

19-6536

IN THE
SUPREME COURT OF THE UNITED STATES

Dr. Patt McGuire - Pro Se — PETITIONER
(Your Name)

vs.

St. Louis County et., al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Federal Court of Appeal Eighth Circuit Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Dr. Patt McGuire

(Your Name)

10164 Ventura Dr.

(Address)

St. Louis, MO 63136

(City, State, Zip Code)

314-556-9760

(Phone Number)

QUESTION(S) PRESENTED

1. Should a Petitioner/Pro Se be granted the fundamental right to counsel which is essential to fairness in a civil case? The working poor citizens of the United States should not have to risk their basic needs to be treated fairly when faced with employment discrimination acts on the job.
2. Should a Petitioner/Pro Se be granted a jury trial? Pro Se are entitled to “due process and Equal Protection” in the court of law as a matter of law in the Untied States.

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:

Petitioner:

1. Patt McGuire

Respondents:

1. Cheryl Campbell
2. Marshall Day
3. Clifford Faddis
4. Thomas Ben Burkemper
5. St. Louis County
6. Veritext Legal Solution
7. Cynthia Lou Hoermann
8. Priscilla F. Gunn
9. St. Louis County

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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 _____ 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 is unpublished.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 G 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 is unpublished.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 is unpublished.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 October 7, 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: October 15, 2019, 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. § 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).

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

AMENDMENT V.....6

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI.....5

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

AMENDMENT VII.....6

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

AMENDMENT XIV (SECTION 1).....5, 6, 12

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No 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 person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

The Petitioner/Pro Se filed her employment discrimination case with the district court on August 28, 2017. The charges filed in this case were: (1) Race; (2) Sex; (3) Age; (4) Gender Discrimination; (5) Whistleblowing; (6) Black-balling, and (7) Retaliation. The final Respondents are: Cheryl Campbell; Marshall Day; Clifford Faddis; St. Louis County; and Thomas Ben Burkemper. Due to additional illegal act against the Petitioner/Pro Se during the process of defending herself by newly named Respondents, the following additional charges were added: (8) Tampering Obstruction of Justice; (9) Tampering with Physical Evidence; and (10) Concealment of Evidence. The additional Respondents are: Veritext Legal Solution; Cynthia Lou Hoemann; Priscilla F. Gunn; and St. Louis County.

Question 1:

Should Petitioner/Pro Se be granted the fundamental right to counsel which is essential to fairness in a civil case? The working poor citizens of the United States should not have to risk their basic needs to be treated fairly when faced with employment discrimination acts on the job.

*Gideon v. Wainwright*¹ and *Haines v. Kerner*² cases are United States Supreme Court cases this court has ruled on that supports the Petitioner/Pro Se case before this court. The Petitioner/Pro Se civil case has the same legal elements that are supported by the constitution of the United States. Civil Rights/Constitutional Law guarantees citizens basic civil rights through the U.S. Constitution and the rights bestowed on citizens through special statutes (APP. F). The

¹ *Gideon v. Wainwright*, 372 U.S.335 (1963)

² *Haines v. Kerner*, 404 U. S. 519 (1972)

statutes were enacted in order to supplement, clarify, or expand rights previously guaranteed by the Constitution. The Petitioner/Pro Se could not afford an attorney for \$350 - 400 an hour on the salary she was earning and maintain living expenses. The Petitioner/Pro Se has limited funds available (she has one job which pays bi-weekly at less than \$18 an hour). The Petitioner/Pro Se had to put her second job on hold to be able to defend herself in this case and the additional case that evolved from the Tampering Obstruction of Justice charge on this case. Since the filing of this case with EEOC, months before August 28, 2017, the Petitioner/Pro Se has been taking from her living expenses to finance this employment discrimination case (APP. G).

Civil cases have elements of criminal case that qualify them too for appointment of counsels for defense of the Petitioner/Pro Se (APP. D). The same three models (assigned counsel model, contract model, and public defender model) setup to provide representation to indigent persons accused of crimes and unable to afford counsel should be provided for indigent persons filing civil employment discrimination cases (APP. H). Missouri is among the states that has a system in place to provide indigent defense services for United States citizens like the Petitioner/Pro Se in this case (APP. H). The statewide systems in place have common degree of uniformity elements to the delivery of indigent defense services statewide (APP. H). The Petitioner/Pro Se is a resident of Missouri (14th Amendment, APP. H). Missouri is one of sixteen states that operate indigent defense programs (APP. H). The utilization of public defender with full authority for the provision of defense services is done in Missouri (APP. H). Missouri statewide programs provide public defender representation in every county in the state (APP. H, 6th Amendment).

Employment Discrimination is a crime (Title VII, MHRA). Title VII and MHRA state that the act of “failure to promote” employment discrimination is a crime (Title VII, MHRA). Title VII prohibits employment discrimination based on race color, religion, sex and etc. (Title VII). It provides for recovery of compensatory and punitive damages in cases of intentional violations of Title VII (42 U.S.C. 1981, Title VII). The Bill of Rights, guarantees the Petitioner/Pro Se rights and freedom which includes “due process”, “equal protection”, right to an attorney....among others (5th, 7th, 14th,.

Despite the Petitioner/Pro Se educational success (Bachelor-2007, Master’s-2011 and Ph.D.-2015) during the almost eighteen years of employment with the Respondent, St. Louis County financial support, the Petitioner/Pro Se was subject to adverse action of “failure to promote” by the Respondents (Title VII, MHRA). As time went on the Petitioner/ Pro Se continued to apply for promotional opportunities with the Respondent – St. Louis County and meet with the other Respondents (management) to express concerns of not being promoted. The Petitioner/Pro Se was approved by the Respondents for additional training to further qualify for promotional positions (Title VII, MHRA). However, the Respondents failed to promote the Petitioner during the Petitioner’s entire time of employment with the Respondent (St. Louis County) (Title VII, MHRA).

Once the Petitioner/Pro Se filed this case with the district court, around November 21, 2017 the Petitioner/Pro Se discovered that her employment discrimination case was illegally accessed in the “protected computer” system Case Net (Section 1030, 18 U.S.C. 1030(e)(2). The access was unauthorized (CFAA,18 U.S.C.1030(g), (APP.D). The original Respondents were illegally dismissed from the Petitioner/Pro Se case without an Order from the presiding Honorable Dean Paul Waldermer or his personal clerk, Jackie Daughthey *United States v.*

*Valle*³ *United States v. Drew*.⁴ The Computer Fraud and Abuse Act (18 U.S.C. 1030) (CFAA) imposes criminal and civil liability for unauthorized access or damage to a protected computer. The law reaches every computer connected to the internet and non-networked computers used by the US government or financial institutions (CFAA)⁵. The continued failure to promote cause a loss to the Petitioner/Pro Se in conjunction with the intentional access without authorization and exceeding authorized access,...to further a fraud *United States v. Thomas*⁶ & Tech Sys., Inc. v. *Pyles* (CFAA). Jerry Edward on November 21, 2017 or the original violation before November 21, 2017 did not have the presiding judge authorization to access and change data in the Case Net system, however; these violation of the law obstructed justice and deprived the Petitioner/Pro Se her right to “due process” and “equal protection” of the constitution law (APP. F & APP. D).

The Petitioner/Pro Se while defending this employment discrimination case conducted depositions of the following Respondents: Cheryl Campbell, Marshall Day, Clifford Faddis, and Thomas Ben Burkemper per the Honorable Judge Catherine Perry. However, when the Petitioner/Pro Se was prepared to do a deposition on the corporate designee for Respondent St. Louis County, the corporate designee was a “no show”. Judge Perry violated her own Order dated March 23, 2018 which stated that the Petitioner would be the first to be depos and the Respondents would be deposed afterward. Judge Perry granted the motion to quash the deposition on the corporate designee knowing that the corporate designee was the only person legally authorized to speak on behalf of the Respondent, St. Louis County (Court Order dated November 26, 2018 (APP. E)). This ADVERSELY effected the Petitioner/Pro Se case.

³ *United States v. Valle*, 807 F.3d 508, 513 (2d Cir. 2015)

⁴ *United States v. Drew*, 259F.R.D. 449, 457-58 (C.D. Cal 2009)

⁵ Computer Fraud and Abuse Act Civil Litigation

⁶ *United States v. Thomas*, 877 F.3d, 591 598 (5th Cir. 2017) & Tech Sys. Inc. v. *Pyles*, 630 Fed. App'x 184, 186-87 (4th Cir. 2015)

The attorneys for the Respondents concealed evidence from Judge Perry before the judge issued the Order on November 26, 2018. The Petitioner's./Pro Se errata sheets were withheld which led to Judge Perry NOT knowing that the Petitioner/Pro Se complied with the Court's Order as instructed. Both counsels for the Respondents, their employer, St. Louis County, and the company that performed both depositions on the Petitioner/Pro Se participated in the concealment by not releasing the Petitioner/Pro Se first errata sheets until Judge Perry filed her Order on December 7, 2018. The Petitioner/Pro Se errata sheets were not released by both attorneys for the Respondents and Veritext Legal Solution until February 13, 2018 which was not timely for the Court to be properly informed of the information corrected for the Petitioner's/Pro Se first deposition. Due to this illegal concealment from the Court the Court's Order on December 7, 2018 DOES NOT accurately represent the Petitioner's compliance to the Court's Order. This illegal act ADVERSELY effected the Petitioner's/Pro Se case.

The Petitioner/Pro Se complied with the Court's Order to submit to a second deposition. However, during this deposition the counsels for the Respondents presented a "fake" document to the Petitioner/Pro Se. When the Petitioner/Pro Se went to review the final copy of the second deposition and the presented exhibits by the attorneys, Veritext Legal Solution did not preserve the exhibit #24 for review by the Petitioner/Pro Se. Afterward the Petitioner/Pro Se filed Class A Misdemeanor charges against both counsels for the Respondents for Tampering with Physical Evidence.

Due to the concealment by Veritext Legal Solution and both counsels for the Respondents, Judge Perry did not have all the evidence to rule properly on the Petitioner's/ Pro Se case (APP. E). The Petitioner/Pro Se itemized all Judge Perry's Orders and showed that the

Petitioner/Pro Se did not refuse to comply to the Court's Order. The errata sheets were withheld from the Court intentionally (APP. B, J, E).

Question 2:

Should Petitioner/Pro Se be granted a jury trial as a fundamental right of due process" and "equal protection" in the court of law as a rule of law and a matter of law in the United States? Every United States citizen is entitled to all the rights of the Bill of Rights and the Constitution.

The Petitioner/Pro Se maintain a pro active approach to preparing for the set jury trial date of May 6, 2019. There were countless times the Petitioner/Pro Se had to let living expenses double up to keep lights, gas, water, and sewer bills. Making arrangement with the respected companies to keep the service on for another month, while enduring the cost of copies, ink for the printer, and similar cost in defending herself in the courts.

The federal court Honorable Judge Catherine Perry set the Petitioner/Pro Se employment discrimination case for trial on May 6, 2019 during the Case Management Conference. The Petitioner/Pro Se followed the Courts Order for submitting discovery with the opposing party. However, the trial set did not take place. Given the cost the Petitioner/Pro Se was able to avoid by the federal court honoring the forma pauperis status,

Missouri is among the states that have a defense system in place for funding their indigent parties in the court. Trial-level representation statewide includes a state public

defender in Missouri. The funding sources for indigent defense at the trial level are done by state funds. Given this fact, the Petitioner/Pro Se is asking this court to grant the Petitioner/Pro Se a trial and proper indigent defense support.

The Sixth Amendment secure the Petitioner/Pro Se the right to a jury trial for her employment discrimination case. According to the Sixth Amendment, no offense is deemed “petty” for the purpose of the right to trial by jury. Trial by jury is preserved for civil cases.⁷ The Supreme Court uses the Seventh Amendment to preserve the right to a jury trial and because the Petitioner/Pro Se was not given this opportunity, the Petitioner's/Pro Se constitutional right was violated *Baltimore & Caroline Line v. Redmen*⁸ and *Parsons v. Bedford*⁹. The Seventh Amendment require[d] trial by jury in actions unheard of at common law, provided that the action involves rights and remedies of the sort traditionally enforced in an action at law. Employment discrimination acts requires an act of law to remedy. The Petitioner/Pro Se has rights under the constitution, statutory rights and laws *Pernell v. Southall Realty Co.*¹⁰

⁷ 2m. Ferr and Records of the Federal Convention of 1787 at 687

⁸ *Baltimore & Caroline Line v. Redmen*, 295 U.S. 654, 567 (1973)

⁹ *Parsons v. Bedford*, 28 U.S. (3Pet) 433 446-48 (1830)

¹⁰ *Pernell v. Southall Realty Co.*, 416 U.S. 363 (1974)

REASONS FOR GRANTING THE PETITION

It is the Petitioner/Pro Se intent in this section to explain to the Court why it should grant certiorari. Rule 10(c) says, “a state court or a United States court of appeals has decided an important question of federal law that has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court”.

This Court, U. S. Supreme Court in March 18, 1963 decided *Gideon v. Wainwright*¹¹. This Court held: “The right of an indigent defendant in a criminal trial to have the assistance of counsel is a fundamental right essential to a fair trial, and petitioner’s trial and conviction without the assistance of counsel violated the Fourteenth Amendment. *Betts v. Brady* was overruled¹². The Petitioner/Pro Se has been denied her fundamental right from employment discrimination and a jury trial without the assistance of counsel violated the Sixth Amendment of the United States Constitution, Title VII of the Civil rights Act of 1964, and Computer Fraud Abuse Act of (18 U.S.C. 1030).

The Petitioner/Pro Se is in the same position as Clarence Earl Gideon. Gideon under took his own defense because he did not have the moneys to pay for an attorney. The Petitioner/Pro Se under took her own defense because she did not have the money to pay for an attorney. Gideon was convicted and the Petitioner/Pro Se was denied a promotion for almost eighteen years. Gideon was sentenced to five years in prison. Gideon requested the court to appoint counsel in his defense and so did the Petitioner/Pro Se on May 28, 2019 to the Federal Court. Federal court of appeal denied the Petitioner on May 30, 2019 appointment of counsel.

¹¹ *Gideon v. Wainwright*, 372 U.S. 335 (1963) (No. 155)

¹² *Betts v. Brady*, 316 U.S. 455, overruled. Pp. 372 U. S. 336-345

According to Justice Hugo L. Black, the Court held that it was consistent with the Constitution to require state courts to appoint attorneys for those who could not afford to retain counsel on their own. The Fourteenth Amendment creates a right for criminal defendants who cannot pay for their own lawyers to have the state appoint attorney on their behalf. The Civil Rights/Constitutional Law identifies situations where civil cases are covered under the Constitutional Law.

According to the Duhaime's Law Dictionary, Inchoate Rights which is another set of rights that evolved from the U.S. Supreme Court decisions interpreting the Constitution. Through these rights don't exist EXPLICITLY in the Constitution, they are determined by the Court to have been IMPLIED by the Constitution. For example: right to equal protection under the federal laws. The Civil rights legislation grants rights to minorities, not notably through the Civil Rights Act of 1964, which forbade discrimination based on race, color, religion, sex, and national origin. Other laws have been passed to protect other groups deemed worthy of protection, such as laws to prohibit discrimination based on age (Age Discrimination in Employment Act 1967-ADEA), disability, and sexual orientation (APP.F).

At each federal appeal junction of the court process the Petitioner/Pro Se was denied the opportunity to present evidence despite the request of JURY DEMANDED on the filed documents *Haines v. Kerner*¹³. The Supreme Court in 1972 held that Prisoner's pro se complaint seeking to recover damages for claimed physical injuries and deprivation of rights in imposing disciplinary confinement should not be dismissed without affording him the opportunity to present evidence on his claims. The Petitioner/Pro Se completed the discovery process set by the federal court with the opposing parties. When it came time to go to trial the Court did not honor the Court Order for court dated May 6, 2019 in the Court Case Management

¹³ *Haines v. Kerner*, 404 U.S.519 (1972)

Order. An opportunity was not given to the Petitioner/Pro Se to present evidence before a jury of peers. The Petitioner's/Pro Se complaint should not have been dismissed with prejudice because the Court was not given the concealed documents which were being withheld by Veritext Legal Solution and both counsel (Cynthia Lou Hoemann and Priscilla F. Gunn). This concealment denied the Court the FULL truth of the Petitioner's/Pro Se full participation in the Court Ordered depositions of the Petitioner/Pro Se. This is the same action taken with *Haines v. Kerner*¹⁴ which the Prisoner's pro se complaint was seeking to recover damages for claimed physical injuries and deprivation of rights in imposing disciplinary confinement should not have been dismissed without affording him the opportunity to present evidence on his claims. In addition to the above reasons to grant this petition, these are reversible reasons:

1. due to the repeated denials this Court should hear this re-argument *Western Pac. Ry, Corp v. Western Pac. Ry. Co.*¹⁵ & F.R.A.P. 35 and 40¹⁶
2. Appellant's employee file;
3. Exhibits dating from February 2001 – August 28, 2019 (the total submitted were over 1000 individual documents including training, job applied for, request for meeting with management, request letters to managers for clarification for not promoting Appellant;
4. Declaration letters;
5. Variety Garden proof;
6. Deposition transcripts from Defendants: Cheryl Campbell, Marshall Day, Ben Burkemper, Clifford Faddis, and motions to compel a corporate designee to be deposed (corporate designee's depo was denied by Judge Perry after she Ordered a deposition for all defendants)

¹⁴ *Haines v. Kerner*, 404 U.S.516 (1972)

¹⁵ *Western Pac. Ry. Corp v. Western Pac. Ry. Co.* 345 U.S. 247, 262-63 (1953)

¹⁶ F.R.A.P. 35 and 40

7. Request for production questions;
8. Interrogatory questions;
9. Request for admission;
10. CD of oral argument for Tampering Obstruction of Justice charge
11. Screenshots of the explicit tampering with the Appellant's case in the Case Net system
12. Official documents for Tampering with Physical Evidence directly related to the presentation of a "fake" document in the Appellant's second deposition by both counsels for the defendants
13. Emails exchanges between the Appellant, both counsels for defendants, and Veritext Legal Solution, supporting Veritext Legal Solution admitting to concealing (withholding) Appellant's first set of errata sheets
14. Emails showing the release of the Appellant's first set of errata sheets after Judge Perry dismissed the Appellant's case (these errata sheet shows the Appellant DID answer all the questions in questioned by Judge Perry)
15. Petitioner/Pro Se Brief Points Relied On along with Petitioner/Pro Se Reply Brief Points Relied On:

The third err by this District Court is the dismissing of the three acts of Tampering including a request to the presiding judge to accept criminal/civil charges for one of the Tampering acts. Because all three Tampering illegal acts were committed against Dr. McGuire's employment discrimination which was being presiding over by Presiding Judge Catherine Perry of the United States District court, Dr. McGuire brought all three to the attention of her. The Court included ALL three tampering charged in the November 26, 2018 Order of Dismissal. No reason was given for Dismissing all three

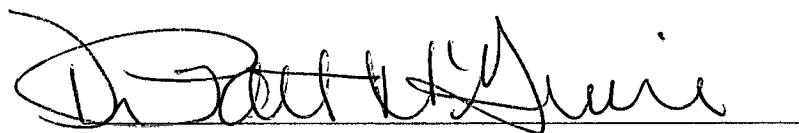
Tampering charges. The Tampering violations were: (1) Tamping (Obstruction of Justice); (2) Tampering with Physical Evidence; and (3) Spoliation. The Tampering with Physical Evidence is the charge that Dr. McGuire requested for criminal/civil charges be issued for on the case December 17, 2018 within the complaint filed.

As far as the Reply Brief here are reasons why this Court should grant the petition: (1)The District Court Err When The Court Denied Dr. McGuire Discovery Associated With Statements That Respondent Cheryl Campbell Made In Her Deposition, Because Dr. McGuire Has A Right To Every Constitution and Statutory Rights And Laws, In That Supreme Court Rule States Pro Se Have The Right To Present Evidence, The Claim Of Reversible Error; (2) The District Court Err When The Court Did Not Follow The Court's Own Order Allowing Dr. McGuire To Do A Deposition On All Appellees A Deposition Was Done On Dr. McGuire, Because Parties Named in Petitions as Appellee Can Be Called To Be Depos, In That Dr. McGuire Has The Right Legally To Depos All The Appellees In A Petition That She Believes Has Violated Her Rights Of Law, Support The Claim of Reversibly Error; and (3) The Appellant Court Err When Presiding Judge Catharine Perry Never Ruled On Dr. McGuire's Motion To Compel For Discovery Of All The Positions Dr. McGuire Applied For In The Past Seventeen Plus Years Of Employment, Because Dr. McGuire's Claim In This Case Is Failure To Promote, In That, Pretrial Disclosures Is Legal, Support The Claim of Reversible Error.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel W. Sweeney". The signature is fluid and cursive, with "Daniel" and "Sweeney" being the most distinct parts.

Date: November 2, 2019