

RKB
No.19-6536

In The
Supreme Court of the United States

Supreme Court, U.S.
FILED

JAN 18 2020

OFFICE OF THE CLERK

Dr. Patt McGuire

Petitioner/Appellant/*Pro Se*,

v.

St. Louis County et. al.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES SUPREME COURT

PETITION FOR REHEARING

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PETITION FOR REHEARING

Pursuant to Rule 44 of this Court, the plaintiff/Pro Se, hereby respectfully present this petition for rehearing for this employment discrimination (failure to promote, sex, race, gender, age, blackballing, whistleblowing, and retaliation) & (concealing/suppressing evidence, tampering with physical evidence, and ethical violations case before this Court.

Pursuant to Rule 46 of the Federal Rule of Appellate Procedure; respectfully present this petition for rehearing to this Court for rehearing based on the required standard for every member of the court is subject to: suspension or disbarment by the court if the member: (b) is guilty of conduct unbecoming a member of the court's bar.

1. Due to the failure of the Court of the United States Court of Appeals For The Eighth Circuit not addressing and taking discipline actions to address Attorney Cynthia Lou Hoemann and Attorney Priscilla F. Guun's conduct unbecoming to a member of the bar, the plaintiff/Pro Se presents this Petition For Rehearing to this Court to grant relief and/or a trial. This employment discrimination case involves conduct unbecoming a member of the court's bar: acts of concealment of evidence, tampering with physical evidence by the attorneys (Counsel Cynthia Lou Hoemann, Priscilla F. Gunn, Veritext Legal Solution, and St. Louis County, Missouri) for the defendants named alone with the ethical violations. The evidence concealed and tampered with in this case would have been favorable to the plaintiff.

Attorneys Hoemann withdraw from the case after plaintiff brought illegal concealment violations of discovery evidence and illegal acts of Tampering with Physical Evidence to the attention of Judge Catherine Perry of the Federal Court. Soon after Attorney Hoemann withdraw from the case as Lead Attorney and changed employment. Attorney Gunn stop working for the same named defendants and changed her employment too following Attorney Hoemann. Attorney Gunn did not follow the court procedure to properly withdraw from the defendant's case after these illegal and ethics violations were committed which denied plaintiff the chance to response to the Motion to Withdraw request. *See App. E.* Attorney Gunn changed her employment with the defendant (St. Louis County, Missouri) before permission was granted and without timely notifying opposing party. This denied the plaintiff a chance to response to a Motion to withdraw. Attorney Gunn was the last official lead attorney on the defendant's team. Attorney Gunn actions and Attorney

Hoemann's actions ended in them no longer being in the position of representing the defendants named in this case. However, their actions were taken AFTER the plaintiff raised questions related to both attorney's ethical, moral and professional character were unbecoming while trying the case of the named defendants in this case. *Board v. Burke*, No. 11-0813, (November 9, 2012). *See* App. E; and *See* App G.

2. According to the oath every member of the American Bar Association (ABA), attorneys take an oath and signed the oath agreeing to, ".....I will conduct myself with integrity and civility in dealing and communicating with the court and all parties. So help me God." Attorney Cynthia Lou Hoemann and Attorney Priscila F. Gunn failed to follow their oath taken with ABA. Their actions of concealing the plaintiff's errata sheets of the plaintiff's first deposition fall short of the oath each of them agreed to with ABA. The second illegal act by the both counsels was their action of tampering with physical evidence during the plaintiff's second deposition via presenting a "fake" document of presented evidence by the plaintiff. According to Mo. Rev. Stat Section 575.100 (2013) - Tampering with Physical Evidence is an illegal act. Attorneys are not above the law. *See* App. F. Plaintiff filed a Motion for De novo with the Federal Court of Appeal. *See* App. J. An additional Petition was filed to add these charges to plaintiff's employment discrimination case. *See* App. K.
3. According to Federal Rules of Appellate Procedures Rule 46(b)(1)(B) the actions taken by the named additional defendants during both of the plaintiff's deposition violated the law and ABA ethical codes. Their conduct was unbecoming to member of the court's bar and illegal. Rule 46 (c) – Discipline – States, "A court of appeals may discipline an attorney who practices before it for conduct unbecoming a member of the bar or for failure to comply with any court rule...." *See* App D.
4. According to the Federal Rules of Appellate Procedure Rule 46(b)(1)(B) – (Attorney); Standard. A member of the court's bar is subject to suspension or disbarment by the court if the member: is guilty of conduct unbecoming to member of the court's bar." *See* App. B.

The plaintiff timely notified the Honorable Presiding Judge Catherine Perry of the United States Federal Appeal Court of each of the four (4) above points. An additional new petition was filled with Judge Catherine Perry to add the following defendants

to the plaintiff's case due to each of their actions contributing to the concealment of errata sheets of the plaintiff's first deposition (Attorney Hoemann, Attorney Gunn, Veritext Legal Solution, and St. Louis County, Missouri) and presentation of a "fake" document in the plaintiff's second deposition by Attorney Hoemann and Attorney Gunn. Docket # 176 & 178.

The actions of Attorney Hoemann and Attorney Gunn contributed to the adverse Order dated October 7, 2019 against the plaintiff. The United States Court of Appeals for the Eighth Circuit Court referred back to the Court Order dated November 26, 2018 to support the Court's ruling; however, this Order was written without all evidence consideration. Evidence was withheld from Judge Perry which was not included in the Honorable Presiding Judge Perry consideration of the "Material Facts." *See* App. F. Based on the merits of this case this Petition For Rehearing should be granted. The legal submitted errata sheets were timely submitted to Veritext Legal Solution and both attorneys after June 25, 2018 for the Court's review but intentionally withheld. *See* App. F & *See* App. H. Because the plaintiff's timely errata sheets were not forwarded to the Court in a timely manner, the Court was not and did not include the plaintiff's responses included in the filed errata sheets after the plaintiff's first deposition which addressed explicitly the Court's stated concerns. The exclusion of these "Material Facts" not being included in the timely filed errata sheets led to adverse effects to the plaintiff's case on October 7, 2019 (Dismissal of Plaintiff's employment discrimination case as a sanction). *See* App. A. The Court's Order stated, "...sanction for failing to comply with a discovery order." The discovery order being referred to is the Court Order dated November 26, 2018 but referred and used for Court Order on October 7, 2019. *See* App. A and *See* Att. H.

Once the Plaintiff requested a copy of the notarized copy of the plaintiff's submitted errata sheets from the plaintiff's first deposition from the Veritext Legal Solution (which was the hired company to perform both of plaintiff's deposition), the Veritext Legal Solutions and from both attorneys, their emailed response raised ethics violations at its highest level. *See* App. F. The email exchanges between the following parties (the plaintiff, Veritext Legal Solutions, and both Attorneys Hoemann and Gunn) clearly shows there were acts of concealment/suppression of evidence from the Court that extended beyond the Court's ruling date of November 26, 2018 resulting in adverse action on the Plaintiff's case (dismissal). Veritext Legal Solution admitted in January of

2019 that they could not locate plaintiff's errata sheets which was long after the plaintiff's deposition and the October 7, 2019 ruling dismissal sanctioning.

The illegal concealed/suppressed errata sheets would have shown the Court that the plaintiff did comply with the rules set by the Court in Court Order dated November 26, 2018. *See App. H.* However Judge Perry never was not given the opportunity to include the plaintiff's acts of compliance to the Court's Order properly as instructed.

It is a reasonable expectation of the plaintiff because a reasonable person would expect the opposing party's attorneys to ethically follow the oath each of them took when they became members of the American Bar Association (ABA). The Plaintiff as a *Pro Se* like any reasonable plaintiff expected the opposing party's attorneys to abide by the oath they took and signed with the ABA. However, each of them violated their oath which contributed to the adverse Order on the plaintiff's case (dismissal as a sanction). The plaintiff should have been given and granted the right to respond to a properly filed Motion to Withdraw from Attorney Gunn. Instead, she and Attorney Hoemann changed employment suddenly after the plaintiff timely notified the Court of their unethical violations against the plaintiff's and the plaintiff's employment discrimination case. The defendants did not file a Motion for Substitute of Counsel until after the plaintiff timely notified the Court of Attorney Gunn change of employment from St. Louis County, Missouri. Plaintiff would have filed and Objection to the Motion to Withdrawal of Attorney Gunn, if given a chance which is the plaintiff's legal right to do so. Plaintiff McGuire is asking this Court to find Attorney Gunn's behavior simple negligence and an ethics violation. Plaintiff McGuire file a de novo request to the Court *See App. I* and *See App. J.*

A reasonable person would do as plaintiff McGuire did which was to expect Attorney Hoemann and Attorney Gunn to practice ethical practice during both of the plaintiff's deposition. Tampering with Physical Evidence is illegal and the Court is allowed to discipline an attorney who practices behavior before it unbecoming as a member of the bar, for failure to comply with any court rules and laws of the United States. Presenting a "fake" document to the plaintiff during the plaintiff's second deposition clearly is a disciplinary action and grounds to rule in the plaintiff's favor.

According to Mo Rev Stat 575.100 (2018), “A person commits the offense of tampering with physical evidence if he or she: (1) Alters, destroys, suppresses or conceals any record, document or thing with purpose to impair its verity, legibility or availability in any official proceeding or investigation; or2. The offense of tampering with physical evidence is a class A misdemeanor,” *See* App. C. This court is being asked according to Federal Rules of Appellate Procedure Rule 64(b)(1)(B) to find both Attorney Hoemann and Attorney Gunn guilty of conduct unbecoming to members of the court’s bar and reverse the dismissal (as a sanction) of the plaintiff’s employment discrimination case.

CONCLUSION

This Petition For Rehearing pursuant to Rule 44 and Rule 46 of the Federal Rule of Appellate Procedure to this full Member Court is humbly presented with legitimate violations by the defendants attorneys and strong ethical violation that would support a Petition For Rehearing of the “Material Facts” of the plaintiff’s employment discrimination case. This Petition For Rehearing presents concealment of evidence, tampering with physical evidence, untimely release of evidence to the Court, failure to present a Motion to Withdraw to the Court denying the plaintiff a chance to respond as a legal right, acts of the defendants attorney not holding up to the oath taken with the ABA, and practicing acts not becoming to a member of the Court’s bar. These and the previous supplement briefs will support this court’s ruling in the favor of the plaintiff to rehearing the plaintiff’s case.

For the forgoing reasons, the Petition For Rehearing should be granted.

Respectfully submitted,

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/s/Dr. Patt McGuire
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January 20, 2020

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay.

/s/Dr. Patt McGuire
Dr. Patt McGuire