

No. **19-7462**

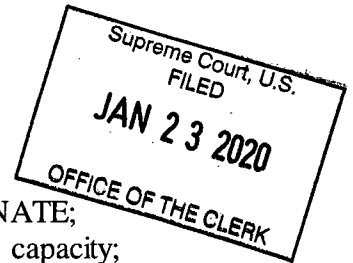
IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

CAROL BANGURA – PETITIONER

vs.

COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA SENATE;
PENNSYLVANIA SENATOR ANTHONY WILLIAMS in his individual capacity;
MARLENE HENKIN, in her individual capacity;
DESAREE JONES, in her individual capacity - RESPONDENTS



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

PETITION FOR WRIT OF CERTIORARI

CAROL BANGURA

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QUESTIONS PRESENTED

- Did the Appeals Court conduct a full review of the record submitted to the panel on December 2, 2019 prior to the Per Curiam opinion issued one day later on December 3, 2019?
- Was the lower court record reviewed in the light most favorable to Petitioner Essex Ins. Co. v. Barrett Moving & Storage, Inc., 885 F.3d 1292, 1299 (11th Cir. 2018)?
- Did the Petitioner establish prima facie and casual connections between her protected activities and adverse actions by both sets of Respondents reviewed and ruled on?
- Did Respondents provide non-discriminatory or non-retaliatory reasons for their nine adverse actions against Petitioner after Judge Legrome Davis' ruling that prima facie was established?
- Did Robert Kline, an Accountant and unpaid member of the Pennsylvania Senate Democratic Caucus have legal authority to terminate Petitioner?
- Was there a causal connection between Petitioner's email on September 11, 2014 and her termination by Robert Kline on September 12, 2014?
- Did Petitioner's termination follow Pennsylvania Senate termination policies?
- Did Petitioner's termination follow PA Senate policies and procedures?
- Were reasonable comparators offered by Petitioner reviewed? And was Petitioner treated in the same manner?

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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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 _____ 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 C 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 December 3, 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: December 26, 2019, and a copy of the order denying rehearing appears at Appendix B.

~~☒~~ 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 February 28, 2019.
A copy of that decision appears at Appendix C.

☐ 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).

2.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Violations of 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964 (“Title VII” - 42 U.S.C. §§ 2000e *et. seq.*), the Americans with Disabilities Act (“ADA” – 42 U.S.C. §§ 12101, *et. seq.*), 42 U.S.C. § 1983, and the Pennsylvania Human Relations Act (“PHRA” - 43 Pa.C.S. § 951, *et. seq.*);

STATEMENT OF THE CASE

This case arises from the employment relationship between the Petitioner and her legal employer Respondents Pennsylvania Senate as an Executive Liaison to Respondent Senator Anthony Williams, and supervisors Marlene Henkin and Desaree Jones. Petitioner's claims arising out of this employment relationship inclusive of discrimination and retaliation after she complained of harassment, hostile work environment, and racist comments. By Respondents' own admission in their response in the lower court (Doc. 79 ¶55) "It is admitted that no formal discipline was ever directed at Plaintiff"; Petitioner was never disciplined prior to being terminated by Robert Kline, an Accountant for Respondent Pennsylvania Senate, who lacked legal authority to terminate Petitioner, one day after stating she wanted to seek legal advice regarding her harassment claims.

Petitioner was hired On March 21, 2014. On May 13, 2014 Petitioner engaged in her *first* protected activity and verbally complained of harassment to Respondent Henkin that she wanted to formal harassment complaint and a reasonable accommodation request to work from home (Exhibit 8)¹. In retaliation on May 27, 2014 Respondents discriminated and retaliated against Petitioner by changing the terms of Petitioner's employment responsibilities and duties and issued an email new and never existing "Scheduling Protocol" (Exhibit 9) not in the form of a policy but in the body of an email for Petitioner only; the email was not sent to similarly situated employees nor was it sent to other individuals who were authorized to access, edit, and view Respondent Williams' official Gmail calendar.

On May 28, 2014, Petitioner engaged in her *second* protected activity and complained of harassment by Respondents Jones during a meeting with Respondent Williams; and in retaliation on or after June 1, 2014 Respondents discriminated against Petitioner and hired Kathleen

¹ Exhibits reference documents referenced in Petitioner's appellate brief and accompanying appendices.

Harvey, a Caucasian female, and a less qualified individual not in Petitioner's protected class and demoted Petitioner (Exhibit 13) instructing all staff to direct any and all matters related to Respondent Williams schedule and meeting requests to Kathleen Harvey. On June 24, 2014 Petitioner sent an email to Respondent Henkin regarding being excluded from participating in "scheduling arrangements" by blocked from accessing, viewing, and editing the official Gmail calendar of Respondent Williams (Exhibit 14).

On July 10, 2014 (Exhibit 15) Petitioner engaged in her *third* protected activity and communicated, reported, informed and complained to Respondent Henkin claims of "insensitive" and "discriminatory" remarks by Petitioner during a text message exchange with Jamar Izzard, stemming from comments related directly to Petitioner regarding "African hats", instructed to place a banana in her traditional African head wrap, being told to "Speak English" by Respondents Jones, and regarding the Gesner St fire in which four Liberian children perished. In a text, Petitioner informed Respondent Henkin and stated "the amount of insensitive and discriminatory remarks around this issue amazes me"; Henkin replied to Petitioner's email stating "I will discuss with u (sic) in person"; and failed to do so.

On August 13, 2014 at 9:46am (Exhibit 16) in an email to Respondent Henkin, Petitioner engaged in her *fourth* protected activity and complained of harassment by Respondents Jones to Respondent Henkin and Petitioner stated that she wanted to file a formal complaint. Respondent Henkin responded "...we can discuss this in person when you are back in the office". On August 20, 2014 Respondent Henkin held a meeting with Petitioner and Respondents Jones and informed Respondents Jones of Petitioner's harassment complaints; Respondent Henkin instructed Petitioner to stop complaining of harassment by Jones and if she could not do so then

“this job isn’t for you” a threat of Petitioner’s employment which constitutes interference with Petitioner’s right(s) to engage in protected activities.

On August 20, 2014 after the meeting, (Exhibit 17) Petitioner sent Respondent Henkin an email detailing the meeting including the threat to Petitioner’s employment by Respondent Henkin. Between August 20, 2014 and August 21, 2014 (Exhibit 19) Petitioner sent and received numerous text messages to Shari Williams, wife of Senator Williams about the incident in which Respondent Henkin informed Respondents Jones of Petitioner’s harassment complaints and Petitioner was verbally attacked.

On August 21, 2014 at 7:16am (Exhibit 20) Petitioner engaged in her *fifth* protected activity and communicated to Williams via email explaining that she, Petitioner, was being marginalized and told to follow the “scheduling Protocol”. On August 21, 2014 at 9:30am, Respondent Williams et al discriminated and retaliated against Petitioner and disciplined Petitioner by suspending her with pay on the pretext of “disciplinary review as stated by Respondent Henkin via email (Exhibit 21 and 22. Respondents never sent Petitioner a letter regarding “disciplinary review” or the outcome of their purported investigation.

On September 2, 2014 Petitioner engaged in her *sixth* protected activity (Exhibit 24); and in the same email, Petitioner engaged in her *seventh* protected activity and communicated to Respondent Henkin her intent to file for Worker’s Compensation and Petitioner inquired about obtaining a doctor’s note for the second time.

On September 8, 2014 at 11:44am Petitioner engaged in her *eighth* protected activity (Exhibit 28) and communicated to Respondent Henkin via email a reasonable accommodation request to work from home on a modified work schedule to work from home on agreed upon days.

On September 10, 2014 at 4:59pm (Exhibit 30) Robert Kline, an Accountant sent Petitioner an email stating "Carol, Can I call you at some point tomorrow? I'd like to discuss your harassment claims. Let me know when a good time would be. Thanks using the title "Director of Administration", a false and misleading title as it does not exist under in the office of Caucus Accounting the PA Senate agency of the Pennsylvania General Assembly; Robert Kline misrepresented himself as the "Director of Administration".

On September 11, 2014 at 7:56am Petitioner engaged in her *ninth* protected activity (Exhibit 30) informing Robert Kline via email that "I need to seek legal advice at this time as feel (sic) an independent investigation needs to be done. Kindly send any questions you have in writing do (sic) there's a record of everything."

On September 11, 2014 at 10:00am Robert Kline's sent Petitioner an email stating "Please feel free to have your attorney contact me", Petitioner's email on September 11, 2014 at 10:10am stating "I don't have one." and informing Robert Kline that she would seek legal advice as there's more to this, and asking Robert Kline to "kindly send any questions you have regarding my harassment claim".

On September 11, 2014 at 9:20pm (Exhibit 31) less than 12 hours later, Robert Kline sent an email to Michael Sarfert, Pennsylvania Senate's Counsel and Donnetta D'Innocenzo, Chief Clerk, Subject "Letter" that stated "September 12, 2014, Ms. Carol Bangura....", "I am terminating your employment from the Senate of Pennsylvania.... for poor performance"... "It is customary to conduct an informal review of a new employee's performance within one date of hire. Based on information provided by your supervisor, the Senate is terminating your employment....." using the title "Director of Administration".

On September 12, 2014 at 12:06pm (Exhibit 32) Petitioner received an email from Robert Kline, in which he copied Michael Sarfert, Tony (Anthony) Lepore, Henkin, and Williams subject line "Senate" containing the same information as Robert Kline's email the day before to Michael Sarfert and Donnetta D'Innocenzo specifically stating "*I am terminating your employment from the Senate of Pennsylvania.... for poor performance*"... "It is customary to conduct an informal review of a new employee's performance within one date of hire. Based on information provided by your supervisor, the Senate is terminating your employment....".

On July 18, 2016 Petitioner filed a lawsuit in the United States Eastern District Court of Pennsylvania for violations of 42 U.S.C. § 1981 (Race Discrimination & Retaliation & Hostile Work Environment), Title VII of the Civil Rights Act of 1964 ("Title VII") (Race & National Origin Discrimination & Retaliation & Hostile Work Environment), and related offenses against the Pennsylvania Senate, Robert Kline and the Pennsylvania Senate Democratic Caucus, Senator Anthony Williams in his professional and individual capacity, Marlene Henkin in her professional and individual capacity, and Desaree Jones in her professional and individual capacity after Petitioner was granted Right to Sue Letters by the EEOC.

On March 15, 2017, Judge Legrome Davis ruled that Petitioner had established prima facie against the Pennsylvania Senate, Senator Anthony Williams, Marlene Henkin, and Desaree Jones for violations of 42 U.S.C. § 1981 (Race Discrimination & Retaliation & Hostile Work Environment), Title VII of the Civil Rights Act of 1964 ("Title VII") (Race & National Origin Discrimination & Retaliation & Hostile Work Environment), and related offenses. Judge Legrome Davis ruled in Petitioner's favor and against the Pennsylvania Senate citing that Petitioner had exhausted all administrative remedies with the EEOC; and against the Senator Anthony Williams, Marlene Henkin, and Desaree Jones that Petitioner had met the standards

required to establish prima facie and that the lawsuit could proceed.

On February 28, 2019, Judge Paul S. Diamond granted summary judgment to Pennsylvania Senate, Senator Anthony Williams, Marlene Henkin, and Desaree Jones citing “poor performance” and dismissed my case.

On March 5, 2019 I filed an appeal to the United States Court of Appeals for the Third Circuit. On December 2, 2019 I was denied the opportunity to present an oral argument and briefs and case record was submitted to a three judge panel, Judge Kent Jordan, Judge Stephanos Bibas, and Judge Peter Phipps.

On December 3, 2019, one day after the appeal was submitted to the panel of judges, an opinion was issued Per Curiam. The Court upheld Judge Paul S. Diamond’s summary judgment and dismissal of my case. The opinion contained demonstrably false statements that “there was an admission of poor performance” and that I “refused to read” the May 27, 2014 Scheduling Protocol.

The Court also opined that as it related to “the series of events in which Bangura’s coworkers made jokes about a fire that affected African immigrants, told Bangura to “speak English,” and told Bangura to put a banana in her traditional African head wrap. While those isolated events are highly offensive, no reasonable juror could find that they establish pretext, as Senator Williams and Henkin—the Appellees primarily responsible for the adverse employment actions taken against Bangura—were uninvolved. Moreover, to the extent that the Appellees were informed of or involved in the offensive events, it was in the context of communications that were focused primarily on Bangura’s poor performance.”.

The case record and docket in the district court contains thousands of documents filed since 2016 inclusive of 159 exhibits submitted to support my claims and the appeal brief that was

accompanied by 82 enclosures. Using the reasonable person standard, it is highly unlikely that a thorough review of the record was conducted prior to the issuance of the Court's opinion within one day.

On December 5, 2019 Petitioner filed a Petition for Panel Rehearing and Rehearing En Banc under the Federal Rules Fed. R. App. P. 35(b) and 40(a) citing that the Court's opinion Per Curiam conflicted with existing legal precedent and case law; and presented extraordinarily important issues that require consideration by the full Court in order to address questions of exceptional importance.

On December 26, 2019 the Petitioner's petition for rehearing was denied.

REASONS FOR GRANTING THE PETITION

The petitioner, Carol Bangura, respectfully requests the granting of the writ of certiorari to avoid deprivation of the right to a trial by Pro Se litigants through Per Curiam decisions. Case complexities necessitate a full Court opinion to set precedent as the employer, PA Senate, employs thousands of as civil servants in the offices of Democratic and Republican elected officials. The appellate court's opinion Per Curiam within one day after the appeal was submitted to the three judge panel conflicts with existing precedent and presents extraordinarily important issues. The appellate court did not view the entire record in the light most favorable to Petitioner *Essex Ins. Co. v. Barrett Moving & Storage, Inc.*, 885 F.3d 1292, 1299 (11th Cir. 2018). The opinion contains demonstrably false statements attributed to Petitioner as there was no admission of "poor performance" or "refused to read" by Petitioner that the Court relied on. Consideration by the full Court is therefore necessary as the panel's opinion is not based on policies, procedures, and practices by Respondents PA Senate et al.

Petitioner was terminated one day after stating she wanted to seek legal advice regarding her harassment claims. Respondents have failed to articulate legitimate non-discriminatory or non-retaliatory reasons for taking at least nine different adverse employment actions against Petitioner after she engaged in nine protected activities. Petitioner's third amended complaint ¶69 states 'Between March 21, 2014 and September 12, 2014, Defendants never engaged in formal or informal discussions or issued oral or written warnings, counseling, or performance reviews or evaluations to Plaintiff'.

Petitioner did not exhibit nor admit to "poor performance" and there was no basis for termination as stated PA Senate/Commonwealth of Pennsylvania Separation Roles and Responsibilities Policy (Exhibit 4)ⁱ; PA Senate/Commonwealth of Pennsylvania Discipline Policy (Exhibit 5) and PA Senate/Commonwealth of Pennsylvania Addressing Employee Performance Deficiencies Policy (Exhibit 6).

A full Court opinion will protect PA Senate employees from outside actors, such as Robert Kline, an accountant for Respondents, who illegally terminated Petitioner. Employers cannot circumvent established Pennsylvania Senate policies and procedures on the manners to address employee terminations.

Petitioner requested an oral argument due to the complexities of the case, and was denied the opportunity for an oral argument. A thorough review of the record was not conducted as the case was submitted to the panel of judges on December 2, 2019 and the opinion In Curiam was written on December 3, 2019. The record contains thousands of documents filed since 2016 including Petitioner's Third amended complaint filed March 8, 2018, motions in opposition 159 exhibits and appeal brief was accompanied by 82 enclosures.

Respondents Pennsylvania Senate, Williams, Henkin, and Jones failed to provide nondiscriminatory reasons for each adverse action; nor did they demonstrate that Petitioner's termination followed Pennsylvania Senate policies, procedures, and practices in conducting performance reviews and termination. Commonwealth of Pennsylvania Management Directive 540.7 Performance Management (Exhibit 157); PA Senate/Commonwealth of Pennsylvania Separation Roles and Responsibilities Policy (Exhibit 4); PA Senate/Commonwealth of Pennsylvania Discipline Policy (Exhibit 5) and PA Senate/Commonwealth of Pennsylvania Addressing Employee Performance Deficiencies Policy (Exhibit 6) related to performance management up to and including termination.

The Appellate Court erred as there are two separate sets of Respondents yet the ruling combined arguments as one and did not opine separately on all issues raised. Katherine Meehan, Esq. represented Respondents Pa Senate, the legal employer, and their argument pertained to exhaustion of administrative only; they did not set forth any other defenses up to and including termination by Robert Kline, an accountant not an official, in accordance with their existing policies, procedures, and practices. The Senate's handling of Petitioner's case raises questions about the treatment of employees who file complain. The Court did not address their defense that Petitioner failed to exhaust administrative remedies.

Joseph Grimes, Esq. represented Respondents Williams, Henkin, and Jones, employees and agents of Respondents Pennsylvania Senate. In 2016 the lower court dismissed the claim against Robert Kline, an accountant, and the Pennsylvania Senate Democratic Caucus; who Judge Legrome Davis ruled was not Petitioner's employer; rendering Robert Kline's action terminating Petitioner illegal. Similar situated PA Senate employees Tamika Tanksley and

Rondabay Liggins' and other whose terminations occurred before and after Petitioner were not conducted by Robert Kline.

Respondent Jones, a reasonable comparator, was not disciplined or fired for egregious disciplinary and performance violations in documents obtained during Discovery (Appeal Enclosures 57 through 69). Petitioner requested copies of any and all performance reviews for other similarly situated employees and previous persons in the same role and was denied. Respondents failed to provide copies of any employee performance reviews prior to 2015. The Respondents began conducting performance reviews on employees after Petitioner's lawsuit was filed.

The Appellate Court erred as they upheld the District Court dismissal based on "poor performance" without documentation with specific dates, times, and poor performance and references to policy violation to warrant termination. The Court failed to examine the causal connection between Petitioner's nine protected activities and the close proximity of Respondent Senator Williams et al's adverse actions.

The Appellate Court erred in stating Petitioner admitted to "poor performance" which never occurred. Petitioner's reasonable accommodation request was not processed in accordance to policy and procedures; and Petitioner was terminated 4 days later. The Court cites "poor performance" absent of documentation Petitioner violated specific PA Senate policies, procedures, and practices that warranted termination. There's no record of Respondent Williams' calendar as he used a personal Gmail calendar instead of an official senate calendar for official business. Statements were manufactured from unnamed employees in the worker's compensation case and presented here to fit their changing narrative. Respondent Williams et al document (Exhibit 11) with the heading "Scheduled Event Check List" and (Exhibit 12) with

the heading "Appointment Information Form" was never provided to Petitioner before or after May 27, 2014 "Scheduling Protocol" and manufactured to fit their narrative; and Respondent Williams et al have failed to provide examples of the use of same by Schedulers and individuals not in Petitioner's protected class that scheduled appointments prior to and after Petitioner's employment.

Kathleen Harvey's hiring on or after June 1, 2014 rendered the email Scheduling Protocol moot as Petitioner was not the scheduler for Respondent Williams; and Kathleen Harvey and other Schedulers before and after Petitioner was not held to the same standards as detailed in Petitioner's (Exhibits 63 through 75).

On September 5, 2014 at 11:44am (Exhibit 27) and for the first time since Petitioner's date of hire, Respondent Henkin manufactured as a false pretext, an email dated 16 days after the August 20, 2014 meeting with subject "Note to file reference 8/20/2014 meeting with Carol Bangura" and forwarded same to Robert Kline that contained false allegations of alleged performance deficiencies absent of specific dates and times of alleged behaviors and lacked supporting evidence that Petitioner violated specific PA Senate policies, procedures, and practices that warranted termination. In said email Henkin's admitted that Petitioner employment terms had changed and her duties and responsibilities were changed by Respondent Williams et al "... to adjust for reduced scheduling needs" as Petitioner no longer scheduled items for Respondent Williams or participated in weekly scheduling meetings with Respondent Henkin, Dawn Chavous, and Portia Fullard as she did prior to her demotion and hiring of Kathleen Harvey.

The Appellate Court erred as they failed to consider whether a causal connection between the email exchanges that resulted in Petitioner's termination, by Robert Kline, an accountant.

The termination email lacked specific evidence that Petitioner violated specific PA Senate policies, procedures, and practices that warranted termination. Petitioner later discovered that Robert Kline was not the Director of Administration, but an Accountant in the office of Caucus Accounting for the Pennsylvania Senate; and an unpaid member of the Pennsylvania Senate Democratic Caucus who was lacked the legal authority to terminate Petitioner.

Respondents failed send Petitioner a termination letter as required by their own policies.

On August 25, 2015 Michael Sarfert sent an email to Plaintiff stating "there is no termination letter" in the "personnel file maintained by the Chief Clerk's Office" in Response to Plaintiff's Request for a Copy of Termination Letter (Exhibit 112).

The Appellate Court erred in their conclusion that Petitioner prevented Respondents from obtaining medical records. Respondents were in possession of Petitioner's medical records that established a disability were provided during worker's compensation hearing. The Court's statement regarding proving a disability is premature as it would have been done during trial. Respondents did not request medical records during Petitioner's employment, failed to follow Pennsylvania Senate policy and procedures pertaining to reasonable accommodations requests (Exhibit 153); and terminated Petitioner less than 72 hours after Petitioner her reasonable accommodation request.

Petitioner's reasonable accommodation request included physical and mental impairments within the meaning of the PHRA and ADA and Petitioner maintains that she could do her job with or without a reasonable accommodation. Respondents never engaged in an interactive discussion regarding Petitioner's needs and never requested that Petitioner produce medical records at the time Petitioner made her reasonable accusation request; and Respondents

never provided the PA senate reasonable accommodation policy to Petitioner at the start of and during the course of her employment; and Petitioner obtained it during Discovery.

The Discovery deadline to obtain limited medical records was May 2, 2018. Petitioner was within her right to revoke medical authorization on May 15, 2018. Joseph Grimes, Counsel for Respondents Williams et al' request for psychiatric records (Exhibit 53) was dated May 22, 2018 and contained different language and requests outside the scope of Petitioner's medical authorization as his request to Petitioner's psychologist, he altered the original request approved by the Court to state "Please forward a complete summary of the records and reports of this treatment Please also advise of your findings upon examination, recommended course of treatment, any diagnoses and prognoses for this patient". Respondents Pennsylvania Senate did not request medical records and Counsel for both sets of Respondents failed to request medical records from Petitioner's Neurologist, a separate office and practice with their own medical records department. Petitioner also provided the curriculum vitae for her Psychologist and Psychiatrist that she's treat with since 2014 to all Respondents.

The Appellate Court erred regarding their statement that Petitioner "refused" to read Scheduling Protocol sent in the body of an email, not as policy (Exhibit 13) as the protocol violated PA Senate policies and procedures related to Commonwealth of Pennsylvania Management Directive 520.7 Regarding Submitting New or Revised Job Specifications to Duties and Responsibilities (Exhibit 152). Petitioner never admitted "refused" to read, Petitioner testified she acknowledged receiving the email on May 27, 2014. There were no meetings or discussions about the email and moot shortly after as Petitioner no longer scheduled appointments on or after June 1, 2014 and was blocked from accessing Williams' schedule (Exhibit 14).

The Appellate Court erred as Robert Kline lacked legal authority to terminate Petitioner and Petitioner's termination did not follow Respondents Commonwealth of Pennsylvania/PA Senate policies and procedures on employee performance reviews and terminations. Petitioner's performance was never in question nor was she in the process of being terminated as on August 21, 2014 at 8:23am Respondents Williams sent an email to Respondent Henkin stating "You can let her know this is not pre termination but simply separating all parties until I return." Respondents were not in the process of terminating as of September 8, 2014, after Petitioner requested a reasonable accommodation earlier the same day, at 12:58pm Robert Kline, an Accountant in the PA Senate office of Caucus Operations who at the time was unknown to Petitioner sent Respondent Henkin an email (Exhibit 29) stating "My recommendation is to proceed with a letter notifying her that she will be paid until her leave expires. At that point, she will be paid until her workers' compensation claim is determined". Respondents never sent the letter regarding same to Petitioner.

Robert Kline was an accountant, not an official of Pennsylvania Senate who falsely misrepresented himself as "Director of Administration" when he terminated Petitioner. Using the reasonable person standard, it is not feasible to deduce that Robert Kline had the sole responsibility to conduct informal performance reviews and terminations of thousands of Pennsylvania Senate employees during his work day as an accountant. Respondents failed to provide examples of other employees that Robert Kline conducted "informal" performance reviews for and terminated as requested during Discovery. In their EEOC responses both Respondents stated that Petitioner abandoned her job as the reason for termination (Exhibits 132 and 133); and did not contest Petitioner's unemployment claims or provide a reason for termination (Exhibits 45, 46, and 48).

The Appellate Court erred by stating “series of events in which Bangura’s coworkers made jokes about a fire that affected African immigrants, told Bangura to “speak English,” and told Bangura to put a banana in her traditional African head wrap. While those isolated events are highly offensive, no reasonable juror could find that they establish pretext, as Senator Williams and Henkin—the Respondents’ primarily responsible for the adverse employment actions taken against Bangura—were uninvolved. See *Carvalho-Grevious*, 851 F.3d at 263. Moreover, to the extent that the Respondents were informed of or involved in the offensive events, it was in the context of communications that were focused primarily on Bangura’s poor performance.” .

Respondent Jones was the individual that told Petitioner to “speak English” and any and all discriminatory remarks were not in “the context of communications on Bangura’s poor performance” as there’s no such communications or documents on “poor performance”. Discriminatory language in any context is discriminatory and an opinion condoning same sets a bad precedent for case law. Petitioner reported the discriminatory remarks to her employer and no investigation or action was taken.

The Appellate Court erred as the Per Curiam opinion falsely stated Petitioner “maintained that she was unaffected by these events and that her poor performance and health issues stemmed from the criticism she received for her work”. Petitioner never made such statements and has provided evidence from which a reasonable fact finder could conclude “that the employer’s proffered reasons were merely a pretext for discrimination,” *Sarullo v. U.S. Postal Serv.*, 352 F.3d 789, 797 (3d Cir. 2003) (per curiam), or that there were “weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions from which a reasonable juror could conclude that the Respondents’ explanation is unworthy of credence, and hence infer that the employer did

not act for the asserted" non-retaliatory reason, *Carvalho-Grevious v. Del. State Univ.*, 851 F.3d 249, 262 (3d Cir. 2017). There's no letters up to and including a termination letter from her legal employer Respondents Pennsylvania Senate to Petitioner.

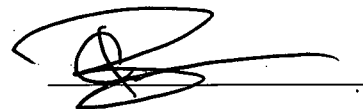
Respondents have not provided evidence Petitioner violated specific PA Senate policies, procedures, and practices that warranted termination to withstand summary judgment.

CONCLUSION

Petitioner's writ of certiorari should be granted, vacated, and remanded for a jury trial as Judge Legrome Davis ruled that Petitioner has established Prima Facie against these Respondents. In the lower court, Petitioner provided 159 exhibits to support her claims inclusive of Respondents' emails, policies, and procedures. Furthermore, there was no legal non-discriminatory basis for Respondents' adverse actions after each of Petitioner's protected activities; Petitioner's termination occurred within temporal proximity, one day, of Petitioner stating she wanted to seek legal advice about her harassment claims; Respondent's admitted that Petitioner was never formally or informally disciplined prior to her termination; Robert Kline was neither the Petitioner's supervisor, manager, or a part of the PA Senate's Human Resources Office; and Robert Kline lacked legal authority to terminate Petitioner in his capacity as an Accountant in the PA Senate Budget office.

WHEREFORE, for all the foregoing reasons, petitioner respectfully requests that this Court grant the writ of certiorari and remand the case to the District Court for a trial.

Respectfully submitted,



Carol Bangura, Pro Se

January 23, 2020