No. 18-7493

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA.

HAYWARD JACKSON,

Petitioner,

v.

PEOPLE READY, INC.; STEPHANIE VANEGAS; WALESKA STANFORD; RAQUEL MADRIGAL; and DAVID MONTEZ,

Respondent.

Case No.: 9th Cir. 17-56831
(U. S. D. C., C. D. Cal. No. 5:17-cv-0143-FMO (JPR) (C. D. Cal. 2017))

SUPPLEMENTAL BRIEF.

On Petition for Writ of Certiorari from the Judgment
Of the United States Court of Appeals
For the Ninth Circuit.

HAYWARD JACKSON
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Petitioner in Pro Se

QUESTIONS PRESENTED.

Was the Ninth Circuit in conflict with this Court's Decisions in *Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit*, 507 U. S. 163, 113 S.Ct. 1160, 122 L.Ed.2d 517 (1993), and *Conley v. Gibson,* 355 U.S. 41, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957), when Petitioner properly pleaded his Second Amended Complaint?

CORPORATE DISCLOSURE STATEMENT.

None of the Parties hold any stock in any corporation.

REASONS FOR GRANTING THE WRIT.

I. THIS CASE SHOULD BE REVERSED IN THAT PETITIONER IS NOT REQUIRED TO SPECIFICALLY PLEAD ALLEGATIONS IN SUPPORT OF HIS FEDERAL CAUSES OF ACTION IN LIGHT OF THE NINTH CIRCUIT'S OWN CASE OF *NATIONAL ASSOCIATION OF AFRICAN-AMERICAN-OWNED MEDIA V. CHARTER COMMUNICATIONS, INC.*

Petitioner filed his lawsuit against Respondents, because of his false termination that was instigated by the individual Respondents, partially because Respondent Stanford felt falsely threatened by Blacks, because of her experience in living in the "Little Africa" section of San Bernardino. If Petitioner "failed" his drug test in the Upland Office of Labor Ready, but passed the same drug test in the San Bernardino Office of Labor Ready the next day, that means that the drug tests are inconsistent, and instead of the District Court and Ninth Circuit ignoring the inconsistent drug tests, the District Court should have inferred that the Respondents had a motive to terminate Petitioner.

The new case of *National Association of African-American-Owned Media v. Charter Communications, Inc.*, http://cdn.ca9.uscourts.gov/datastore/opinions/2019/02/04/17-55723.pdf, at pp. 18-19 (9th Cir. 2018), explains that:

> "However, Plaintiffs supplemented these claims by pleading that white-owned companies were not treated similarly. For example, the FAC stated that, although Charter informed Entertainment Studios that bandwidth and operational demands prevented carriage of the latter's channels, Charter secured contracts with 'white-owned, lesser-known' networks during the same period. [Footnote omitted.] Charter also allegedly pointed to Entertainment Studios' tracking model as a ground for refusing to contract, while simultaneously accepting white-owned channels that used the same model. Plaintiffs further alleged that Charter's CEO, Rutledge, refused to meet with Entertainment

> Studios' African-American owner, ***[BYRON] ALLEN,*** despite meeting with the heads of white-owned programmers during the same time period. We conclude that these allegations, when accepted as true and viewed in the light most favorable to Plaintiffs, are sufficient under § 1981 to plausibly claim that Charter denied Entertainment Studios the same right to contract as white-owned companies. [Footnote omitted.]" (Emphasis added.)

If the Ninth Circuit can give love to Byron Allen, why can't they give love to Petitioner? It was not like Charter said we won't work with somebody being called a racial pejorative. Charter simply refused to work with Byron Allen, while it agreed to carry stations like Chiller, INSP, and the Outdoor Channel. Here Respondent Stanford didn't like Blacks and helped set up Petitioner to fail his drug test at the Upland Office while he passed the same test at the San Bernardino Office the next day. ***THIS IS CLEARLY RACISM.***

The EEOC in it's *Amicus* Brief before the Ninth Circuit referred to a Law School article by one of it's own lawyers stating that drug tests may render false positives. ***The Ninth Circuit should have given due deference to the Amicus Curiae Brief of the EEOC.*** The article from the University of Chicago stated that:

> "2. *False Results.* The second major problem with drug tests is their high rate of false positive results. The EMIT test, an inexpensive and, among employers, popular method of testing, when used by itself, produces false positives in ten to forty percent of all cases. [Footnote omitted.] Because of this high error rate, the manufacturer of the EMIT test recommends confirmation of a positive result with a gas chromatography-mass spectroscopy ("GC/MS") test. [Footnote omitted.] The GC/MS test costs approximately $60 to $100 per test, however, and involves a difficult, time consuming procedure that employers are reluctant to use. [Footnote omitted.]" (https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1044&context=uclf)

The case of *Sheppard v. David Evens & Associates,* 694 F.3d 1045, 1050, fn. 2 (9th Cir. 2012), also explains that:

> "A plaintiff in an ADEA case is *not required* to plead a prima facie case of discrimination in order to survive a motion to dismiss. *See Swierkiewicz v. Sorema N.A.,* 534 U.S. 506, 508-11, 122 S.Ct. 992, 152 L.Ed.2d 1 (2002). Nevertheless, in situations such as this, where a plaintiff pleads a plausible prima facie case of discrimination, the plaintiff's complaint will be sufficient to survive a motion to dismiss. *See Swanson,* 614 F.3d at 404-05."

Petitioner does not have to plead his evidence, the entire Bible, or the complete works of Shakespeare. As in *Sheppard,* at 1048, the plaintiff's Complaint was brief and stated a cause of action for discrimination. If that Complaint was filed in the instant District Court below, it would had been erroneously dismissed without leave to amend. Pursuant to *Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit,* 507 U.S. 163, 168, 113 S.Ct. 1160, 122 L.Ed.2d 517 (1993), Petitioner should not be proving his case until discovery is complete.

It goes to show that Petitioner does not have to plead a lengthy prolix gloriouski-pleading Complaint. In fact, the two Judges of the District Court should be taking MCLE classes on pleading Federal lawsuits; the pleading rules have been refined ***since 1993.*** It does not need an Ervin Chemerinsky for Petitioner to plead a proper Complaint; however, Petitioner does not mind if he is appointed Mr. Chemerinsky or anybody of that caliber as his attorney if this Petition is granted.

There is nothing that requires Petitioner to tell every minute detail of his claims, unless this Court wants to know what Petitioner did at work and every other *scintilla.* The facts stated in the Complaint below supports the Federal Causes of Action.

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CONCLUSION.

Petitioner requests that the Judgment be reversed with Costs to Petitioner.

Dated this 11th day of February, 2019

By: Hayward Jackson

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