

No. 18-9077

In The

Supreme Court of the United States

Cecelia D. Walton

Petitioner

v.

North Carolina Department of Health and Human Services, Disability
Determination Services,

Respondent

On Petition For A Writ of Certiorari To
The 4th Circuit of the United States Appeals Court

SUPPLEMENTAL BRIEF TO PETITION

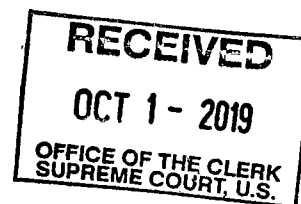


Cecelia D. Walton
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September 27, 2019

Petitioner, Cecelia D. Walton submits her supplemental brief in accordance with Supreme Court Rules Rule 15.8 on supplemental briefs. Because there were two substantial published relevant cases out of the Fourth and Fifth circuit of Appeals subsequent to her initial petition, Petitioner submits this supplemental brief.

Background



Petitioner seeks review and reversal of the district courts granting of summary judgment on her retaliation claims because the district court ruled on material issues facts of the case that were in dispute without a hearing. For instance, the material issues of fact surrounding Petitioner's rehire issue and pay increase were resolved by the judge not following a trial or a jury. These matters regarded the final stage of employment discrimination claims based on pretext. Petitioner submits that these same material facts including Respondent agents' conflicting testimonies in their affidavits were assessed previously by the EEOC during an in-person fact finding conference held in October 2016 between Respondents and then Charging Party (Petitioner). Respondents live testimony and given statements were determined to be pretextual and a Reasonable Cause Determination was issued subsequent in December 2016. After failed conciliation, Petitioner filed this lawsuit in February 2017.

Petitioner also seeks review and reversal of the 4th circuit appeals court denial of De Novo review as outlined for procedures for reviewing summary judgment dismissals and failure to state a claim dismissals. Summary Affirmance was not the proper review and a clear error. It was injustice.

Supplement

Since Petitioner filed her Petition and Writ for Certiorari on April 22, 2019; there have been two significant rulings that Petitioner would like the court to consider. Coming out of the Fourth Circuit, the court ruled that when a plaintiff submits or gives circumstantial evidence of pretext, that evidence cannot be resolved at the summary judgment phase. (*Haynes v. Waste Connections Inc.* 922 F.3d^{219, 223} (4th Cir. 2019) decided April 23, 2019 and Published. The Fifth Circuit confirmed in *Garcia v. Professional Contract Services* that material facts and temporal proximity in matters of retaliation can establish pretext. [*Garcia v. Professional Contract Services Incorporated No. 18-50144* (5th Cir. Sept. 11, 2019)]

These two cases are significant and *Haynes* is in direct contradiction of how both the district and appeals court handled Petitioner's case at hand. Petitioner prays upon this court to grant petition and consider these two cases.