

19-5594

NO.18-20387

ORIGINAL

SUPREME COURTS OF THE UNITED STATES  
WASHINGTON D.C.

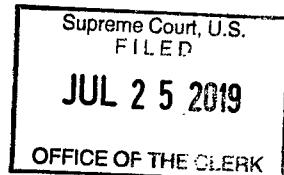
**TINA DAVIS**

**PETITIONER**

**VS**

**TEXAS CHILDREN'S HOSPITAL**

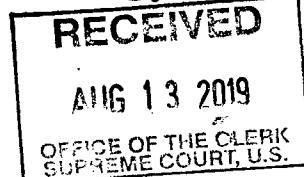
**RESPONDENT**



Petition for a Writ of Certiorari for  
The United States of Appeals  
Fifth Circuit

**PETITION FOR A WRIT CERTIORARI**

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## **I. Question Presented**

The Court review[s], the district court's decision granting the summary judgment under Rule 60 (b) for abuse of discretion

- A. The Notice of Appeal of having Judge Hittner retrieved from the case from violation of Rule 18(b) Recusal and Disqualification of a Judge, was the request willful blinded by the courts?**
  - 1). Been partner with the Haynes and Boone Law Firm when he was practicing Law. The information was recovered on the internet and SEALED with the district court Doc.33ROA.636 entered in court on 5/21/2018.**
- B. Was the Denying of Summary Judgment Motion showing Favoritism to the defendant?**
  - 1). Materials to support the fact of charges filed on TCH and The EEOC Right to Sue Letter was provided to the court on 1/27/2018**
- C. Was the Final Judgment a unjust and unethical decision by Judge Hittner?**
- D. Was the dismissing of the case in compliance with the Ten Amendment Bill of Rights, the VII Amendment and the ERA Amendment?**

## LIST OF PARTIES

[U] 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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### **REASON FOR GRANTING WRIT**

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### **III. TABLE OF AUTHORITIES**

#### **Cases**

**None available**

#### **Statutes**

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#### **IV. Petition for Writ Certiorari**

Tina Davis is respectfully asking the court to review the decision that was giving by the Fifth Circuit Court of Appeals. To review the evident that was surrender to the court and have a fair chance to be heard and receive justice, for the on going reasons the court refused to review the evident that was submitted, the court sealed document under false allegations, refuse to proceed with per trial, the judge served as a lawyer in the matter of controversy and the decision Per Curiam is a decision that's usually deal with the courts views as relatively non-controversial when that decision was incorrect by the court. I would be so grateful if the petitions this court for writ of certiorari to review the judgement of the Fifth Circuit court of Appeals.

#### **V. Opinions Below**

The decision by the Fifth Circuit Courts of Appels was denying factual evident and petition for rehearing was denied 3 days after receiving the petition, no reason was rendered to Davis informing her the rehearing was denied that mean the Appeals courts was willful blind to the evident as well and supporting the judge in his unethical behavior. Received the decision on June 9<sup>th</sup>. Over 600 pages is more than enough mere scintilla evidence and suppose all violation that was rendered unfairly to Davis.

#### **VI. Jurisdiction**

The court has jurisdiction pursuant under 42U.S.C §1981(2), (3) and Title VII. The United States of appeals for the Fifth Circuit issued its opinion and judgment on April 3, 2019 and on June 9<sup>th</sup>, 2019 the court denied Davis petition for rehearing or rehearing en banc

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 B to the petition and is

reported at United States District Court; 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 A to the petition and is

[ ] reported at United States Courts of Appeals Fifth Circuit; 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 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 Courts of Appeals Fifth Circuit 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.

## JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

[ ] 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: June 19<sup>th</sup> 2019, 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 May 28<sup>th</sup> 2019. A copy of that decision appears at Appendix C.

A timely petition for rehearing was thereafter denied on the following date: May 28<sup>th</sup>, and a copy of the order denying rehearing appears at Appendix C.

[ ] 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).

## **VII. Constitutional Provisions Involved**

### **United States Constitution, Amendment VII**

Jury Trial in civil court lawsuit passed by congress September 25, 1789 Ratified

December 15, 1791. The first 10 Amendment form a Bill of Rights Introduction are:

Canon 1) A Judge should uphold the integrity and independence of the judiciary

Canon 2) A Judge should perform the duties of the office fairly, impartially and diligently

Canon 3) A Judge should avoid impropriety and the appearance of impropriety in all actives.

Canon 4) The Judge may engage in extrajudicial activities that are consistent with the obligation of judicial office.

Canon 5) the Judge should refrain from political activity compliance with the code of conduct applicable date of compliance.

### **United State Constitution, Amendment ERA**

The Equal Rights Amendment is a proposal amendment to the United States Constitution designed to guarantee equal legal rights for all America Citizen regardless of sex. It seeks to end the legal distinction between men and woman in terms of divorce, property, employment and other matters.

## **VIII. Statement of Case**

On August 2015, starting employment with Texas Children's while in training Ms. Marilee ask me to sit ,but at the time I was wearing a waist trainer and they are uneasy to sit in. I told her I was find standing, Ms. Marilee call Ms. Conchita at her home on the personal cell and spoke against Ms. Davis stating she was insubordination. When Ms. Conchita arrival to the work place she held a meeting with I and Ms. Marilee, while in the meeting again Ms. Marilee continue to complaint about the waist trainer. After 35 min. of hearing the native comments from Ms. Marilee, I Ms. Davis asked if I could be dismissed, at this point I know Ms. Conchita was allow Ms. Marilee to ridicule I, to stop from making it a hostile situation Davis quietly stood up to gather her things to leave. Ms. Conchita yells SIT! she still taking ,Ms Marilee states I'm done

continue to cry as if I caused her harm. As I approach the door Ms Conchita battery Davis by grabbing her from the back by the shoulder.

I Davis reported the incident to the director and I was told to go to HR to make a report. Ruben Castillo was the HR Specialist that conduct the investigation after Ruben retrieved both statement and was acknowledgeable of Ms. Conchita unprofessional behavior, Ruben began to violate the rule, policy, and procedure. Texas Children has a Zero Tolerance for workplace violence and Ms. Conchita still held employment with company. As Ms. Conchita continue to stay employed she allow Omar to violate several rule, policies and procedures as well. The most important one of all The Hippocratic Oath (Do No Harm), she allowed Omar to remove my patient label from her specimen and the patient wrote a letter explaining the service she rendered with I Davis on February 25, 2016, and her specimen was correct before leaving, Ms. Conchita allows him to use my computer under my employment number and this is also a violation of the policy, Omar would yell directly in my face **I DO WHAT I WANT!** Ms Conchita allows his unprofessional behavior, Omar where stealing time leave the premises while clocked in, and sleep on the clock and these action was took in the present of Ms. Conchita which was the supervisor at the present time. I Davis reports Omar behavior to Ruben HR Specialist, Ruben stated his self that Omar not allowed to do these things making it a hostile workplace for Davis Ms. Conchita allow him to retaliate with is violation of the TCH policy. All original documents was giving to the court.in March 2018.

Omar behavior was continue becoming aggressive, I Davis as to move to another facility and Ruben denied the transfer with is violation of TCH policy. On June 30<sup>th</sup> Ruben held a mediation between Davis and Omar. In the mediation for no reason Omar blurts out that why Yall get rapped, killed and robbed. After asking Omar what did he mean about his threat to I Davis, Ruben tells him to refrain from such comment. At this point I'm insulted by Omar bias/threat comment, the word Yall is racist, and Davis was the only Africa American female in the present of two Hispanic males. Ruben witness Omar comment and no action was taken, but Davis terminated for stated **she will have her brother to come and pick her from the work** After termination by Ruben and Ms. Conchita with is against the policy Ruben was investigation he cannot make a command decision to fire no employee, Ms. Conchita, was a part of the investigating as well so therefore she was not supposed to act firing Davis. Davis performance meet all requirement the increase was rendered and a promotion. The misbehavior were word of mouth she say he said evidence of work performance was submitted to the court along with employer's STAR comments.

investigation .I Davis identified such factors as the plaintiff challenge an official executive policy rather than rogue action implicating

Was the factual evident reviewed by the judge and the Panel in the District Court and The Appeals Court of the Fifth Circuit, If The EEOC and the Labor Law found that violations had occurred why come the judge was not aware of these violations.

Was the VII amendment violation from not preceding with pre-trial? Was the ERA Amendment violated? Factual Original Documents rendered to the court for review for I Davis to have a Right to be heard and receive justice. That right was violated do to false allegation at this point I fell the Courts are been discriminating is it okay for Ms.Conchita, Omar Ms. Marliee and Ruben to keep employment and support their family while mines starve. I provided remedies for wrongfully been terminated and Judge Hittner denied the motion. The Court of Appeals agreed to Judge Hittner decision by law he was in violation of Rule 18(a) (b).

**A. The Panel's Opinion conflicts with Davis precedent to qualified immunity factual evidence because:**

1. Evidence was render to the court for the judge disqualification, the judge was in partnership with Haynes and Boone Law Firm. Granting summary judgement and cancellation of per trial without notice or reasoning, having the judge removed for unethical judgment favoring the defendant was denied.NO active action appeals on Court transcript proves justice was unfair.
2. This issue was briefed but not address in the opinion, having private meeting with Davis attorney Roderick Rogers
3. Compliance with the clearing establish laws of The EEOC. The EEOC issue a Right to Sue Letter after finding sufficient evidence that a Civil Right violation has occurred. Davis, counsel Rogers, file the Right to Sue letter on January 18<sup>th</sup>

**B. The Panel's Opinion conflicts with Davis precedent in qualified immunity factual evidence (1) Wrongful Termination (2) Discrimination /Retaliation (3) Heightened Pleading Standard**

**1. Wrongfully Termination**

In the evidence that was submitted by Davis shows where Davis was Wrongfully Termination by Ruben and Ms. Conchita on August 24, 2016. Davis was terminated by stating that I will have my brother to pick me up from work protecting myself from the racial, bias/threat comment that was spoken by Omar within the present of Ruben HR Specialist and Omar still hold employment with TCH while violating rule and policies Ruben, Omar and Ms.Conchita. Have my brother to pick me up was the respond to Omar Threat to Davis. No one found having my brother to pick me up was a Threat to Omar or any other Co Worker. Courts fail to address the concernment.

## **2. Discrimination/Retaliation/Disparate Treatment**

On July 30<sup>th</sup> Omar stated Yall' get rapped, killed and robbed, his comment was racial, and bias/threat and Ruben retaliation against Davis by not punish Omar for the comment. The word killed is a threat, rapped deadly or body harm and robbed harm to a person, Ruben violated TCH policy, Zero Torrance for work place violence, Zero Torrance for retaliation, Zero Torrance for harassment and hostile work environment, any one of those words that preceded from Omar were in violation of the policy of the company, EEOC, Labor Law of the Commission of Texas and the VII Amendment. Omar unlabeled Davis specimen and rendered to the other lab incorrectly process, the medical tech send a letter to the manager explaining the error and still Omar held employment, Ruben refused Davis transfer when if an aggressor make it a hostile work place the transfer should be granted, The other manager was willing to accept Davis on his team. Omar yelling in my face. Work place violence is also approval for a transfer. Ruben and Ms. Conchita was well knowledgeable of Omar behavior. Court fails to address this concernment

## **3. Heightened Pleading Standard**

In December 2017, the deposition was held at Haynes and Boone Law firm, Davis submit the deposition to the court for discrepancy and to be withdrawal because I cannot knowingly go forward with testimony known to be false. Supposedly was never use Ms. Conchita did gabbed Davis without her permission, remedies was required as follows, reinstatement of employment for wrongful terminated, to be made whole, the promotion that was offer by West Tower manager that was denied by Ruben, punitive damages and attorney fees. A settlement render by defendant Davis did not find it of Good Faith. I requested document to prepare for Brief Appeal and serval time the request was denied and the documents was sealed without my approval. I signed the denied wavier not to sealed document and the court granted. The charges that was filed with the EEOC, evidence of original document was submitted, how the courts Denies factual legal evidence and violates the VII amendment. The defendant preceded with word of mouth no facts and still the Summary Judgement was Granted and per trial cancelled. Will the Court witness that the defendant trying to hide proof of All Charges by Sealing the Document/Evidence.

## **IX.REASON FOR GRANTING THR WRIT**

### **A. Violation of VII Amendment and serval other Agency Laws and Procedure's has been violated**

The Court of Appeals has fail to review evidence and made a judgement against Agencies that has found violations of laws and regulation, Davis ERA has been violated by Courts. The judge been unethical cause this fore going issue. The decision of the Court of Appeals is plainly incorrect, as it both contradicts the bright-line holding of Davis and express Ms Conchita battery/ assault has purposely cause discrimination, retaliation and wrongful termination. Despite

observing that the TCH employees action appeared to violated Davis. The Court of Appeals then proceeded with its analysis without acknowledgement that TCH Employees persistence may have affect the voluntariness of Davis actions. Absent intervention by this Court, the United Court of Appeals' published decision will work to undermine the carefully-crafted procedural safeguards that this Court has spent decades developing.

## **X. CONCLUSION**

For the foregoing reasons, Ms. Davis respectfully requests that the Court issues a writ of certiorari to review the judgement of the United States of Appeals of the Fifth Circuit.

DATED this 10th day of July 2019.

Respectfully submitted,

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