No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Derrick Allen — PETITIONER
(Your Name)

vs.

Envirogreen Landscape Professionals, Inc — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

5th Circuit Appeals Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Derrick Allen
(Your Name)

P.O. Box 423
(Address)

Baker, LA 70704
(City, State, Zip Code)

(225) 772-3334
(Phone Number)

United States Supreme Court

Writ Certiorari

Derrick Allen

v.

Envirogreen Landscape Professionals, Inc.

August 13, 2018

Question (presented)

Can the US Supreme Court review at their judicial discretion for the compelling reason: The EEOC/Louisiana HCR; Louisiana Middle District; and Louisiana 5th Circuit Court of Appeals has entered a decision in Conflict. With the decision in another United States Court of Appeals on the same important Matter. That court has decided this important federal question in a way that conflicts with the decision by a state court of last resort. It has so far departed from the accepted and usual course of judicial proceeding as to call for exercise of this Court's supervisory powers to review lower courts decisions and reverse the decision of the lower court in favor of plaintiff.

List of parties

Defendant's Representation

Kantrow, Spaht, Weaver, & Blitzer

(A Professional Law Corporation)

Attorneys at Law

Suite 300 City Plaza

445 North Boulevard

Post Office Box 2997

Baton Rouge, LA 70821-2997

Derrick Allen

PO BOX 423

BAKER, LA 70704

Allen.derrick195@gmail.com

(225) 772-3334

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42 U.S.C. section 2000e-2(a)(1).

29 C.F.R. Section 1614.108(f)(e).

Cases

Complainant v. Dept. of Air Force, EEOC No. 120083446 (September 28, 2015)

EEOC v. Corporate Express Office Products, Inc., No. 3:09-cv-00516 (M.D. La. Nov. 23, 2009).

EEOC v. Orkin, Inc., No. 05-2657-Ma/P (W.D. Tenn. May 26, 2006).

EEOC v. United Air Temp / Air Conditioning & Heating, Inc., Civil Action No.

1:11-cv-281 (E.D. Va. filed Mar. 21, 2011).

Opinions Below

The opinions of the lower courts have not been published.

EEOC Docket No. 461- 2011- 00754, Ruling Date 2014

Louisiana Middle District 3:14 – cv-506, John W. Gravelles, Ruling, May 03, 2016

5th Circuit Court of Appeals, Panel of Judges: Jones, Smith, and Prado, November 28, 2017, MANDATE of USCA as to [24]

Jurisdiction

The United States Supreme Court has jurisdiction over this case because the final decision from the 5th Circuit Court of Appeals was filed on November 28, 2017. You have 90-days to file in U.S. Supreme Court from the date the final decision was filed from appellate court.

Constitutional and Statutory Provisions Involved

CASES

Complainant v. Dept. of Air Force, EEOC No. 120083446 (September 28, 2015) the EEOC overturned the administrative judge's decision finding no discrimination issued after a hearing and granted default judgment because the agency failed to provide the completed file to OFO, including failing to provide the complete ROI, motions and pleadings from the hearing stage, and the hearing transcript. Similarly, Amina W. v. Dept. of Energy, EEOC No. 0120113823 (November 17, 2015) agency did not comply to orders from Office of Federal Operations (OFO)

In November 2009, a nationwide supplier of office products and services entered into an 18-month consent decree, agreeing to pay $80,000 to an African American account manager who EEOC alleged was denied appropriate wages because of his race. According to EEOC's lawsuit, the complainant was hired as a junior account manager in the supplier's Baton Rouge, Louisiana office with an annual salary of $32,500, plus commissions. At the time of his hire, complainant was told that after 6 to 8 months, he would be promoted to account manager with an increase in his base salary. The supplier promoted complainant but did not increase his base salary. The salary of the complainant, the only African American account manager in his region, was never increased despite good performance or even when he assumed the accounts of two white employees who left the company. The complainant resigned and was replaced by a White junior account manager who earned a higher base salary than complainant had ever earned as an account manager. Under the decree, the supplier will provide web-based training to all employees at its Baton Rouge and Harahan, Louisiana offices on Title VII and defendant's antidiscrimination policies and complaint reporting procedures. The supplier also will maintain policies and procedures prohibiting race discrimination and wage disparities based on race, which will include investigation procedures and contact information for reporting complaints. Additionally, it will submit annual reports to EEOC on complaints of race discrimination and harassment it receives at its Baton Rouge and Harahan offices and their resolution. EEOC v. Corporate Express Office Products, Inc., No. 3:09-cv-00516 (M.D. La. Nov. 23, 2009).

In May 2006, Orkin, Inc. paid $75,000 to settle a race discrimination lawsuit filed by the EEOC, alleging that Orkin refused to reinstate a Black former employee to a service manager position at the Memphis location and paid him less when he held the position because of his race. EEOC v. Orkin, Inc.,

No. 05-2657-Ma/P (W.D. Tenn. May 26, 2006).

In March 2011, EEOC filed a lawsuit alleging that a provider of preventive maintenance for residential and commercial heating and air conditioning systems, which has approximately 247 employees at 13 locations within Florida, Georgia, the District of Columbia, Northern Virginia and Maryland, violated federal law by discriminating against non-Caucasian employees based on their race when it paid them less than their Caucasian colleagues. Additionally, the EEOC alleged that an African-American telemarketer was paid less than a Caucasian telemarketer in a substantially similar job. Despite complaining to management, the African-American employee's compensation remained the same until she resigned. EEOC v. United Air Temp / Air Conditioning & Heating, Inc., Civil Action No. 1:11-cv-281 (E.D. Va. filed Mar. 21, 2011).

Statement of the Case

First, plaintiff never received a copy of the Report of Investigations after the EEOC completed the investigation, which created an unfair and unequal discovery resulting in a bias ruling and decision by the courts. Secondly, the courts have made a mistake with regards to Title VII not protecting wage issues. Title VII protects wage disparity in respect to the individual's race, color, religion, sex, or nation origin 42 U.S.C. section 2000e-2(a)(1). Thirdly, the plaintiff's "Review of Action" document was over looked in all civil proceedings. Thirdly, Enviorgreen fired plaintiff but never showed legitimate reasons why plaintiff was fired. Plaintiff never received a single write-up or verbal warning prior to being fired for his work performance. The decisions by the lower courts should be reversed because the defendant discriminatory action was motivated by race.

Envirogreen's employment decision to renege on plaintiff's and defendant initial agreement of $15.00 per hour was based on their assumption that African Americans are inferior to white European American and will accept and excuse almost anything white European American place upon them. Mark Willie (owner) thought plaintiff would accept the $14.00 per hour instead of $15.00 per hour and excuse his stereotypes and assumptions about the abilities, traits, or performance of plaintiff based on his race (African American). **Envirogreen had a white supervisor named Rick Steele. He did not have a license in the Horticulture industry and he worked in a supervisor's capacity with Envirogreen, but plaintiff had a Landscape Horticulture and Irrigation license, but he worked in a laborer's capacity.** Plaintiff's contention is he was discriminated against on the bases of Race Discrimination and Wage Disparities based on Race. Plaintiff also argues he was retaliated against after he opposed Envirogreen Landscape Professionals, LLC discriminatory practices based on Race Discrimination and Wage Disparities based on Race by being subject to Different Terms and Conditions of Employment and Termination. Plaintiff establishes a Prima Facie case and shows pretext. *Note, please revisit evidence, exhibits, pleadings, and etc. submitted to the court by both parties.*

Pre-Employment History before Envirogreen

Prior to working with Envirogreen Landscape Professionals, LLC., plaintiff worked as a Landscape Horticulture supervisor with Chef John Folse, White Oak Plantation. Plaintiff supervised 3 to 5 people on the daily basis and up to 15 people on special projects in various locations of Chef John Folse's. Plaintiff also worker as a lead or project manager on a project endorsed by Landscape Architect Todd Griffin prior to coming to work with Mr. Griffin at Envirogreen Landscape Professionals, LLC. Mr. Todd Griffin sought out plaintiff to become a supervisor at Enviorgreen Landscape Professionals, LLC. This is how plaintiff learned of the job opening through his cousin Terry Allen. Whom was working under Landscape Architect Todd Griffin's landscape Architect license at Envirogreen. Plaintiff was a licensed Landscape Horticulturist and Irrigation Contractor prior to getting hired by Mark Willie (owner) and Todd Griffin. The interview went well and employment arrangements appeared to be understood and reasonable in Good Faith between plaintiff and Envirogreen. Although plaintiff asked for $17.00 per hour, Mark Willie (owner) did not agree on that amount, but he agreed to pay the plaintiff $15.00 per hour. This was the same amount plaintiff was making at White Oak Plantation as a Landscape Horticulture supervisor.

Plaintiff's Employment Experience at Envirogreen

Note, what reasonable person would leave a job making $15.00 per hour working as a supervisor and up for a raise, then go to work for another company making $14.00 per hour? Note, on plaintiff's first week pay check from Envirogreen, Mark Willie reneged on his agreement in Good Faith. To pay the plaintiff $15.00 per hour and paid the plaintiff $14.00 per hour discriminating against plaintiff based on Race Discrimination and Wage Disparities based on Race. Plaintiff alleges this happened because he was a black, Afro-American worker. Therefore, plaintiff opposed Enviorgreen's discriminatory actions by complaining to Mark Willie (owner) and Mr. Todd Griffin about the discriminatory action. As a result, plaintiff was under protected activity, one of the three elements of retaliations that constitutes a retaliation case. Next, plaintiff was retaliated against for opposing Enviorgreen Race Discriminatory action and Wage disparities based on Race by being placed in unfavorable job duties and conditions of employments such as entry level labor positions and nonsupervisory tasks. Nevertheless, plaintiff

continue to complain about Envirogreen's continual Racial Discrimination, Wage Disparities, and Retaliation to no prevail. Finally, Envirogreen terminated plaintiff for unwarranted and non-job necessity reasons. The Different Terms and Conditions of Employment and Termination were the adverse actions. The second element of a retaliation case. The plaintiff complaining directly to Mark Willie (owner) and Todd Griffin was the nexus between the Protected Activity and the Adverse Action; therefore, establishing a Retaliation Prima Facie Case. Plaintiff cannot suffer Race Discrimination, Wage Disparities based on Race, Retaliation based on opposition to Discrimination, Different Terms and Conditions of Employment, and Termination of Employment for discriminatory reasons under Federal Laws Prohibiting Job Discrimination such a Title VII, including:

- **Hiring and firing**;
- Compensation, **assignment**, or **classification of employees**;
- Job advertisements;
- Recruitment;
- Testing;
- Use of company facilities;
- Training and apprentice programs;
- Fringe benefits;
- **Pay**, retirement plans, and disability leave; or
- **Other terms and conditions of employment**.

Discrimination practices under these laws also include:

- **Harassment on the basis of race**, color, religion, sex, national origin, disability, genetic information, or age;
- Retaliation against an individual for filing a charge of discrimination, participating in an investigation, or **opposing discriminatory practices**;
- Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities, or based on myths or assumptions about an individual's genetic information; and
- **Denying employment opportunities to a person because of** marriage to, or association with, **an individual of a particular race**, religion, national origin, or an individual with a disability. Title VII also prohibits discrimination because of participation in schools or places of worship associated with a particular racial, ethnic, or religious group.

Furthermore, the defendant has not shown legitimate, non-discriminatory reasons for plaintiff's termination. Plaintiff never had a complaint or write-up from Envirogreen or other contractors

Envirogreen did sub-contract work for. Defendant never pointed out the skills plaintiff lacked. Plaintiff was the only licensed employee under Todd Griffin. Moreover, plaintiff worked with Todd Griffin on prior jobs before working with Envirogreen and there were never any disagreements or complaints. Plaintiff recaptures:

1). Plaintiff was racially discriminated against in regards to Wage Disparity based on Race. Plaintiff was paid $14.00 per hour instead of $15.00 per hour and plaintiff was not paid overtime based on his race as well. Even though the hour and wage issue was a FLSA issue the race component is an EEOC Title VII issue.

2). Plaintiff was retaliated against because he complained about Racial Discrimination in respect to Wage Disparity based on Race.

- Plaintiff was retaliated by being placed in entry level labor positions and nonsupervisory tasks.

3). Plaintiff was retaliated against when Envirogreen terminated plaintiff. Because of his opposition to their Racial Discrimination (African American) and Wage Disparity based on Race.

Plaintiff, Derrick Allen is now petitioning the United States Supreme Court to recall all judgments, rulings, and decisions made by the lower courts and rule in favor of plaintiff since he was supposed to get a copy of the "Report of Investigations" after the investigation on the case was completed and did not. Moreover, plaintiff did not receive a copy of the ROI until after United States District Court Middle District of Louisiana decided on the case. Disregarding the fair and proper judicial process the EEOC and District Court caused the plaintiff's position of the case to weaken. Plaintiff could not properly prepare to defend his case because he did not receive a copy of the ROI. Under federal laws the plaintiff should have received a copy of the ROI after the investigation was completed. With the ROI, plaintiff could have proved his case on retaliation (opposition to discrimination) based on RACE. The Appeals Court Clerk of Court did not accept plaintiff's brief explaining he did not receive a copy of the ROI; as a result, plaintiff received the same decision and ruling the district court gave in favor of defendant. Nevertheless, plaintiff has finally received a copy of the ROI from the EEOC, so plaintiff can adequately prepare to present his case. Plaintiff also has the "Review of Action" document he attempted to admit to the district court that shows he did not receive a copy of ROI and did request the document from EEOC. This is clear evidence that the lower courts have entered a decision in

conflict with the decision on another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceeding, or sanctioned such a departure by a lower court, as to call for exercise of this Court's supervisory powers to review lower courts decisions.

Exhibits:

Exhibit 1. Request for Report of Investigation (ROI) shows that plaintiff did ask for review because he did not receive a copy of the ROI after informing the EEOC that they did not provide me with a copy of the ROI like they should have according to 29 C.F.R. Section 1614.108(f)(e).

Exhibit 2. Review of Action is the document where plaintiff asked for his case to be reviewed because he did not receive a copy of the ROI resulting in plaintiff not be able to adequately prepare for the case.

Exhibit 3. EEOC Letter responding back to plaintiff Review of Action document dated May 10, 2014.

Exhibit 4. Plaintiff Letter to EEOC representative informing her that I still have not received a copy of my ROI. Plaintiff showed Mrs. Zaida Monoconduit what the statue says about plaintiffs receiving a copy of their ROI.

Reason for Granting the Petition

To the Honorable Court: Based on United States Supreme Court Rule 12. The US Supreme Court has judicial discretion for the compelling reason: The EEOC/Louisiana HCR; Louisiana Middle District; and Louisiana 5th Circuit Court of Appeals has entered a decision in Conflict. With the decision in another United States Court of Appeals on the same important Matter. That court has decided this important federal question in a way that conflicts with the decision by a state court of last resort. It has so far departed from the accepted and usual course of judicial proceeding, as to call for exercise of this Court's supervisory powers to review lower courts decisions and reverse the decision of the lower court in favor of plaintiff.

First, plaintiff never received a copy of the Report of Investigations after the EEOC completed the investigation, which created an unfair and unequal discovery resulting in a bias ruling and decision by the courts. Secondly, the courts have made a mistake with regards to Title VII not protecting wage issues. Title VII protects wage disparity in respect to the individual's race, color, religion, sex, or nation origin 42 U.S.C. section 2000e-2(a)(1). Thirdly, the plaintiff's "Review of Action" document was over looked in all civil proceedings. Thirdly, Enviorgreen fired plaintiff but never showed legitimate reasons why plaintiff was fired. Plaintiff never received a single write-up or verbal warning prior to being fired for his work performance. The decisions by the lower courts should be reversed because the defendant discriminatory action was motivated by race.

Conclusion

The 5th Circuit Court of Appeals ruled improperly because they did not consider Plaintiff inability to adequately prepare for his case because he did not receive a copy of the Report of Investigations from the EEOC. Middle District Court ruled improperly on the Motion for Summary Judgement by the defendant and the judgement against the plaintiff to compensate defendant for cost because they would not accept plaintiff "Review of Action" document and they would not acknowledge that plaintiff did not get a copy of the "Report of Investigations" after the investigation was completed by EEOC appointed investigator. Moreover, plaintiff has proven a "Retaliation Prima Facie Case and Pretext;" as a result, the summary judgement and judgment should be reversed and rendered in favor of the plaintiff. At the least, a new trial, opening discovery and allowing an opportunity to hear all witnesses' testimony.

Derrick Allen Derrick Allen

P.O. BOX 423, Baker, LA 70704

Email: allen.derrick195@gmail.com

Date: August 13, 2018