

No. 16-16452  
In the  
Supreme Court of the United States  
Vina Yazzie- Petitioner  
VS.  
Mohave County and Steven Latoski- Respondents

**Motion of extension Rule 30**

Today I am writing to you in the Supreme Court of the Appeals Clerk. I need relief, more time to get everything ready and right before I send my Appeal paperwork in. I have good cause. I have a discrimination case which I would like to Appeal to the Supreme Court. This case has only been heard once by the 9<sup>th</sup> Circuit. There is more questions to be review so this case can be clarified and the decision that the 9<sup>th</sup> Circuit decided on. There is much more to go over and even if it was just on what was covered on the oral argument day at the 9<sup>th</sup> Circuit. There is a conflict of the way Mohave County Rules was applied to the particular County employees. I have thinking and concentrating problems, mental problems. I read the rules of the Supreme Court of the United States and it registered in my head as 5 days before the specified final filing date. I read it today again and it said 10 days. So my head does not tell me the right information. That is a disability I have and I have to be very careful about double checking everything, which is very time consuming for me and extra efforts for me to get anything done. I am on the slow side. My thinking process is not right. It has not been right for along time. If you tell me something and its a one time thing. Chances are I will not remember it. There is nothing I can do about this problem. I had been diagnose with seizure and epilepsy which is very serious condition. Now that I experienced it. It is life threatening. It almost took me. This is what this case is about. Discrimination in the work place, FMLA &

Merit Rules. Please accept my request so I can get this done right. I think working and wording it myself could be of great help in understanding this case. This is part of the reason why I want to do this myself, when I found out I could do it myself. I did not even know that I could do it myself. I could have gotten started along time ago. I might have made the deadline. So much information is just not out there to know on time. But I would surely and greatly appreciate for the extension. I was looking for someone to file for me but no such luck. But I got the answer. I can file myself. I am trying my best to learn. It's kinda difficult when it's just not there. This is how seizure and epilepsy works when you are not on treatments. My doctor told me, I would get better. It took almost a year to feeling better after I started treatment. I may feel better but the learning and remembering is a challenge. I have hope because I feel better. I have to keep trying to exercise my brain. The doctor said I would get my learning abilities back too. I just don't know when. Also please excuse my writing. I am still practicing at getting my skills back.

Another delay I have is more physical. I have Carpal tunnel in both hands and my hands need to recover for at least day to type. I recently went back to work and it has been a challenge, physically. I hurt everyday. I want to get stronger and better. So I am doing the best I can with what I still have.

What I want to express today is to explain why I am request for an extension to file an Appeal from the 9<sup>th</sup> Circuit to the Supreme Court United States. In the final brief of the 9<sup>th</sup> Circuit the Appellees booklet. The Appellees have mention and wrote in their final brief. They wrote out their own Merit Rules they are suppose to be following. It is on the record of 9<sup>th</sup> Circuit oral argument of when, and it shows

in their final brief how they bend their own Merit Rules so certain employees may continue their work. Mohave County may say zero tolerance on any safety sensitive positions but there are a few that this zero tolerances has not been applied too. I have express that zero tolerances is zero, no exception. Where I am confuse is that. If there is a zero tolerance, and which their Merit Rules is written so they can apply the rules in that matter too ( zero tolerances ), or they can apply their rules with no zero tolerances. They can either choose to help their employees or apply the zero tolerance which would mean, any employee with a substances problem would be immediately dismissed is the way Mohave County's Merit Rules are written. The problem with Mohave County applying their rules is they are not applying the zero tolerances to everyone. They make up excuses for the employees that kept their jobs without evidence in Court- at the 9<sup>th</sup> Circuit oral argument. I attended this oral argument. In the 9<sup>th</sup> Circuit oral argument. The Appellees Counsel final brief records states, on a particular subject covered on the oral argument day that took place in Phoenix, Az. This particular employee left his job early and he was found consuming alcohol and looked like he was involved in an accident or a wreck when they found him at his house. Now that sounds like someone with an alcohol problem to me. They took him from his house knowing he is intoxicated. They drug screen him and he did not pass the drug screen. Appellees claim evidences shows he had consume alcohol at his home. But where is the evidence. This was just orally spoken and no other evidences as to how they came to the conclusion that he consume alcohol at

his house.

My Counsel at the 9<sup>th</sup> Circuit oral argument was asked about evidences. I don't why the

Appellees Counsel was not ask where is the evidence, when Appellees Counsel said.

This employee consume alcohol at his house. I did not see no evidence nor questions

asked about where the evidence is. Mohave County also said. It is not against Mohave

County Merit Rules to consume alcohol at your home. In Appellees final brief states.

Under article 5. rule 507 B employees responsibilities: **An employee must:** 1. Not

report to work or be subject to duty while his/ her ability to perform job duties is

impaired due to alcohol or drug use, **on or off duty**. Mohave County Merit clearly states

**on or off**, which means zero tolerance. Mohave County employee in the Road Dept. are

on call and there is a rule on that too. Mohave County is not been following their own

rules. Mohave County is choosing who they want to employ. Certain employee like this

employee that was the subject of the 9<sup>th</sup> Circuit should have never continue his

employment with Mohave County according to Mohave County Rules.

This particular employee did not pass his drug screen and alcohol is a drug

according to the deposition attorneys and Mohave County Merit Rules. Alcohol is

classified as drug in Mohave County Merit Rules. Just about every rule written in

Mohave County's Merit Rules has an attachment at the end of each incident. The

words are inserted, **may be immediately dismissed**. These words make it a zero

tolerances, and not every employee was treated the same. Certain employees

kept their jobs. This employee is not the only one that remain employed. There

are two more employees that remain employed with Mohave County which are in

the final briefs of the 9<sup>th</sup> Circuit records. If the words, **maybe dismissed** is used in

Mohave County Merit Rules. They should get dismiss. Because these few words

make the rules zero tolerances, and Mohave County wants to use both rules. One set of rules counsel and rehabilitate their employees with substances problems. The get immediately dismissed is the other rule ( zero tolerances ). This incident with getting found intoxicated at his house should have not be tolerated as Mohave County claiming zero tolerance anyway. There is a reason for the way these rule are written. Mohave County wants to claim one way to apply the rules. Which is zero tolerances. But they don't apply the zero tolerances to every single employee that is in a safety sensitive position. This particular employee did not get dismissed for alcohol abuse. He had a safety sensitive position too. No different from my position. Which according to the Merit Rules of Mohave County can be dismissed immediately, because the County is on zero tolerances. Yet he abandon his job to consume alcohol and still kept his job with Appellees had no evidences to show. You need to show evidence of proof how. What happen in the 9<sup>th</sup> Circuit oral argument is that Judges took the Appellees words which is not completely right. They did not ask the Appellees counsel to show any evidences. These are some of the important subjects we have to iron out so the truth can surface. We can talk about this, because the Appellees put it on the record on oral argument day and it is in their final brief. All the subjects I am covering in here is in the final briefs, Appellees and Appellant brief. Another employee also had been reprimanded actually a supervisor. My supervisor. He got a counsel letter. They same identical paperwork I got terminated over was served to my supervisor. He continued his job. On oral argument day of the 9<sup>th</sup> Circuit. Appellees counsel stated on the record that Mohave County did not offer any counsel

for employees that have substance problems. But yet in my supervisor's reprimanded letter he was counsel and was drug screen far too late after alcohol had ( supervisor ) dissipated out of his body. Mohave County Merit rules calls to test suspicious of drug use right a way, which this did not happen. I have evidences with my claims. Mohave County also has missing time on the reprimanded counsel letter on my supervisor too. They need to answer these kind of questions to the Supreme Court. I had ask for this reprimanded counsel letter on my supervisor at production request and Mohave County hid production request, but Appellees entered the supervisor's incident into their final brief. Why? Hiding evidences. Appellee's included this information to cover up the production request. Mohave County is not being honest to the Court about their employment practices. If Mohave County wanted to show the Court they are not discriminating. They could have showed the time on the reprimanded counsel letter and what time the drug screen took place with drug test results to the Court. If the Appellees are innocent they could have release this information at the Production Request but they did not. I personal have gone up to the main County building and ask for this incident and I was told. It doesn't exist. We can't give you something that does not exist. Well I kept going and asking for it. After it was to late to enter this request into the district files. That's when they gave up the incident report that did not exist. I knew it was there, because I was there when this happen. Just like this case. They deny it but evidence does show and its on the 9<sup>th</sup> Circuit briefs and oral argument records.

This is what this case is about.

I have another third person. He also failed the drug screen and was allowed to

kept his job. This employee gave me his drug screen and it does not say zero on

his drug screen record. I gave this drug screen to my former attorney and I really don't know why he did not enter it into the district file as evidence. I gave it to him to file with. I was told by other attorneys that. There is a way to enter drug screens if you want to use it in Court. A letter came with this drug screen from this employee. His letter is also in the final brief too. So I have three employees that are apart of the final brief records of the 9<sup>th</sup> Circuit. A rule should be followed to keep us in order. Mohave County has failed to do that. They over ride their own rules and apply them when they want and how they want. Not as they claim – zero tolerance.

Proof of service date Rule 29: Certified letter to the appellees.

Today date July 24, 2019 prepared by Vina K Yazzie

**FILED****NOT FOR PUBLICATION**

FEB 08 2019

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

VINA YAZZIE,

Plaintiff-Appellant,

v.

COUNTY OF MOHAVE and STEVE  
LATOSKI,

Defendants-Appellees.

No. 16-16452

D.C. No. 3:14-cv-08153-JAT

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
James A. Teilborg, District Judge, Presiding

Argued and Submitted February 5, 2019  
Phoenix, Arizona

Before: HAWKINS, M. SMITH, and HURWITZ, Circuit Judges.

Vina Yazzie (“Yazzie”), a Native American woman, was fired from her position at the Mohave County Public Works Department (“PWD”) after failing a random drug test while on duty. Yazzie appeals the adverse grant of summary judgment on her

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

race discrimination claims, brought under Title VII of the Civil Rights Act of 1964, § 701 *et seq.*, 42 U.S.C.A. § 2000e *et seq.*, 42 U.S.C. § 1981, and 42 U.S.C. § 1983. We have jurisdiction under 28 U.S.C. § 1291. Reviewing *de novo*, *Merrick v. Hilton Worldwide, Inc.*, 867 F.3d 1139, 1145 (9th Cir. 2017), we affirm.

1. There was no error in granting summary judgment on Yazzie's Title VII and § 1981 claims. Defendants proffered a legitimate, non-discriminatory reason for terminating Yazzie's employment, namely her failed drug test. Thus, under the *McDonnell Douglas* framework, Yazzie was required to show that the proffered reason was pretextual, *see Chuang v. Univ. of Cal. Davis, Bd. of Trs.*, 225 F.3d 1115, 1124 (9th Cir. 2000), which she failed to do. Indeed, the record shows that the Public Works Director—the sole decision maker with regard to Yazzie's dismissal—uniformly terminated, or permitted resignation in lieu of termination, all PWD employees who failed drug or alcohol tests while on duty.<sup>1</sup>

2. Because Yazzie failed to raise a triable issue of fact as to whether defendants were motivated by discriminatory intent, there was no error in granting summary judgment on her § 1983 claim for violation of her equal protection and due process rights. *See Peters v. Lieuallen*, 746 F.2d 1390, 1393 (9th Cir. 1984) (“Since

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<sup>1</sup> Yazzie does not contend she should have been afforded the opportunity to resign in lieu of termination.

[plaintiff] has failed to demonstrate intentional discrimination on the part of the defendants, his [§ 1983 claim] must also fail.”).

3. Yazzie does not appeal the grant of summary judgment in favor of defendants Ramon Osuna, Kevin Stockbridge, or Warren Twitchel. Accordingly, we GRANT their request to be dismissed from this appeal.

**AFFIRMED, and defendants Osuna, Stockbridge, and Twitchel are DISMISSED.**

**FILED**

**MAY 2 2019**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**

**VINA YAZZIE,**

**Plaintiff-Appellant,**

**v.**

**COUNTY OF MOHAVE; STEVE  
LATOSKI,**

**Defendants-Appellees.**

**No. 16-16452**

**D.C. No. 3:14-cv-08153-JAT  
District of Arizona,  
Prescott**

**ORDER**

Before: HAWKINS, M. SMITH, and HURWITZ, Circuit Judges.

Judges Smith and Hurwitz have voted to deny the petition for rehearing en banc, and Judge Hawkins so recommends. The full court has been advised of the petition for rehearing en banc and no judge of the court has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

Appellant's petition for rehearing en banc is DENIED.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**