

DEC 01 2020

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No. 20-1101

IN THE
Supreme Court of the United States

TANIESHIA HARDEN

Petitioner

v.

COMCAST CORPORATION

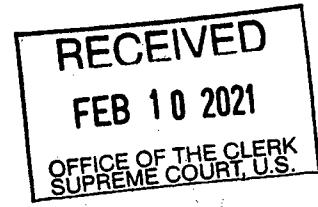
Respondent

On Petition for Writ of Certiorari to
The United States Court of Appeals
For The Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

TANIESHIA HARDEN
PETITIONER
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LYNWOOD, IL 60411

ORIGINAL



QUESTION PRESENTED FOR REVIEW

- I. Is the grant of summary judgment proper when the movant does not meet its burden?

PARTIES TO THE PROCEEDING

The caption contains the names of all parties to this proceeding in the Seventh Circuit Court of Appeal whose judgment is sought to be reviewed.

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PETITION FOR A WRIT OF CERTIORARI

Taniesheia Harden, *Pro Se*, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeal for the Seventh Circuit in *Taniesheia Harden v. Comcast Corporation*, No. 19-2572 (Hamilton, Brennan, St. Eve).

OPINIONS BELOW

The order of the court of appeals affirming the district court's memorandum opinion and order is not reported, however, it is reproduced in Appendix at page 17.

STATEMENT OF JURISDICTION

On September 4, 2020, the court of appeals affirmed the district court's order. Petitioner filed a motion in this Court for extension of time, which is currently pending. This Court's jurisdiction is invoked under U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Rule 56. Summary Judgment

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

STATEMENT OF THE CASE

Petitioner Taniesheia Harden (“Ms. Harden”) began working for Comcast in 2000. In the summer of 2014, she took a medical leave of absence from her job. While she was away, an interim supervisor named Regina Coleman temporarily took over her responsibilities. Just after she returned in October, Comcast conducted an audit purportedly to determine whether supervisors were handling complaints in a timely manner. Under Comcast's policies, if the agent who fields a complaint cannot resolve it, he or she creates an “escalation resolution ticket” that the supervisor must handle within a fixed amount of time. Relying on the audit data, Comcast gave a final written warning to any supervisor who complied with the ticketing procedures less than 65% of the time. In January 2015, Harden received a final written warning because the audit showed only 56% compliance. On January 29, 2015, Harden submitted a written request to Comcast for her personnel file pursuant to the IPPRA. The request was necessary for her to understand why she was given a final written warning. Comcast failed to respond to that request within the required statutory time period. Appellant was fired from her job as a supervisor at a Comcast customer service call center in June 2015. She sued Comcast, alleging that her termination was unlawfully motivated by her race, age,

and / or disability. She also alleged unlawful retaliation and a violation of the Illinois Personnel Records Review Act. In count five of Harden's amended complaint, she alleged that Comcast failed to produce documents from her personnel file in violation of the Illinois Personnel Record Review Act, 820 ILCS 40/2. Comcast moved for summary judgment on this claim. The district granted the motion, reasoning that Appellant had "failed to respond to Comcast's arguments that the IPPRA claim is not cognizable under 820 ILCS 40/10(f) and that she has not been harmed by the alleged non-disclosure." The district court concluded that "[t]hese omissions from the reply brief forfeit any counter arguments, and Comcast is therefore entitled to summary judgment on count five." The district court's reasoning and conclusion was incorrect because it applied the legal standard for summary judgment incorrectly. Moreover, Comcast failed to demonstrate that it was entitled to judgment as a matter of law for several reasons: (1) It failed to completely and timely respond to Plaintiff's requests under the IPPRA and waived any rights it could have asserted; (2) the IPPRA does not require Plaintiff to show actual harm; (3) there exists genuine issues of material fact as to whether Comcast violated the IPPRA, and whether its violation was willful and knowing. The district court's decision was incorrect and unfair. On September 4, 2020,

the Court of Appeals for the Seventh Circuit entered an order affirming the district court's decision. (App A). This petition presents the question of whether a grant of motion for summary judgment is proper if the movant does not meet its burden.

REASONS FOR GRANTING THE PETITION

I. THE DECISION OF THE COURT OF APPEAL FOR THE SEVENTH CIRCUIT HAS SO FAR DEPARTED FROM ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, OR SANCTIONED SUCH A DEPARTURE BY A LOWER COURT AS TO CALL FOR AN EXERCISE OF THIS COURT'S SUPERVISORY POWER

a. The Court of Appeal For the Seventh Circuit Made Improper Factual Determinations Where Petitioner Made a Proper Demand For a Jury Trial, in violation of Petitioner's Seventh Amendment Right to A Jury Trial.

Rule 56 of the Federal Rules of Civil Procedure provides that court "shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." The Seventh Circuit's decision conflicts with this Rule because it affirmed a decision in which the district court granted Comcast's motion for summary judgment without Comcast showing that it was entitled to it.

**II. THERE IS AN UNSETTLED AREA OF LAW
REGARDING THE APPROPRIATE PLEADING
STANDARD FOR VIOLATION OF 42 U.S.C. §
1981 IN THE COMMERCIAL ESTABLISHMENT
CONTEXT.**

The Seventh Circuit's holding in this case raises issues of great practical importance and constitutional merititing this Court's intervention. Specifically, this Court needs to accept this case and establish a standard rule that courts should follow when evaluating motions for summary judgment.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the petition for a writ of certiorari be granted.

Respectfully submitted on December 3, 2020

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