitation such that Congress couldn't have intended the courts to intrude into a particular area simply based on the power of the jurisdictional ground?

And we believe that both questions lead to the answer given by the Court of Appeals in this case.

QUESTION: What ground did the Court of Appeals go on?

MR. GELLER: The Court of Appeals focused on the -- on the second ground, the counseling hesitation, although in the course of it it described the very comprehensive Civil Service remedies that -- that the -- that federal employees have -- have available to it. I think the court might have done that on remand after this Court decided Carlson against Green because there was a statement in Carlson about requiring an explicit statement by Congress.

QUESTION: So they didn't -- they didn't come out with the ultimate conclusion that you suggest in your first argument that Congress intended the remedy provided to be exclusive?

MR. GELLER: Well, they didn't in those terms, Justice White, but both questions are really designed to answer the same question, which is: What is the intent of Congress? Did Congress intend the courts to --

QUESTION: So you are just presenting one ground, not --

MR. GELLER: We rely on both grounds here, although we think that the -- the way to analyze this

case is to look and see as the court did in Bivens and Davis and in Carlson whether there was some other adequate remedy available to the claimant, and if there is, and if Congress intended that remedy to be exclusive, that's really the end of the judicial inquiry.

QUESTION: Well, if we disagree with that, if we didn't embrace the Court of Appeals' rationale, you nevertheless suggest we affirm on --

MR. GELLER: Absolutely, yes. We argue --

QUESTION: -- the ground you present?

MR. GELLER: Yes. We argue both, we argue both of these points below. And as I say, there are really separate ways of answering the same question, which is: What was Congress' intent?

Let me say that this is at bottom just a federal employment dispute. Petitioner was given a two-job grade demotion from GS-14 to GS-12 following a disagreement with officials in his agency about internal agency practices. Now, his superiors claim he was demoted for publicly making false and misleading statements about his job that disrupted his agency's activities and undermined employee morale.

And petitioner claims on the other hand that he was in fact demoted simply for justiably criticizing his superiors.

This is the sort of dispute that in the private sector would be resolved internally or by contract or arbitration or something like that. And in the federal employment sphere as well, the court has been extremely deferential to the executive branch and to Congress in settling these courts of -- these kinds of internal employment disagreements.

So even in the absence of any guidance by Congress, we think that this is an area that counsels hesitation in the implication of a Bivens remedy. But here we don't have congressional silence at all. What we have is an extremely elaborate, comprehensive, adequate system of administrative and judicial remedies that Congress has set up precisely to deal with the sort of question that is raised in this case.

Aggrieved employees can challenge adverse personnel actions, and including personnel actions claimed to violate their constitutional rights. They can pursue -- pursue those remedies through two layers of administrative review, followed by judicial review. And if they eventually prevail, they are entitled to complete make-whole relief. They can get back pay, as Mr. Bush did, reinstatement, restoration of all employment benefits, correction of any personnel records.

The Congress clearly thought when it was

passing the Back Pay Act, it was passing complete perfecting legislation to make the employee whole. And this Court said much the same thing in Samson against Murray and Arnett against Kennedy.

In fact, it's quite peculiar in a sense that the petitioners would argue that a Bivens action is more effective than -- than what Congress has already provided for someone who claims -- whose claim is based -- basically an employment dispute. Someone who claims he was demoted or fired, it would seem that any remedy that didn't include something like reinstatement would be ineffective. And yet we're told here today that the only effective remedy is a constitutional damages action.

Indeed, petitioner pursued these very remedies and, I said -- as I said a moment ago, received reinstatement, back pay, and restoration of all benefits.

Now, we submit that when Congress has spoken as clearly as it has here, there is simply no room left for the Court to legislate interstitially. There is no need for the Court to create a damages remedy to vindicate constitutional rights, because Congress has already announced the remedy it believes should be applied in that situation. And that remedy is plainly an adequate one.

If the Court's statement in Bivens, Carlson

and Davis about Congress' ability to substitute for a Bivens remedy with something that it believes to be equally effective means anything, it has to mean that Congress can do what it did in this case in the case of federal employees.

And I think what the Court meant in Carlson when it talked about an explicit statement, requiring explicit statement by Congress, I don't think the Court meant anything more than Congress had to be legislating with the Constitution in mind, unlike, for example, in Carlson against Green, where the claim was that a tort claim remedy was a substitute for a Bivens action even though Congress in passing that tort claims remedy certainly wasn't legislating with the Constitution in mind. In fact, it wasn't even enough under the tort claims remedy to prove a constitutional violation, the plaintiff had to mold his claim into the form of a common law tort in order to recover.

But here the Civil Service remedies are clearly addressed to, among other things, constitutional violations. In fact, as we point out, one of the early Civil Service laws, the Lloyd and Fallon Act, was passed to prevent the sort, the same sort of adverse personnel actions that petitioner Bush claims he suffered in this case, where Congress was concerned that Presidents Taft

and Roosevelt had issued gag orders preventing executive branch employees from -- from complaining to Congress about abuse or mismanagement in the Federal Government.

So we think that what Congress has done here is in -- it is to pass a remedy that certainly in its view, and the Court said in Carlson against Green that it has to be equally effective in the view of Congress, not in the view of plaintiffs or even in the view of this Court. And we think that that is what they have done here and that the Court of Appeals therefore properly affirmed the dismissal of petitioner's complaint for failure to state a cause of action directly under the Constitution. And we would ask that that judgment be affirmed.

If there are no further questions?

CHIEF JUSTICE BURGER: Thank you.

Do you have anything further, Mr. Elrod? You have 4 minutes remaining.

ORAL ARGUMENT OF WILLIAM HARVEY ELROD, ESQ.,

ON BEHALF OF WILLIAM BUSH, PETITIONER

MR. ELROD: May I submit to the Court a close and careful collation of the legislative materials which the government itself cites in this case will not disclose that Congress has ever done more in the area of remedies for the type of grievance that Mr. Bush has

than it did for the type of grievance that Mrs. Green had in Carlson against Green.

I submit that it is erroneous to say that we complain of a personnel action. We complain of the procuring of this personnel action which resulted in our being punished for having exercised a constitutionally protected freedom.

CHIEF JUSTICE BURGER: Thank you, gentlemen.

The case is submitted.

(Whereupon, at 2:27 p.m., the case in the above-entitled matter was submitted.)

CERTIFICATION

Alderson Reporting Company, Inc., hereby certifies that the attached pages represent an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of the United States in the Matter of:
WILLIAM C. BUSH, Petitioner v. WILLIAM R. LUCAS # 81-469

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and that these attached pages constitute the original transcript of the proceedings for the records of the court.

BY _____
(REPORTER)