

19-6764 ORIGINAL
No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Supr
NOV 25 2019
OFFICE OF THE CLERK

Nicole Rena McCrea
Petitioner

v.

D.C. POLICE AND FIREFIGHTERS' RETIREMENT AND RELIEF
BOARD
Respondent

ON PETITION FOR WRIT OF CERTIORARI TO THE DISTRICT OF
COLUMBIA COURT OF APPEALS

Nicole Rena McCrea

(Name)

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(Address)

Washington, DC 20019

(City, State, Zip Code)

202/491-9656

(Phone Number)

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QUESTION(S) PRESENTED

1. Are the provisions of the United States Constitution, Amendment 5, Due Process Clause, compelled and/or implied as pertains to the expressed statutory guidelines within the Police and Firefighters Retirement and Disability Act (“PFRDA”), a state law governing disability and disability provisions of the District of Columbia Police, Firefighters and Capitol Police, as concerns the property interest in the calculation and/or adjustment of the Petitioner’s annuity; the Petitioner’s property interest in a disability review for recovery back to reemployment; the Petitioner’s property interest in the ability to be employed in any profession; the Petitioner’s property right protected by the Takings Clause?
2. Is the Petitioner’s challenge to the Constitutionality of the Board’s actions a contested case subject to the provisions of the United States Constitution, Amendment 5, Due Process Clause, a hearing to refute charges and/or clear her name?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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TABLE OF AUTHORITIES CITED

American Postal Worker's Union v. United States Postal Service, 227 U.S.App.D.C. 351, 707 F.2d 548,

Aoude v. Mobil Oil Corp., 892 F.2d 1115 (1st Cir. 1989)

Bloch v. Powell, 348 F. 3d 1060 at 1068 - 1070 Court of Appeals, Dist. of Columbia Circuit 2003

Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 569-70, 577, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972))

Cafeteria and Restaurant Workers v. McElroy, 367 U.S. 886, 895-96, 81 S.Ct. 1743, 6 L.Ed.2d 1230 (1961)

Campbell v. Pierce Cnty., Ga., 741 F.2d 1342, 1345 (11th Cir.1984)

Chambers v. U.S. Dep't of Interior, 568 F.3d 998, 1007 (D.C.Cir.2009)

Chicago & S. Air Lines, Inc. v. Waterman S.S. Corp., 333 U.S. 103, 112-13, 68 S.Ct. 431, 437 92 L.Ed. 568 (1948)

Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 538, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985))

Codd v. Velger, 429 U.S. 624, 627, 97 S.Ct. 882, 51 L.Ed.2d 92 (1977) (per curiam)

County of Sacramento v. Lewis, 523 U.S. 833, 846, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998)

Crowell v. Benson, 285 U.S. 22, 60, 52 S.Ct. 285, 76 L.Ed. 598 (1932)

Dodge v. Board of Education, 302 U.S. 74, 58 S.Ct. 98, 82 L.Ed. 57 (1937)

Doe v. Cheney, 885 F.2d 898, 910 (D.C.Cir.1989)

Doe v. DOJ, 753 F.2d 1092, 1112 (D.C.Cir. 1985)

Florida v. Weinberger, 492 F.2d 488, 494 (5th Cir.1974)

Gen. Elec. Co. v. Jackson, 610 F.3d 110, 119 (D.C.Cir. 2010)

Goldberg v. Kelly, 397 U.S. 254, 262, 90 S.Ct. 1011, 1017, 25 L.Ed.2d 287 (1970)

Harvey v. District of Columbia, 798 F.3d 1042, 1049 (D.C. Cir. 2015)

Holmes v. Amerex Rent-A-Car, 710 A.2d 846, 854 (D.C. 1998)

In re APA Assessment Fee Litigation, 766 F.3d 39, 55 (D.C.Cir.2014)

Ingraham v. Wright, 430 U.S. 651, 672, 97 S.Ct. 1401, 51 L.Ed.2d 711 (1977)

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