

No. 18-8859

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Washington D.C. 20543

Supreme Court, U.S.
FILED
APR 13 2019
OFFICE OF THE CLERK

Lashunda R. Borden — PETITIONER
(Your Name)

Cheaha Regional vs.
Mental Health Center Inc — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lashunda R. Borden
(Your Name)

238 Oglethorpe Street
(Address)

Sylacauga Alabama 35150
(City, State, Zip Code)

205 249-3893
(Phone Number)

10

Question(s)

- 1. Is it Illegal for a company to commit perjury to win a lawsuit?**
- 2. The first Amendment gives everyone the right of freedom of speech does, not that include me?**
- 3. Is it Against the law to Question your superiors concerning your pay?**
- 4. Would a person who was truly guilty work this hard and this long to prove their innocence.**

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:

Christoffer Peter Bolvig
Whitaker Mudd, Luke Wells LLC
2011 4th Avenue North Birmingham AL 35203

Cases

1. Delan v Kalamazoo City Rd Comm

The Court held that an employer's decision to transfer an employee involuntarily to a lateral position can be an adverse employment Action.

2. Malholttra v Cotter & Co 845 F2d 1305 1312 (At least one Circuit has held that retaliation against an individual violates title VII of CRA Act of 1964

3. Loudermilk V Best Pallet Co. 636 F 3rd 312 315 111 Feb 7th (Cir 2011)

An evaluation of context is essential to determine whether an employer's explanation is fishy enough to support or inference that the real reason must be discriminatory.

4. Hitchcock V Angel Corp in 718 F3d 733 738.39 118 FEP 1097 7th Circuit 2013)

Where employers offered at least 4 potential different explanations were efficiently inconsistent or otherwise suspect, they created reasonable inference that stated reason were not real reason for termination.

5. Benzzu v Board of Education of Chi 647 7F3d 652 663 111 FEP 1144 7th Cir 2011. To show pretext plaintiff must show not only that employers stated reason for suspending here were dishonest or phony but also the true reason was based on Prohibited discriminatory animus

6. Vaughn v Woodforest Bank 665 F3d 632 637 114 FEP 118 (5th Cir 2011) disparate treatment occurs when an employer treats one employee more harshly other than similarly situated employee for really identical conduct.

Citations

1. Supreme Court Practice Ninth Edition Authors: Eugene Gressman, Kenneth S Geller, Stephen M Shapiro, Timothy S Bishop, Edward A Harnett
KF 9057 S 8 2007

2. New York University Review O Law & Social Change
The Great Writ in Action Empirical
Light on Habeas Corpus Debate
Richard Faust

Tina J Rubenstein, Larry W Yackle Volume XVIII 1990-1997 Number 3 KF9011 F3
1991

3. Rules of Supreme Court of The United States [Https://www.law.cornell.edu](https://www.law.cornell.edu) Rule 14 Content of
A petition For Writ of Certiorari

4. Edward S. Corwins. THE CONSTITUTION AND WHAT IT MEANS TODAY

Landmark cases that shaped the Constitution Fred W Friendly, Martha JH Elliot

5. Oceans Law for the Layperson Employment Discrimination law

Under title VII Margret C Jasper, Dobbs, Ferry. NY Oceans Pub 2003 Volume II

KF 1263.C65 J37 2003 Ala Ct Treatise section

6. 7th Amendment Constitution of United States 1789 Wikipedia <https://en.wikipedia.org>

7. 14th Amendment Constitution of United States of America 1789(Rev 1992)

<https://en.m.wikipedia.org>

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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 01-17-2019.

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 _____. A copy of that decision appears at Appendix _____.

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).

Constitutional and Statutory Provisions Involved

1. The First Amendment. Freedom of Worship, speech, press and Assembly

Congress shall Make no Law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for the redress of grievance.

Freedom of speech is a principle that supports the freedom of an individual or a community to articulate their opinions and ideas without fear of retaliation, censorship, or legal sanction.

Eleanor Roosevelt and the Universal Declaration of human Rights (1949) Article 19 states that Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Book: THE CONSTITUTION AND WHAT IT MEANS TODAY Harold C Corwin

Bill of Rights 1789 James Madison

Treaty between the United States and Tripoli finalized 1797 signed by Americans June 10,1797 treaty of Peace and Friendship

2. Seventh Amendment. Trial by Jury in Civil Cases

State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any persons of life, liberty or property, without due process of law; nor deny to any persons within its jurisdiction the equal protection of the laws.

The Fourteenth amendment address many aspects of citizenship and the rights of citizens the most common used and frequently litigated phrase in the amendment is equal protection of laws which figures prominently in a wide variety of landmark cases including Brown V Board of Education(racial discrimination) Roe v Wade reproductive rights Bush v Gore(election recounts, Reed v Reed(gender discrimination) Discrimination occurs when the civil rights of an individual are denied or interfered with because of the individual membership in a particular group or class Various jurisdictions have enacted statutes to prevent discrimination based on race, sex, religion, age,, previous condition of servitude, physical limitation, national origin, and in some instances sexual orientation.

Treaty :1887 General Allotment Act

Book THE CONSTITUTION AND WHAT IT MEANS TODAY

Statement of the Case

My name is Lashunda R Borden I started working for the defendant Cheaha Regional Mental Health Incorporated on October 16.2006 In Talladega, Alabama as the part time receptionist until hired as the full time Receptionist on October 23,2007.worked faithfully as the receptionist until July 03,2013, where I was promoted to Consumer Clerk. On Wed September 4,2014 I the appellant had a meeting with two of my supervisors Mrs. Ellye Bernardi and Mrs. Karen McKinney concerning problems at the front desk with my co-worker, my pay and other office business (Exhibit B).

In this meeting my supervisors led me to believe that this was a safe and productive meeting. Immediately after this meeting all the charges that I had brought of my co-worker I began to be falsely accused of. Not fulfilling my job duties and things I did not say or do, being threatened with Progressive discipline and termination. (Exhibit C) This happened daily sometimes twice a day. It occurred so frequently another one of my co-workers became worried and asked me to have a meeting to talk to Executive Director Cindy Atkinson Exhibit D). Not only did I meet with Mrs. Atkinson I met with Human Resources Kathleen Robinson and nothing changed.

This continued for months, I was even accused of breaking into my supervisor's office. (Exhibit E) On November 24,2014 My Supervisor Ellye Bernardi

to have them call her back and she hung up. I continued to work; the morning continued.

Mrs. Atkinson Called back and I alerted to her they were still in their sessions, she stated again not to interrupt them to tell them to call her and she would also leave them a email, while on the phone with Mrs. Atkinson My supervisor Mrs. Bernardi ran in frantically asking for a pen, I turned to tell her to take the one that was on my co-workers desk, she stated" no! I need a no streak pen", I told her to take mine, she took the pen and ran out. Mrs. Atkinson listening became angry screamed at me" are you going to talk to me or everyone else!". I replied to her that was Mrs. Ellye she screamed" it doesn't matter!", she then hung up the phone.

After each therapist came out of their session I alerted to each of them that Mrs. Atkinson had called twice and asked them to call her back and also she had left both of them an email, my supervisor Mrs. Bernardi argued for ten minutes that she did not want to call her back and Mrs. McKinney stated that since Mrs. Atkinson had left an email that she did not have to call her back. Mrs Bernadi eventually returned her call, after talking to Mrs. Atkinson, Mrs. Bernrdi walked into My office to tell me that Mrs. Atkinson wanted to warn them that our client Mrs. Burke threatened to call state and that she would be coming to our center for the number to call the state, to give it to her and if she ask for anything else call the police on her.

the paperwork, while doing the paper work on Mr. Johnson I looked up to see, Mrs. Atkinson and Mrs. Robinson drive up, I stopped the paperwork on Mr. Johnson to go unlock the door for the both of them, they walked, did not speak, walk straight to the back room on the right side of the building, I went back to continue paperwork on Mr. Johnson, but Case Manager Mrs. Christina Johnson meet me half way to ask me if she could help me finish, I handed her the paperwork and chart, and returned to my office to attend to other clients.

After she came out of her session, my supervisor Mrs. Bernadi walked into my office, stated that Mrs. McKinney would be in a meeting with Mrs. Atkinson, and Mrs. Robinson, to give Mrs. Bernita the new intake. That she was going to see Mr. Johnson, for me to finish with a client. She asked for Mr. Johnson Paperwork, I replied Mrs. Christina is getting it for me. She stated ok and walk off. I was standing at the copier when Mrs. McKinney approach me to ask me to come to the back with her.

I walked in to Mrs. Atkinson Standing over the table and Mrs. Robinson on right sitting in a chair and My supervisor Mrs. McKinney standing on the wall to my left. In this meeting I was suspended charge with allegations of unprofessional conduct with fellow employee's breach of confidentiality and, insubordination. When trying to defend myself stating my innocence or ask questions or ask for them to bring my other supervisor in the meeting they refused, Mrs. Atkinson stated we will do an investigation and will contact you. I was sent home immediately suspended

My two supervisors Mrs. Ellye Bernardi and Mrs. Karen McKinney would often laugh at her and walk off when they notice her refusing to do her work, and instead of making her do her work, my supervisors would give her my work that I was required to do. Even though she was not trained. I constantly had to correct all her mistakes We were in the same office, we were supposed to work as a team, but I was only one working, and getting blamed and punished for everything that went wrong. (Exhibit H). See *Turner V Kansas City S Ry.*, 675 F3d 887 89 293 114 FEP 1044(5th Cir(2012)(*In work rule violation cases a title VII may establish a prima facia case by showing either(1) that he did not violate the rules, or(2) that if he did white employee who engages in similar acts were not punished similarly*)

This is disparate treatment; this is a kind of unlawful discrimination in U.S. Labor law it is also covered under Title VII of the United states Civil Rights Act. See Also *Vaughn v Woodforest Bank* 665 F3d 632 637 114 Fep 118(5th Cir 2011). (*disparate treatment occurs when an employer treats one employee more harshly than other similarity situated" employee for really identical conduct*

2.

Wrongful Termination

My past employer Cheaha Regional Mental Health Inc terminated me, and the reasons given for my termination were false. My supervisors and co-workers committed perjury on several occasions, first with EEOC, then in my

appointment by phone. they waited over thirty minutes. In the Dec 3 recording (Exhibit K) speaker 1 being the Plaintiff. The first thing I did was apologize Mrs. Christina to there for long wait.

I was only able to fill out two sheets of the client paper work. I had to stop and unlock the door for Mrs. Atkinson, and Mrs. Robinson. Mrs. Christina states that she assisted the client with his paperwork, not me. she stated I just stood around and watched her This is not true. I was on my way back to finish the paperwork, Mrs. Johnson meet me and asked me how many more pages I had left to fill out, I counted out to her she cursed and offered to help me finish the paperwork. (exhibit K page 1 line 22).

Mrs. Christina states I made a comment I was just trying to look busy this is also not true the first thing I did was explain to her to her that we had three walk ins and it was rough that morning. (Exhibit K page 1 line 3), I did not say I was pretending to be busy. She also wrote that she told me she would bring the paperwork when finished and that she did bring it back to me. this again was not true. After I handed her the chart and paperwork, I walked back to my office to attend to other clients and paperwork. when my supervisor come out of her session, she asked me for the paperwork, I alerted to her that Mrs. Christina had it, I never received it back. (Exhibit K page 4 line 2)

Over this process Mrs. Christina changed her statement, She now states that I stood back there and watched her do a specific task not the

My Supervisor statement (Exhibit M)" Lashunda in no way left the phone to do this paperwork and did not fill out the portions she was supposed to. that she could have done while sitting at her desk by the phone".

My Supervisor Mrs. Bernardi gave me a direct order on where to do the paper work for Mr. Johnson. She also knows that On October 28,2014 I was told by the executive director Cindy Atkinson that I could no longer do paperwork in my office at my desk, because it was a breach of confidentiality, Mrs. Atkinson stated that because of my large windows other clients could see another client's personal information. Also, On November 6,2014 Mrs. Michelle, reminded again that I had to do all client paperwork out of my office. She stated it did not matter if I was by myself. So, this caused me to do paperwork in several places, I did paperwork with the clients in the hallway, In the parking lot outside a car, in the kitchen break room, and the day treatment room.

In her second statement she talks about a pen. (Exhibit M) "I did ask Lashunda for a pen prior to seeing my first client at 8:30 a.m. she was not on the phone at the time"

This incidence occurred on the morning of Dec 3, 2014. It was not 8:30 a.m. My Supervisor was already in with a crisis patient when Mrs. Atkinson called the first. The second time Mrs. Atkinson called and ask to speak to Either Mrs. Bernardi or Mrs. McKinney that is when My Supervisor asked for a pen. And Because I answered her, Mrs. Atkinson became upset that I was answering Mrs. Bernadi while on the phone with her. When Mrs.

see next intake. (Exhibit K pg. 3 lin22 pg. 4line 1-8 and page. Another statement that my supervisor quotes(Exhibit M) "You Remember this because this was when you came to find us so that Christina could watch the front while you and Admin spoke to Lashunda", Therefore, filling out the paperwork request was made after Cindy and Kathleen had already left the Admin office due to the problem they were noticing and around the time that Cindy and Kathleen arrived at the center" My Request for the paperwork was also made after I spoke with Kathleen and Cindy by phone regarding their plans to come up here due to the problems they noticed and their intentions to leave immediately. I then came to inform you during your session which is when you tried to call Kathleen and were unable to reach her because she had already left the facility while the situation in some context did occur, they did not occur in the timeline or manner that Lashunda Claims.

This entire statement is false Mrs. Bernardi had asked me to do the paperwork on Mr. Johnson long before Mrs. Atkinson and Mrs. Kathleen arrived at the building. I first had to wait Ten minutes for her to come out of her session and give me Mr. Johnson's chart, but before I could even start with Mr. Johnson I had to finish with an new client intake it took thirty minutes, then I had to return a client phone call. The drive from Sylacauga to Talladega only takes fifteen minutes, Mrs. Christina had sat back there and waited for over thirty minutes.

of psychological harm to co-workers it was psychological harm to consumers (Exhibit P). All these charges are false the defendant changes my charges three times in this case.

Psychological harm to consumers is a false allegation, I treated the consumers like family, I love them, and they loved me Mrs. Karen even stated that exact sentence in our September 4, 2014 meeting (Exhibit B pg.8)

Jeopardizing the psychologic/health of co-workers this is also not true. I have always respected my co-workers. have thrown birthday parties, baby showers, Christmas gifts, for each of my co-workers and supervisors every year, with my supervisors permission all paid for by me, I have babysat my co-worker's children, on and off the clock, I have been invited and attended my co-workers kids birthday parties and I do not even not have children. Parents do not trust their children with someone they fell is a danger to them. And my supervisor Mrs.Bernardi, made three different vacation plans for just the two of us, because she felt so comfortable being around me. My coworkers, and supervisors knew I that I would never hurt them or cause the any harm.

Buzzing clients back, allowing them to wait long periods of a time and not alerting of appointments these are also false charges I would never buzz a client back allowing them to roam around the building unattended, all of our clients are not law abiding citizens, and there was the company financial safe on the wall behind me. that would endanger my safety,

Retaliation

I the Plaintiff filed a charge of Retaliation because I felt This was the only explanation that would explain the treatment I was receiving, On September 4,2014 I the plaintiff had a meeting with my Two Supervisors concerning the problems with my co-worker. I reported that she was not fulfilling her job duties. and refusing to do her job, and that I was having to work both positions. And it was becoming more than I could handle. I needed my co-worker to do her job me. And if they could get her do her work. the I also asked questions concerning my pay, My Past Supervisor had advised me that my Pay was not what it should be. And I just wanted to make sure that I was receiving all my correct benefits. My Supervisors led me to believe this was ok.

Immediately the next week, I began to be brought into several meetings being falsely accused of me not fulfilling my job duties. not my Co-worker just me, being threatened with progressive discipline and even termination. They even sent emails Falsely quoting things that I did not say, stating that I had told them working the hours that we agreed upon where stressful for me in order attend my doctor's Appointment. (Exhibit C) they even reported me to Human Resources

see *Delen v Kalamazoo city Rd Comm* (The court held that an employer's decision to transfer an employee involuntarily to a lateral position can be an adverse employment action). see also *Malholtra V Cotter& Co. 845 F2d 1305 1312* (at least one circuit has held that retaliation against an individual violates title VII of CR Act of 1964.

Argument

I consider myself an honest person and I am human if I make a mistake, I accept responsibility. But I cannot accept responsibility for the things I did not do. I did my work, and not only my work, but I did my Coworkers work when she refused. The defendant claim I had history of poor job performance but that was also not true. my yearly job evaluation shows that I did not (Exhibit R). And my evaluation it was given and Signed by my Supervisor Karen McKinney. letters written on my behalf by co-workers prove that I was a very professional and efficient responsible employee who put the client's protection first. (Exhibit S) (Exhibit T) I loved working with the clients, and each day and they showed me that they appreciated my hard work on their behalf. I was Always been respectful to Co-workers and Supervisors I never refused a request or responded in a rude and offensive manner.

Writ of Certiorari

My Name is Lashunda R Borden I am from a small town called Sylacauga Alabama.

I have come to the ask the Supreme Court of the United States to please consider my case, for writ of Certiorari. The reason for this request is so that I may prove my innocence in a Racial discrimination, Retaliation and wrongful termination case that I Have been fighting for since December 17,2014 against with my former employer Cheaha Regional Mental Health Center Inc. It has been a long and hard battle and I have tried every resource available to prove my innocence, and I realize this may is my last chance.

I started this journey with a lawyer, who at the time agreed to represent me pro Bono. And after a year he informed me that I needed to pay him 7,858.00 to continue my case. Because I did not have a job and could not pay, I was dropped by his office. I applied and have talked to several lawyers to take my case but was denied no one will continue with a case that my first lawyer started. so that left me to continue Pro-Se. I admit that since I did not know the process of defending myself and the law, I was granted permission for rehearing on Jan 17,2019 and mistakes were made on my part, but I'm still learning. I do not think the appellant court is at conflict with the district, I appreciate the instructions that were given to me by the appellant court. Honestly The problem was just simply I did not Know what I was doing. I am hoping for this chance to correct the mistakes that I made in Appellant Court.

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opportunity to be heard and to Prove my innocence to clear my name, to restore all the years of hard work.

If you will Notice The defendant's timeline of events of the charges against me start on Wed September 4,2014(Exhibit A). This Happens After the meeting that I had with Both My Supervisor's. (Exhibit B) I left the meeting thinking everything was going to be all right. But that was not the case immediately my supervisors turned a full three hundred and sixty degrees on me. Was it because I reported my co-worker, or that I gave a report concerning my health or was it because I raised question of my pay?

I just Know that from that day on I became the worst worker in the entire building being brought into several meetings being falsely accused of everything I reported of my co-worker. And my co-worker continued to do nothing and was not brought into one single meeting. The first amendment gives you protection against freedom of speech, I felt safe to report to my supervisors. But that was the result.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Rashonda R Borden

Date: 4-11-19

**Additional material
from this filing is
available in the
Clerk's Office.**