

No. _____

19-5116

IN THE

SUPREME COURT OF THE UNITED STATES

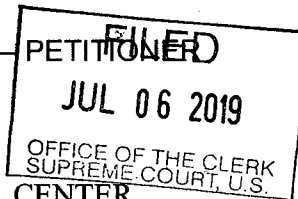
TASHEENA V. STEWART

(Your Name)

vs.

DARTMOUTH HITCHCOCK MEDICAL CENTER
& MARY HITCHCOCK MEMORIAL HOSPITAL

— RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the First Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

TASHEENA V. STEWART

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QUESTION(S) PRESENTED

Whether employees can be protected when an institution can formulate a false narrative for violation of company policy, even when the employee is proven positive and productive based on that institution's evaluation of employee merit and company standard?

Whether employees' civil rights can be protected under Title VII, when institutions are not being held accountable for violations or acts that violate those protections?

Whether an institution is liable for an employee that has authority or power over other employees and violates the civil rights of those employees under them?

Whether an employee can provide proof of Title VII, violations when these offenses mainly occur unseen and limited resources are available?

Whether Human Resources can provide real assistance to a wronged employee under Title VII, where the Human Resources representative is employed by the very institution that an employee made need protection from?

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:

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Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57 (1986)	

STATUTES AND RULES

Title VII of the Civil Rights Act of 1964 provides in pertinent part:

It shall be an unlawful employment practice for an employer—

(a) to fail or refuse to hire or to discharge any individual, or to otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin;

42 U.S.C. § 2000e-2(a).

OTHER

Equal Emp't Opportunity Com'n, Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors (1999), 1999 WL 33305874, App., *infra*, 81a.

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 B 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 January 2, 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: February 7, 2019, and a copy of the order denying rehearing appears at Appendix A.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including July 8, 2019 (date) on May 6, 2019 (date) in Application No. 18 A 1144.

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

Section 703(a) of Title VII of the Civil Rights Act of 1964 provides:

(a) It shall be an unlawful employment practice for an employer –

(1) to fail or refuse to hire or to discharge any individual . . . because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

42 U.S.C. § 2000e-2(a).

Section 703(m) of Title VII of the Civil Rights Act of 1964 provides:

(m) Except as otherwise provided in this subchapter, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.

42 U.S.C. § 2000e-2(m).

STATEMENT OF THE CASE

Title VII protects employees from, inter alia, workplace discrimination on the basis of race or sex. 42 U.S.C. § 2000e-2(a). In *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57 (1986), this Court first recognized that sex-based harassment in the workplace is actionable under Title VII. *Id.* at 67.1 The Court explained, —Title VII affords employees the right to work in an environment free from discriminatory intimidation, ridicule, and insult.|| *Id.* at 66. In *Harris v. Forklift Systems, Inc.*, 510

I, Tasheena V. Stewart, was hired at Dartmouth Medical Center (DHMC) & Mary Hitchcock Memorial Hospital on June 6, 2011, as a Clinical Laboratory Scientist III in the Cytogenetics Department.

My introductory period Review in 8/2011 included phrases such as, “able to take on additional support tasks... asks appropriate questions... a cheerful teacher... passionate about her work... dedication to quality is obvious... clearly communicates her thoughts... her enthusiasm is contagious.”

On my Performance Appraisal I received 4's in all categories except the category for professionalism in which I received a 5, giving me an overall score of 29 points, or a Strong Performer. Phrases from the review included, “a well respected member of the Cytogenetics team... professional and respectful in her communications... demonstrate and initiative... dedicated to safe work practices.” With all of those accolades that I received from the supervisor, all of which were positive during my employment, I lost my job because I spoke up about poor lab practices and a disrespectful, racist, and unprofessional lab supervisor that regularly exhibited strange and inappropriate behavior supervising toward me, in her speech, gestures, and with physical contact.

This harassment, intimidation, and discrimination continued daily. When I finally complained to both Human Resources and the Department Chair I was told that they would take care of the problem. This supervisor would call me names and make my work day unbearable. This supervisor would use derogatory language toward me and would regularly tell me to “Quit.”

STATEMENT OF THE CASE - (continued)

The entire time I worked in the lab Andrea Rhodes referred to me as "city people." Andrea had only negative, ignorant, and disrespectful things to say about people from cities. Andrea Rhodes would say "city people" are loud and scary and don't know how to deal with people. She would say people from cities do not know how to behave. Andrea said to me that I (TVS) come from a broken home and a dysfunctional family. I told Andrea this is not true. Andrea said that "city people are rowdy and dysfunctional." She did not know anything about my upbringing. When she could see that this clearly upset me she started talking about her own childhood which I believe was to try to offset what she had just said. However, she continued to say and call and refer to me as " city people."

When Andrea would say something to me that was a stereotype or just plain ignorant (every time she talked about certain Asian groups she would take her fingers and slant her eyes and say " you know these people" or Blacks and say " city people") and I would ask her why she says the things she says she would try to divert the conversation and say that I was unhappy and "city people" need to be in the city. I never told Andrea Rhodes that I was unhappy and I would not have stayed as long if I were. There became a point when she made it difficult for me to work there. That is when I told Mike Harhen I was going to leave. Since my arrival to the lab the entire group had become more cohesive and I started a bowling team in which all of the technologists were members. Anytime I spoke to Andrea about a problem in the lab or something she did or said that was inappropriate to me, she would always respond by saying " I am unhappy. "

The first week of my employment Andrea Rhodes said to me midst a work-related interaction that " I had the biggest teaties and I got a boob job and her husband did not mind the scars. " She also told me during that encounter that her previous partner " enjoyed rough sex." My

response was an awkward and uncomfortable silence. Three months later she asked me if I would " come to her home and help her jerk-off her horses because they get backed-up. " As she is saying this she is making vile and offensive hand gestures. I said NO! I quickly walked away from her and uncomfortably shared what had just occurred with my five co-workers. A gentleman who had worked there for sometime said he did not believe the supervisor was okay, and to be careful in my dealings with her. Andrea Rhodes often spoke inappropriately to me. She also touched me inappropriately whenever I was sitting in the laboratory. Andrea Rhodes would rub my back or randomly grab me to hug me after I repeatedly asked her to stop and told her that I did not like to be touched like that and it made me very uncomfortable. She would leave newspaper ads on my desk of things going on in town and would ask me to attend with her and I would always say no. Combined, my co-workers and myself it made six of us, so each one of us was responsible for working a weekend every six weeks. When it was your weekend to work you worked both Saturday and Sunday completely typical daily tasks while being the only staff member on duty. Andrea Rhodes would often show up on my weekends to just read the paper and talk to me while I was working about non-work related things. She would tell me about events that took place in her life and how she looked wearing certain articles of clothing.

Just a couple of months into my employment I am working in the hood area with the CLS IV and Andrea squeezes past me in a tight space, and I said "you scared me" and she responded in a very stern and serious way and said "you should be scared, you should be scared of me." I spoke to one of the techs about the things she says to me and her strange behavior towards me, and this tech said to me that the first thing I need to realize when dealing with Andrea Rhodes is that she is "off." This tech and others have said to me, they don't know what it is but Andrea has "something" for me.

I dealt with Andrea's extremely unprofessional, inconsistent, inappropriate, strange, attention-seeking, and disrespectful behavior. When her actions began to affect both patient care and my physical well being I needed to speak up.

Poor lab practices: In April 2012, I spoke to Andrea Rhodes about the lights being off in the harvest room, about working in the dark, about multiple patient samples being open at the same time with pipets in them next to each other, samples being improperly handled, the potential for patient mix-ups, and work being abandoned. The lab aid always worked in the dark and when I started I asked her did she have migraines or some other type of sensitivity and she told me no, and that being in the dark was a preference

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and the lights could be turned on at any time. The aid's hours started very early in the morning and by the time the first tech came in the lights would be turned on. In early 2012, the lab aid would still be working in the dark when the first tech got in to work, and would now get very upset if the lights were turned on. She has left the lab more than once and went home because the lights were turned on. The aid would leave her work at any point with several patient samples open at once for the

techs to complete because the lights were on. The second time this happened and the aid wanted to work in the dark when others needed to work in the same area at the same time including myself, Andrea Rhodes was out. I sent her an email describing what had occurred. I was off for a few days and when I returned Andrea Rhodes asked to speak to me about the e-mail.

April of 2012, Andrea Rhodes and I had a meeting about an email I sent to her about the lights being off in the harvest room. Andrea Rhodes initiated the conversation with "After having a few days off and upon mature reflection of the situation," have my feelings changed about the e-mail. I was floored. In that email I described how the lab aid was working with the lights completely off in the harvest room while having several patient samples open all at once (which in of itself is bad,) with only the light from the Thermatron (an air flow and humidity controlled chamber) on. Another tech and I both had to perform tasks in that room at that time and needed the lights on. When I turned on the lights the lab aid stormed out of the harvest room and had an exchange with the CLS IV and without saying anything to the techs abandoned her work without letting anyone know where she left off and went home. Andrea Rhoades minimized the importance of each of these acts, working without lights, several patient samples being open at once next to each other with pipets in each tube, and work being abandoned. I said to Andrea that I could not believe we are talking about the use of lights while doing lab work. She continued to minimize these events and I told her that this was very serious and that I would need to speak with the lab manager (Jonathan Park) about this, and Andrea's response was that "he did not care." Over time Andrea Rhodes stated this more than once. I then said I need to speak with HR because lab work cannot be done in the dark. AR then said that I was "unhappy and should leave," she went on to say "you are clearly unhappy here and you need to quit and

find another place to work.” I say “I need to leave my job because I do not want to work in the dark and patient samples should not be handled in the dark,” and AR says “no because you are unhappy.” From this moment on she began aggressively harassing me. At this point it became evident that A wanted me out. Prior to this email I have had an evaluation and a performance appraisal from which both I received an overall strong performance with an outstanding performance for professionalism and I also received numerous accolades from Andrea Rhodes.

Andrea Rhodes would frequently tell me that I need to “QUIT.” Andrea Rhodes often told me of jobs in the New York City and the surrounding area. I asked her why is she telling me these things Andrea said she wanted to help me. I said I did not tell you or anyone else that I am looking for work, so this is not something you need to do. Andrea Rhodes went on to say that she would give me a reference, I responded thank you, but again I am not currently looking for work. I also said that if I needed a reference I would ask Dr. Mohandas for one as he is the medical director of the lab. From that point on Andrea began to paint a negative picture of me to Dr. Mohandas.

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Andrea Rhodes had never included him in tech issues in the past, and after said I would get a reference from him anything she could make a problem about me she would include Dr. Mohandas. The first time she included him in a tech issue involving me I said you will do anything to get rid of me. Dr. Mohandas said he would not allow that, but he had no knowledge of most of the ongoing in the lab because that is how Andrea wanted it. She would turn e-mails around to appear negative and then CC him at the end of the e-mail exchange, so he does not get the whole story just one bit Andrea Rhodes could manipulate. I ended up being coached.

Corrective Action 1 (9/24/2012): COACHING

At this time I had a corrective action meeting with both Andrea Rhodes and her Human Resources representative Stephen Woods. At this meeting Andrea Rhodes alleged that I yelled at her during two staff meetings. One meeting she talked about AR was having an argument with another tech and that tech even cursed during that exchange. Once the tech made their point I said "thank you" and she got nasty with me, instead of the tech who was actually arguing with her. The next meeting she alleged that I yelled at her and/or behaved unprofessionally. Dr. Mohandas was talking about how he wanted to handle certain cases with HYPO cells, at one point he was specifically talking about a case that I had just turned in. While he is speaking Andrea Rhodes is repeatedly saying "No," and shaking her head while he is explaining to the group what changes he wants. So for clarification purposes I asked Dr. Mohandas "so you want us to eye karyotype these cells" and AR immediately says that eye karyotyping is illegal. Cytogenetic analysis requires you to eye karyotype cells. The statement she made was wrong, it did not make any sense, and further exhibited how much of the job she does not know. Andrea Rhodes never spoke to me about either meeting at any point after, the first time I heard anything about these meetings was in the sit down meeting with both Andrea Rhodes and her HR representative Stephen Woods. She had no problem at all, until she felt I was not being friendly to her. Outside of the lab she waved to me and was being friendly and I did not engage and then I would find myself in these meetings about two staff meetings she never spoke to me about. I raised a patient safety and legal concern and received a coaching.

Since I knew that this coaching was based on something personal and not work related I felt the need to speak with HR about what was going and have these actions documented. When I contacted Human Resources, Dana Moss responded to me and we met and talked about the coaching and other things going on in the lab. Dana told me that I should not worry about the coaching and I should report the working in the dark to Michael (Mike) Harhen. Dana also advised me to let some time past revisit the coaching with Andrea Rhodes and see if she would remove it. I did just that Andrea said she could not remove the coaching document which was not true as it was an unofficial document. This confirmed exactly what I believed to be happening which was Andrea Rhodes was trying to build a case against me. I then met with Mike Harhen the Administrative Director of Pathology. Mike said the same thing that Dana told me not to worry about it, a coaching does not mean anything. Mike said he would address the light issue. I told Mike that I believed Andrea Rhodes was trying to build a case against me he said not to worry about the coaching it is "nothing."

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Corrective Action 2 (2/20/2013): COACHING

I was called into Dr. Mohandas' office to discuss a complaint made about me by a per-diem lab aid. He told them that I yelled at him. That is not what occurred, and what he said was so far from what actually happened that I laughed when Andrea Rhodes said it, and I said "that is not what happened," and Dr. Mohandas said this is why we want to hear your side. Andrea Rhodes said that meeting was only to hear my side. I told them what actually happened and the other person that was involved, and that seemed to be the end of things. The next day Andrea Rhodes gives me a coaching document and says, "I am really sorry I have to do this," "you don't have to sign it if you don't want to," "either way give it to Dr. Mohandas." I

responded to her by saying why is this a coaching you told me you just wanted to hear my side, so what that means is you don't believe me. She kept apologizing to me for it and repeatedly and Andrea told me how well I handled it. I said why wouldn't I handle it well? I know what happened and it is not what the temp lab aid said. I knew Andrea Rhodes knew this was wrong because she apologized to me so many times about it, and what I found most interesting is that I complained to Andrea about issues with this person's attitude, lack of respect, and poor lab practice (he made patient slides and did not label them.) There have been actual specimen mix-ups in the Cytogenetics laboratory at Dartmouth Hitchcock Medical Center and the Mary Hitchcock Memorial Hospital located in the Norris Cotton Cancer Center. Which is a direct result of poor patient care as most of the patients and their doctors are waiting for Cytogenetic results for treatment paths. If there are mix-ups, this can lead to a delay in treatment and/or the wrong treatment and in cases even death. This is serious business. Andrea Rhodes did nothing about my repeated complaints about this aid, but he makes some story up and Andrea immediately gives me a coaching document.

I contacted both Dana Moss and Mike Harhen again and told them about this new issue. I explained how what I previously described to them that is happening Andrea trying to build a case against me so I will be terminated. Andrea Rhodes was clearly trying to build a baseless case against me. I met with both Dana and Mike together and most of what I talked about Mike laughed about, which really upset me. The lack of seriousness went all the way up. However, Mike agreed that Andrea Rhodes telling me about jobs without me inquiring was indeed harassment. Mike said that he would take care of it.

I am proof of what happens to people who speak up and properly follow the hospitals steps to do so. My co-workers all told me that they are glad that I spoke up, but they would not support me publicly because of fear of losing their job. This is a realistic fear as I lost my job for that very reason. One tech said Andrea is finally pushing someone who will push back. If we wanted to do something to improve our work no one would want to bring it to her. They would say it has to look

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like it is her idea for her to approve it. Also, people often did not want to make suggestions to her out of fear of some type of backlash or poor favor. Andrea's own husband (Whom said to me if you suggest an idea to her she will say no without even thinking about it, and give or take

I also explained to Mike in the presence of Dana, that Andrea was constantly inviting me to her home. She was inviting me to her home regularly. I always said no. Mike said he would speak to her about it. He also told me that it was okay to pull Andrea Rhodes to the side and say to her that she is my boss and not my friend and I do not want to hangout with her. I explained to him that I did not feel comfortable doing that as the more I rejected her more problems I found myself in with her. When nothing changed after Mike Harhen told me that he was going to speak to Andrea Rhodes on two occasions, I told him that I was going to leave. It

had all become too much. Mike Harhen said " No Tasheena you are value to me, leaving is not the answer, " once again Mike Harhen said he would take care of it.

On Thursday, June, 20, 2013, I had been on the setup rotation for less than a month. During that time I did not setup all of the days I was assigned to do so because we had a per-diem lab aid and he would do the setup some of those days. I had not been on the setup rotation for a long time, even though I was responsible for setup on the weekends I worked and/or if we were short staffed and that duty was assigned to me for that day, however, these were times where there were few or no specimens. It is typical to forget steps of a procedure if you had not done it in a while. Although all procedures and protocols were on the intranet in document control. On this day, I started my setup, and I noticed a folder with a "CY" number in the send out slot. While working through the setup, I tried to speak with Andrea about this folder that was described by Andrea as "incomplete." I brought the issue up a few times that day and Andrea basically ignored me, and since I did not get that folder back from Andrea I was under the impression that there was not an issue. I had a procedural concern about patient care and there was no effort made by Andrea Rhodes for instruction at that time.

Specimens are received in the lab via tube station. The specimen and container type are then identified and the date, the time, and the recipient's initials are written on the requisition. The patient information and identifiers from the specimen are matched up along with the patient information and identifiers from the paper requisition. We are all responsible for removing tubes from the tube station and matching specimen identifiers.

The tech that is responsible for setup will take the status "go" requisitions and accession them by logging them into the lab and giving the specimen a "CY" cytogenetics number, then completing the charges and intake worksheets in Millenium. Once those steps are completed, labels are then printed and a folder is made. These are the steps taken to make the cytogenetic patient folder before you are ready to start the rest of the setup process. Which occurs in a different area.

At the time in question we were sending our peripheral blood specimens out, due to limited

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staffing. For the peripheral blood specimens, the setup tech was responsible for preparing the folder for the lab and completing the send out requisition preparing the FedEx paperwork, packaging the specimen, and delivering the specimen to the mailroom. Specimens being sent out have slight differences in worksheets. The worksheets for the charges and intake are completed. The worksheets for the harvesting and g-band are cancelled, and only information placed on the culture worksheet would be the FedEx tracking number. When the entire setup is complete all folders are combined (both in house and send outs) and given to Andrea Rhodes.

In this instance, the lab aid only created a "CY" number and printed and placed this label on the folders, without completing any of the worksheets in Millenium.

On June 25th, Andrea Rhodes approached me at my desk with two patient folders. Andrea said "you forgot to complete these folders." I said to her I did not forget any folders. She said did you mail out the samples I said yes, but I did not make those folders. Andrea Rhodes said "are we really doing this" [said twice]. I am

trying to explain myself and Andrea says come speak with me in my office. When I got up to go to her office Andrea says "I am going to tell Dr. Mohandas." I then sit back down and continue working. Andrea returns and says "go and speak with Dr. Mohandas at your leisure." Approximately one minute or two later I go and speak with Dr. Mohandas. I ask him if he wants to speak with me, and he says "something about paperwork" he then gets up from his chair and we both are headed towards Andrea's office. Andrea Rhodes is coming out of her office with a chair and going towards Dr. Mohandas' office. I said I will stand. Andrea Rhodes begins to tell Dr. Mohandas that I refused to do something she asked and that I told her "NO." I very respectfully explained to Dr. Mohandas what happened with the folders and also explained that I had not done this for sometime and made a suggestion to prevent this from happening in the future. I tried to address this very thing with A the Thursday before, and she blew me off about work and returned minutes later to tell me a 20 minute long goat story. I thought that was so absurd I asked if her standing over me why she is telling this goat tale can count as my bone marrow setup competency and she said yes. Andrea got annoyed when I was saying this and started getting increasingly agitated and said she was tired of my attitude, and I said I am tired of you just looking for a reason to write me up and then Andrea Rhodes says "well, maybe I should." We go back and forth then Andrea Rhodes says "you should just QUIT," "JUST QUIT." I say I am so glad that you said that in front of Dr. Mohandas. He said does it not help if the folder is partially completed and I explained that doing it that way is not lean and this situation could happen again. Dr. Mohandas says he does not think this is a big deal and I immediately go and complete the paperwork. Andrea Rhodes says this happened at 5:00 PM and at 5:08 PM I sent a confirmation e-mail to Dr. Mohandas after having completed the paperwork.

Again, I never refused Andrea Rhodes. I simply tried to explain myself and get clarification. I was denied the opportunity to explain myself and Andrea failed to give me clarification when I asked for help.

Written Notice (6/26/2013):

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The next day Andrea Rhodes asked to speak with me after I was done with the work I was currently doing. I knew it was not good as I had just let Stephen Woods into lab. I went into her office. Stephen Woods said Andrea Rhodes informed him of an incident that occurred the day before and he wanted to hear my side. As I had let Stephen Woods into the lab I could see he had a far different demeanor than he did in this meeting. I believed Stephen Woods behaved in a hostile manner and was more angry than Andrea Rhodes who did not seem angry at all, but seemed to be experiencing great pleasure in what was going on. I very calmly tried to explain myself and Stephen Woods kept interrupting me. I never got to explain myself fully much like the previous day when Andrea perpetually and unnecessarily elevated a simple situation. I noticed papers on Andrea's lap and I asked what the papers were, I wanted to know if it was an official written notice. They both said yes and from what I gathered explained thoroughly why it was being given. They said I could read it, I did not deem it necessary at that time as I believed it to have been already explained. I said I was not going to sign the notice as I did not agree with it and was going to grieve it. When I asked what happens next Andrea Rhodes said twice that "the train has already left the station." Andrea is repeatedly saying during the meeting I told her no. Andrea Rhodes is also saying to Stephen Woods that I seem upset, and since I am so upset maybe I should go home early. Stephen Woods is not paying attention to Andrea at this point he is off on his own agenda, as he tells me that I should be "terminated." Termination is initiated by Stephen

Woods and not Andrea Rhodes. Stephen Woods responds in a very rude manner saying "as needed," multiple times. I asked him what that means while standing, Stephen Woods says again aggressively "as needed."

I am very confused by many things in this meeting with Andrea Rhodes and Stephen Woods. One being why am I being written up for a task I completed or for my response to the completed task. First Andrea Rhodes said I am being written up for refusing to do a task that was done within moments of approach. Secondly why I am being disciplined for something that could have been easily settled and Andrea Rhodes escalated. Lastly, why Stephen Woods the [neutral party] HR rep is so angry.

I contacted and met with both Dana and Mike again on the 27th. I met with them separately. I expressed to them how I told them this is what Andrea Rhodes planned and how those baseless coaching documents resurrected in the written notice that they all (Dr. Mohandas, Mike Harhen, and Stephen Woods) all told me meant nothing. Mike said he would speak with Andrea. Mike came to the lab later that day to speak with Andrea Rhodes and I was speaking with her about the events. Mike Harhen appeared annoyed. I was off the following day. On the 27th I asked Andrea Rhodes why she was doing this and her ego was clearly bruised and Andrea said "did it have to come from him (Dr. Mohandas)" I reminded her that she involved Dr. Mohandas and upon initial approach I was not asked to do a task but told I forgot to complete a task, which was not the case. Since being on that rotation I was not given any of these folders back.

TERMINATION (6/29/2013):

The day after I returned to work having been greeted at the level 2 double doors by Andrea Rhodes and Stephen Woods. We met in Andrea's office I was told by Andrea Rhodes "I am terminating you," there was no verbal explanation, no final notice. Stephen Woods asked for my badge and told me that I could grieve the termination and to contact Dana Moss. I said I never had the opportunity to grieve the written warning which I expressed to both Andrea and Stephen that I had planned to do. I asked if I could retrieve my belongings, and did just that and left the lab.

I was treated unfairly. I was harassed and mistreated. I raised patient safety concerns and I was coached. I raised procedural concerns and I was written up and terminated.

I did not receive a final written warning or suspension. My "behavior" did not pose a risk to patient safety, nor threaten an employee, so why termination? Termination was such a drastic measure. If my "behavior" was so egregious, why was I permitted to work on Thursday and terminated on Saturday. Dana Moss told me that at the time I was the only one in the history of that hospital who had been terminated without having violated policy. When I finally stood up for myself and my civil rights, that institution then deemed me to have broken policy.

The written warning was an inappropriate form of action given the task in question was completed and the entire event was over eight minutes, so the task in question was completed immediately. As a result of that, I believe the discharge was an improper form of action and should not have occurred. The history between Andrea Rhodes and myself was ignored as far as my complaints against Andrea and how Andrea Rhodes retaliated against me.

I believe that Andrea Rhodes took improper actions to terminate me after I raised patient safety concerns in April 2012 and procedural concerns over the past year, and reported her inappropriate behavior towards me.

REASONS FOR GRANTING THE PETITION

In this case, the First Circuit Court of Appeals erred by affirming the District Court decision to Dismiss and granting defendant's Motion for Summary Judgement. Title VII of the Civil Rights Act of 1964 is a federal law that protects employees against workplace discrimination. These civil rights apply to all employees. As a Black female who had an outstanding work record, both at Dartmouth Hitchcock Medical Center and Mary Hitchcock Memorial Hospital, and at previous employment to have been mistreated daily based on my race and harassed is egregious.

I both humbly and respectfully ask the United States Supreme Court to reverse the lower courts decision. Employees should not be terminated because they are intelligent Black women that work under a racist and abusive White women, especially when your employee's record and evaluations are outstanding until you complain about being mistreated.

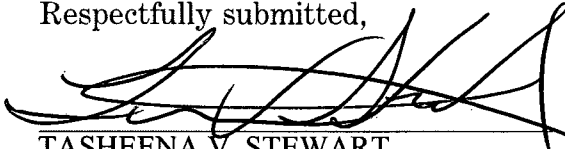
Faragher and Ellerth, the Seventh Circuit gave their rule a restrictive reach, holding that employers would be vicariously liable only for race or sex harassment by those supervisors possessing authority of —a certain magnitude|| over the victim's employment terms, namely to make —consequential employment decisions,|| —primarily * * * the power to hire, fire, demote, promote, transfer, or discipline [him or her].|| *Parkins v. Civil Constructors of Illinois, Inc.*, 163 F.3d 1027, 1034-

1035 (7th Cir. 1998). Although the *Parkins* opinion was somewhat unclear about how restrictive it meant this — supervisor|| definition to be, subsequent Seventh Circuit decisions have relied on it to hold that a harasser's daily work was merely a —co-employee.|| In *Hall v. Bodine Electric Co.*, the court declared that — that an employer authorizes one employee to oversee aspects of another employee's job performance does not establish a Title VII supervisory relationship.|| 276 F.3d at 355; see also *Rhodes v. Illinois Dept. of Transp.*, 359 F.3d 498, (7th Cir. 2004). These decisions make clear that only harassment by an individual who has power over the formal employment status of his or her victim implicates the vicarious liability rule.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tasheena V. Stewart', written over a horizontal line.

TASHEENA V. STEWART

Date: July 5, 2019

**United States Court of Appeals
For the First Circuit**

No. 18-1366

TASHEENA V. STEWART,

Plaintiff, Appellant,

v.

DARTMOUTH HITCHCOCK MARY HITCHCOCK MEMORIAL HOSPITAL,

Defendant, Appellee.

Before

Torruella, Thompson and Barron,
Circuit Judges.

ORDER OF COURT

Entered: February 7, 2019

Appellant Tasheena V. Stewart's "motion for reconsideration," construed as a petition for panel rehearing, is denied.

By the Court:

Maria R. Hamilton, Clerk

cc:

Tasheena V. Stewart
William D. Pandolph
Natalie Laflamme