

[SUPREME COURT OF THE UNITED STATES]
OCTOBER TERM, 1958.

Syllabus.

360 U. S.

GREENE v. McELROY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT.

No. 180. Argued April 1, 1959.—Decided June 29, 1959.

Petitioner, an aeronautical engineer, was general manager of a private corporation engaged in developing and producing for the Armed Forces goods involving military secrets, under contracts requiring the corporation to exclude from its premises persons not having security clearances. Under regulations promulgated by the Secretary of Defense without explicit authorization by either the President or Congress, and after administrative hearings in which he was denied access to much of the information adverse to him and any opportunity to confront or cross-examine witnesses against him, petitioner was deprived of his security clearance on the grounds of alleged Communistic associations and sympathies. As a consequence, the corporation discharged him and he was unable to obtain other employment as an aeronautical engineer. He sued for a judgment declaring that the revocation of his security clearance was unlawful and void and an order restraining the Secretaries of the Armed Forces from acting pursuant to it. *Held*: In the absence of explicit authorization from either the President or Congress, the Secretaries of the Armed Forces were not authorized to deprive petitioner of his job in a proceeding in which he was not afforded the safeguards of confrontation and cross-examination. Pp. 475-508.

(a) Neither Executive Order No. 10290 nor Executive Order No. 10501 empowers any executive agency to fashion security programs whereby persons are deprived of their civilian employment and of the opportunity of continued activity in their chosen professions without being accorded the chance to challenge effectively the evidence and testimony upon which an adverse security determination might rest. Pp. 500-502.

(b) Neither the National Security Act of 1947 nor the Armed Services Procurement Act of 1947, even when read in conjunction with 18 U. S. C. § 798, making it a crime to communicate to unauthorized persons information concerning cryptographic or intelligence activities, and 50 U. S. C. § 783 (b), making it a crime