

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Elizabeth Pastor — PETITIONER
(Your Name)

vs.

Partners for Children's Rights — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

State of New York Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Elizabeth Pastor
(Your Name)

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(City, State, Zip Code)

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(Phone Number)

QUESTION(S) PRESENTED

Should the Supreme Court have transferred the Article 78 to the Appellate Division without a hearing?

Should the lower court have denied full discovery for the purpose of violating Title VII? Especially when respondent claimed to have had less than 15 employees and certain documents were never reviewed regarding this?

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:

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A Decision from NYC ^{State} of Court of Appeals.

APPENDIX B Supreme Court of the State of NY Appellate Division 2nd Dept.

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
--------------	--------------------

STATUTES AND RULES

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 14, 2018.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was Nov. 20, 2017.
A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT OF THE CASE

I Elizabeth Pastor, Petitioner and Pro-Se Litigant was employed with Partnership for Children's Rights for 3 ½ years as an Administrative Assistant. The organization (PFCR) is a not-for-profit law firm dedicated to helping disadvantaged children by acting as an advocate and providing legal services. I was hired to work for respondent in December 2005. Respondent terminated my position on or about May of 2009.

As a 43-year-old female at the time and minority, I was repeatedly denied of advancement opportunity and passed up for a vacant position/promotion that was available multiple times throughout 2007-2009. The division was brand-new and created by the CEO, Warren Sinsheimer. The job entailed clerical duties, processing loans and working directly with the CEO. When I inquired about the position on all 3 occasions, the Respondent always had a lame excuse such as, they weren't going to hire, I was not qualified, or a paralegal degree was needed, etc. they eventually hired each time a younger white female that had little office experience, and much less leadership skills. The first applicant named Ms. Lauren Whitman was a volunteer already in the organization and was looking to obtain office skills within the firm and later was paid off the books and never on payroll.

Once, Lauren resigned, I inquired about the position again and they hired another young white female named Johanna Kahn that later resigned as well. Then Ms. Lazo was hired. On all 3 occasions, I was never given the opportunity to interview at all. Ms. Lazo was not an attorney, nor did she need a paralegal degree for the position. Though the respondent had an ad on the website idealist.org, they continued to say they weren't hiring. I always knew I was well qualified and knew that I was turned down due to my race because the CEO had a preference in hiring younger white females instead. I never got bad reviews in all the months employed with them, and I knew that being terminated "due to the economy" was false.

The CEO promoted the interest of certain national origin only. On all three occasions, white young females were interviewed, considered and then hired. One of the applicants, Johann Kahn, before resigning, mentioned that she felt the office to be prejudice and didn't like that I was totally put aside with the office experience I had and a paralegal degree. It was hard for her to believe I was never considered for the position when I was very familiar with the entire office procedures and took charge like an Office Manager. Ms. Kahn was the one who showed me the advertisement listed on the website (indeed.org) after respondent claimed not to be hiring and advised me that she wanted to become a

paralegal. She advised me that a degree wasn't required when she interviewed, nor was it stated on the ad. They were willing to train her. Though respondent claimed that when I approached them for the position, it was to seek more responsibilities in other areas, but that was untrue.

To my recollection in the relevant years of 2007-2009, I made several attempts to apply for the position when available, and realized I just kept being put off. The position title had changed, as to deter me from applying and then stating I was "not qualified" or to make it more than what the position really was. There was nothing changed in that department. Not the duties nor the processing of these loans. In other words, the duties were kept the same throughout the existence of it and I was certain of that. Whether the position was for a paralegal or not, I was never given an opportunity to apply on all three occasions. Plus, the respondent failed to acknowledge that I held a paralegal degree and it was in the file. The excuses were to make out that the younger white females we qualified, and I wasn't. I took a great insult to that and more so, when they wanted me to train one of the applicants and then report to her.

Clearly, the respondent had a preference in hiring all white employees. The Job openings and advancement opportunities were offered only to younger females

that were white and were from NYU law school. These students also were the ones with the opportunities for advancement in the organization through Fellowships, training, etc. Though the organization helped the unfortunate, white employees were the ones that were benefitting and getting a better education for their future through hiring process and whatever Fellowships/Contracts that Partnership had established with NYU.

While employed at Partnership, there were times I felt total discomfort due to being treated different than my peers and even more so after inquiring about the open position numerous times and inquiring about their retirement (401K or 403B) plan offered to all employees but only the executives were able to participate. I Obviously lost the opportunity in the 3 ½ period. They've shown a pattern of favoring white employees only and I realized certain things like the organization celebrating the birthdays of white employees only regardless whether you were a Secretary or an Attorney. Not once was my birthday celebrated in the 3 ½ years and I realized I was being discriminated against and noticed their preference in color, race and nationality working directly for them.

On a few occasions, while seated at the front desk, which is where I sat every day, I noticed Respondent's reaction and demeanor towards African American when

they visited. The Manager asked us to put our wallets and handbags away. I also experienced a disturbing racial remark about Hispanics made by the CEO, Warren Shinsheimer. The racial remark consisted of the CEO returning from court one day while entering the office and I asked him how things went in court and he said, "the clients name was Ms. Perez and the Judge continued to say, Ms. Pagan. The CEO replied, "then again, what difference does it make, they are all the same!" He was referring to Hispanics. Being Hispanic, I was really taken back by the remark.

In the relevant years, I had complained to the Manager and told him I was constantly getting the run- a- round and being turned down from both, Todd and Warren for the job. One would ask me to go and speak with Todd and vice versa. I mentioned that white employees got better privileges and I expressed how one white employee got to leave the office earlier due to favoritism. A dispute occurred with Todd and I because I basically told him that they discriminated. His reply was; "mind your business." As a result, I eventually was fired and in pretext, they claimed to have used the economy and its decrease in fundraising/donations cost measures as a cover up. I know my race was a factor, since they favored whites, my age was also a factor due to hiring younger white females and the

comment regarding "I served them no purpose after returning from short term disability and then, retaliating for speaking up.

When respondent sent out an email to all the staff regarding my termination, to my surprise, they still hired months before and after my termination. They hired Ms. Dalit Paradis, Sandra Weinglass and Ellison ward in 2009. Ms. Dalit was hired in December of 2008. Just 5 months before my termination and kept all the jobs of everyone else. I'm assuming if it was foreseeable that they were experiencing a hardship and it was due to the economy, why was the hiring process still in effect?

So, I reviewed their yearly financial reports since I knew I was being discriminated against and knew the fundraising was not the real reason, I found that certain employees had to have been receiving a higher wage or had to have gotten raises because their payroll expense was higher each year, and their payroll compared to their general ledger did not match. The payroll expense for 2007 was \$565,876. For 2008 it was \$636,730 and for 2009 it was \$707,199. Their funding in 2008 was \$143,000 and in 2009 it was \$156,250. Their revenue and Support in 2008 was \$665,155 and in 2009 was \$1,352.589. All revenue, fringe benefits, etc. were greater each year. The court overlooked these important documents.

When reviewing their financial statements and submitting them to the court, the statements clearly read that on each relevant year, the organization was at a better financial state and the economy had nothing to do with it. They concealed documents and kept information such as, having another organization titled "The Warren Sinsheimer Foundation." Respondent also stated in a Scarsdale newspaper that their funding was very good and were interested in starting another office in Newark New Jersey. The Warren foundation was affiliated with the Partnership for Children's Rights and entered in a co-employment relation with ADP Total Source when being untruthful about employing less than 15 employees and not violating Title VII. This made a big difference and the court failed to apply the law and to a letter/agreement policy of co- employment with ADP, The Warren Foundation and perhaps other. Unfortunately, the District Court did not consider full discovery. The annual reports submitted by me to the court revealed more employees versus their ADP payroll which is only salaries. The report has 3 separate specific columns which are employee payroll, benefits and fringe benefits. The fringe benefits in addition to payroll determines who was an employee under Title VII.

Full discovery should have been allowed. Unfortunately, the District Court only went by what the defendant submitted and ignored my discovery demands. I also requested the NYS 45 (tax forms) and the charts of accounts during discovery. Respondent claimed the tax forms as well as the NYU contracts that promised the NYU students a job career at the PFCR were confidential in nature.

The state tax forms that they refuse to submit, also showed all the employees employed by the respondent every quarter. All employers with at least 5 employees must file this form every year. However, defendant has misled the court in more ways than one by saying the forms did not exist at the time nor did they have them on hand. The existence of these forms mattered a great deal and full discovery should have not been denied. The District court also did not consider the forms. Unfortunately, the District Court granted limited discovery and a lot of their tax records that proved they had more than 15 employees and their financial position had been never discovered. I also presented the court with a signed affidavit from the accountant that was employed by a temp agency at the time, that the defendant had paid others from different accounts and Ms. Lauren not being on payroll and paid off the books. As mentioned, PFCR has mislead the court and my case has been over looked, bounced around from court to court and never reviewed in its entirety.

During my last year employed with PFCR, I advised Todd, the Manager, (who was the one I reported to) that I had to be out approximately 2 weeks due to foot surgery. I had no idea that I would be out longer which lead to having applied for short term disability. Once I informed him, days later he handed me a memo that I was not doing my job correctly and the intakes handled by me were not up to par. meanwhile, I never had bad reviews. Eventually, I went out on short term disability and while being home in a wheel chair wearing a cast, I made numerous attempts to call the office to obtain the necessary information for short term disability and didn't get a reply from them. (though they claimed to have not known about my leave and refuse to provide me with any disability information in case I would be out longer), I was ignored by both, the Manager and CEO and suspected I would get fired. Not only because I was ignored but because I had complained about favoritism. At no time did I advise them before my leave that I was going out on short term disability because I nor the medical doctors knew my healing process and I was unable to predict my recovery. In the process, I just kept calling the office especially when needing medical benefits and feared that I would be fired. After connecting with them via email and faxed them my updates from my physician. When making the few attempts to call them, I dialed my recorded extension and it had been disconnected. I strongly believe my

termination was pre-mediated. I knew it was just a matter of time. Sadly, I had to obtain most of the information for short term disability on my own while at home. I felt I was being punished and discouraged for taking medical leave, and for being out longer than expected and for blurring out that they had discriminated and had favoritism. Upon my return, the respondent said to me "I served them no purpose". Shortly after, I was terminated and heard they wanted to hire another white female that completed her internship with us in the office.

REASONS FOR GRANTING THE PETITION

The Petition for Writ of Certiorari should be granted because The Supreme Court of the State on New York County of Kings (lower level) should have held a hearing on the Article 78 proceeding and rendered a decision. Instead, they improperly transferred the matter to the Appellate Division 2nd Department without sufficient and substantial evidence. A hearing never took place nor an oral argument. There are no records of a hearing.

The federal and State law are odd with each other and should reconcile unity. They need to be bought together on these matters. I believe my case would have ended with a different result since my case has been thrown around from court to court and there has been evidence that still needed to be reviewed. Documents with issues of facts have been overlooked.

The lower court departed from the accepted standard of review. There was nothing to challenge. The respondent also violated Title VII of the Civil Rights Act of 1964 because it did employ the requisite number of employees. Unfortunately, the court granted very limited discovery.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Elizabeth Pastor
Date: July 11, 2018