
NO. 18-9418

IN THE SUPREME COURT OF THE UNITED STATES

D.M. Indika Bandara

Petitioner,

v.

Dan Mann, *Richland-Lexington Airport District Commission Members, AAE Director*; James A. Compton, *Richland-Lexington Airport District Commission Members (Chairman)*; Carol Fowler, *Richland-Lexington Airport District Commission Members*; F. Xavier Starkes, *Richland-Lexington Airport District Commission Members, Esq.*; William Dukes, *Richland-Lexington Airport District Commission Members, also known as Bill*; Jerrod F. Howard, *Richland-Lexington Airport District Commission Members*; Richard McIntyre, *Richland-Lexington Airport District Commission Members*; Dan P. Bell, *Richland-Lexington Airport District Commission Members*; Hazel L. Bennett, *Richland-Lexington Airport District Commission Members*; D.J. Carson, *Richland-Lexington Airport District Commission Members*; David N. Jordan, *Richland-Lexington Airport District Commission Members*; James L. Whitmire, *Richland-Lexington Airport District Commission Members*; Duane Cooper, *Richland-Lexington Airport District Commission Members*; Lynne Douglas, *Richland-Lexington Airport District Commission Members*,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR RESPONDENTS

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I. BACKGROUND.

The Petitioner, Dr. D.M. Indika Bandara, (hereinafter referred to as “Bandara”), in 2015 formed her own taxi company, Carolina Express 1, LLC. She was the sole member and driver of the company. The majority of Bandara’s business consisted of picking up passengers from the Columbia Metropolitan Airport (hereinafter “the Airport”).

Approximately 20% of the Airport’s passengers are military; a high percentage of which are bound for Fort Jackson. Sometime in 2015, Fort Jackson (hereinafter “the Fort”) decided that as of January 1, 2016 they would not allow any taxi driver to come onto the Fort without having been given permission by the Fort. Bandara did not, at that time, have such permission. While the Fort denied access to the inside of the Fort without permission, a taxi driver could still drop off a passenger outside the gate front.

In August of 2016 the Airport made the taxi companies aware that unless they had access to all areas of Fort Jackson, not just outside the gate, they would no longer be permitted to pick up passengers at the Airport. Such ruling took effect on October 1, 2016.

Bandara filed her Complaint on September 23, 2016 and her Amended Complaint on January 10, 2017, alleging that she and other taxi companies had been discriminated against because of their status as immigrants. At the time Bandara filed her Complaint, only drivers from the three big taxicab companies in the area had drivers with the requisite authorizations, and therefore, only drivers from those companies were authorized to service the Airport.

FEDERAL CLAIMS UNDER 42 USC § 1983.
Bandara has Produced No Evidence Supporting Her Claims.

The Airport Rules and Regulations require drivers to be able to transport passengers to any location in Richland and Lexington counties. Once the Fort did not grant permission to drivers, it became impossible for those drivers to transport passengers to, "...all locations in Richland and Lexington counties". Bandara claims she was denied a license by the Airport because of her status as an immigrant, not because she did not have permission to go on the Fort.

Bandara's deposition was taken on April 24, 2017 and she did not provide any evidence of not being permitted to drive at the Airport due to being an immigrant. She agrees that she could have applied for permission at the Fort but did not. She further asserts that had she applied she would have received permission, and moreover she agrees that if she had permission at the Fort she would be granted license to pick up at the Airport. As such Bandara's own deposition testimony proves that her status as "an immigrant" is not what kept her from obtaining a license to pick up at the Airport.

There is absolutely no question that the Airport will allow any driver—who otherwise meets the qualifications—to drive a taxi at the Airport so long as they have received permission from the Fort. In her deposition Bandara appears to know this, and more than once acknowledges that small cab companies are being discriminated against, and not immigrants. When asked about what qualified one as "an immigrant," Bandara replied that we are all immigrants—unless you are Native American. Bandara agrees that there are immigrant drivers presently working for Checker, Blue Ribbon, and Capital, all of whom work at the Airport. (It is undisputed that Bandara subsequently

received the requisite permission from Fort Jackson and has received a license/permit to operate her taxicab at the Airport.)

The Airport reiterates the language in Judge Gossett's Report and Recommendation, Entry 116, pp. 6-7, where she provides:

Even assuming Bandara can support her arguments, the arguments on their face reveal that as a result of the regulations immigrant taxicab drivers continued to service the airport, and at most demonstrate that at the time the regulations went into effect they effectively precluded *any* small business taxicab company from servicing the airport. But Bandara offers no authority suggesting that being an independent taxicab driver is a protected class under the Fourteenth Amendment. Moreover, although Bandara attempts to show that the Airport's proffered reasons for implementing the Fort Jackson requirement are untrue or unsupported, Bandara has failed to forecast any evidence from which a reasonable jury could find that the Airport acted with or were motivated by discriminatory intent toward immigrants or that the regulations she challenges were based on her national origin.

While Bandara has sporadically mentioned the label "non-white immigrants" in her previous briefs and motions, she now seems to think that a focus on the label will gain more traction with the United States Supreme Court. Until her writ of certiorari brief the main focus of Bandara's perceived discrimination has been directed toward simply immigrant cab drivers. Moreover the Respondent is fairly certain the characterization of "the Southern Justice System" has never been referred to. Respondent contends that Bandara is using racially charged language to capture the United States Supreme Court's attention. The issue is not race, it is simply having, or not having permission from Fort Jackson; permission which Bandara now has.

In summary, Bandara offered no authority suggesting that being an independent taxi driver is a protected class under the Fourteenth Amendment. Bandara did not show

any evidence from which a reasonable jury could conclude that the Airport acted with or were motivated by discriminatory intent toward immigrants or that the regulations Bandara challenges were based on her national origin.

Bandara's Writ of Certiorari should be denied.

Respectfully submitted,

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ATTORNEYS FOR THE RESPONDENTS

Lexington, South Carolina
June 24, 2019