

No. 20-1533

IN THE
SUPREME COURT OF THE UNITED STATES

CARLINE CURRY ---- PRO SE PETITIONER

V.S

CITY OF MANSFIELD, et al ----- RESPONDENT(S)

FILED
APR 17 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF OHIO 2020-1378 and 2020-1357
(NAME OF COURT THAT LAST RULED ON MERITS OF
CASE)

PETITION FOR A WRIT OF CERTIORARI

Carline Curry (Pro Se)

606 Bowman Street

Mansfield, Ohio 44903

567-274-9130 or 567-3907

RECEIVED

APR 22 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION PRESENTED

- 1. Should Plaintiff Curry been given and Opportunity for Reemployment as other similarly situated employees upon retirement excluding the fact that she filed discriminatory charges against the City under 42 U.S.C 2000 (e)2, 42 U.S.C 2000 (e) 3 and Ohio Revised Code 4112.02: sections 703 of Title VII and Section 704 of Title VII Civil Rights Act of 1964**

- 2. The Plant Managers job became vacant and Bob Coker and I both applied. They gave the job to Bob. Bob previously held the Operations Supervisor Job: which I was qualified for. The City chose to not fill the position so that I would not have an opportunity to apply because they knew I was qualified. I have a Class III Wastewater License and a Class II Lab Analyst**

**Certification. In the History of the Plant for the last 33 years
there has never**

**Been a vacancy in that position it was always filled. The City
later trained the Environmental Compliance Supervisor (the
job I did for 30 years and the City denied me an opportunity
for rehire) for a year and gave her the job without posting it.**

**Should Plaintiff Curry been given an opportunity for
the Operations Supervisor Job and was it not filled
due to retaliation?**

ORC 4112.02 it is unlawful discriminatory practice.

I. It shall be unlawful for any person to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section or because that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under section 41122.01 to 4112.07 of the Ohio Revised Code and 42 U.S.C. 2000 (e) 2 and 42 USC 2000 (e) 3

42 U.S. Code § 2000e-3. Other unlawful employment practices

• **(a) DISCRIMINATION FOR MAKING CHARGES, TESTIFYING, ASSISTING, OR PARTICIPATING IN ENFORCEMENT PROCEEDINGS**

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-

management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this sub-chapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this sub-chapter.

The Ohio Supreme Court declined to accept Jurisdiction of the Appeal:

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page. A list

of all the parties to the proceeding in the court whose judgement is the subject of

this petition is as follows:

City of Mansfield et al. Mayor Theaker, Dave Remy, (Human Resource Director), Angelo Klousidias, (Public Works Director) Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001

Attorney General Dave Yost, 30 E. Broad Street; 14 th floor; Columbus, Ohio 43215

28 U.S.C. 451 may apply. No Certification has been granted on the fact that a Constitutionality of an Act of Congress has been questioned.

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TABLE OF AUTHORITIES CITED

CASES

Anderson V. Liberty Lobby Inc. 477 U.S. 242,250 (1986)

Boretti V. Wiscomb, 930 F .2d 1150, 1156 (6th cir. 1991)

Celotex Corp V. Catrett 477 U.S. 242,250 (1986)

Haines v. Kerner, 404 U.S. 519,520 (1972)

Jones vs. City of Boston 752 F. ed 38 (2014)

McDonnel Douglas Corp vs. Green 411 U.S. 792, 93 S. Ct 1817

New York Time Co v. Sullivan

Vance V. Ball State University

Bell Atlantic Corp. Twombly 550 US 544, 555

STATUTES AND RULES

28 U.S.C 2403(a) may apply

O.R.C Chapter 4112

42 U.S.C. 1981 & 42 U.S.C. 1981(a)

42 U.S.C. 1983

42 U.S.C. 2000(e)

42 U.S.C. 2000e-2 & 3

18 USC 79

18 U.S.C. 1621, 1622 & 1623

42 USC 1988(b)

Section 703, 704, 706, and 717 of the Civil Rights Act of 1964

42 USC 2000e -5(b)

29 U.S.C. 211

29 U.S.C 626

42 U.S.C 12117(a)

42 U.S.C. 2000 ff-6

OHIO RULES OF CIVIL PROCEDURES

RULES OF PRACTICE OF THE SUPREME COURT OF

OHIO

The Supreme Court declined to accept jurisdiction

7.08(B) (4) JURISDICTION

(B) Decision on jurisdiction upon review of the jurisdictional memoranda, the Supreme Court will do one of the following:

- (1) Accept the appeal and order that the case be briefed in accordance with the applicable provisions of S.Ct. Prac.R. 16.01 through 16.08;
- (2) Accept the appeal and hold the decision in the appeal for another case that is pending before the Supreme Court;
- (3) Accept the appeal and enter judgment summarily; 2013 v 2017

Rules of Practice

Rules of Practice 47 RULES 7.08-7.09

(4) Decline to accept the appeal. In declining to accept an appeal the Supreme Court has determined that one or more of the following are applicable after review of the jurisdictional memoranda: (a) The appeal does not involve a substantial constitutional question and should be dismissed; (b) The

appeal does not involve a question of great general or public interest; (c) The appeal does not involve a felony; (d) The appeal does involve a felony, but leave to appeal is not warranted.

**The Ohio Constitution [The 1851 Constitution with
Amendments to 2015]**

IV.02 Organization and jurisdiction of Supreme Court

(A) The Supreme Court shall, until otherwise provided by law, consist of seven Judges, who shall be known as the chief justice and justices. In case of the absence or disability of the chief justice, the judge having the period of longest total service upon the court shall be the acting chief justice. If any member of the court shall be unable, by reason of illness, disability or disqualification, to hear, consider and decide a

cause or causes, the chief justice or the acting chief justice may direct any judge of any court of appeals to sit with the judges of the Supreme Court in the place and stead of the absent judge. A majority of the Supreme Court shall be necessary to constitute a quorum or to render a judgment.

(B)(1) The Supreme Court shall have original jurisdiction in the following:

(a) Quo warranto;

(b) Mandamus;

(c) Habeas corpus;

(d) Prohibition;

(e) Procedendo;

(f) In any cause on review as may be necessary to its complete determination;

g) Admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law.

2) The Supreme Court shall have appellate jurisdiction as follows:

(a) In appeals from the courts of appeals as a matter of right in the following:

(i) Cases originating in the courts of appeals;
(ii) Cases in which the death penalty has been affirmed;
(iii) Cases involving questions arising under the constitution of the United States or of this state.

(b) In appeals from the courts of appeals in cases of felony on leave first obtained,

- (c) In direct appeals from the courts of common pleas or other courts of record inferior to the court of appeals as a matter of right in cases in which the death penalty has been imposed;
- (d) Such revisory jurisdiction of the proceedings of administrative officers or agencies as may be conferred by law;
- (e) **In cases of public or great general interest, the Supreme Court may direct any court of appeals to certify its record to the Supreme Court, and may review and affirm, modify, or reverse the judgment of the court of appeals;**
- (f) The Supreme Court shall review and affirm, modify, or reverse the judgment in any case certified by any court of appeals pursuant to section 3(B)(4) of this article. ((3(b) (4) missing.)

(3) No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the Supreme Court.

(C) The decisions in all cases in the Supreme Court shall be reported, together with the reasons therefor.

(Amended November 8, 1994)

BILL OF RIGHTS AMENDMENT 16 & 5

Redress for injury; Due process. §16 all courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay. Suits may be brought against the state, in such courts and in such manner, as may be provided by law. (1912)

Trial by jury. §5

The right of trial by jury shall be inviolate, except that, in civil cases, laws may be passed to authorize the rendering of a verdict by the concurrence of not less than three-fourths of the jury. (1912)

The constitutionality of a statue of a state was drawn into questioning 42 USC 2000 (e) 2 , 42 U.S.C (e) 3, 42 USC 1983 Deprivation of Rights. . (Jurisdiction of the court, right to redress, Retaliation); 28 U.S.C. 2403(a) may apply and the complaint is being served on The Solicitor General of the United States, Room 5616, Department of Justice, 950 Pennsylvania Ave., N. W. Washington , DC 20530- 0001 and Mr. Dave Yost, The Attorney General of Ohio, 150 East Gay Street, Columbus, Ohio 43215.

§ 1621. Perjury generally

Whoever— (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which

he does not believe to be true; or (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as other (18 U.S.C.

Part 1 CHAPTER 79 1621)

§ 1622. Subornation of perjury Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be

fined under this title or imprisoned not more than five years, or both

§ 1623. False declarations before grand jury or court (a)

Whoever under oath (or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration, shall be fined under this title or imprisoned not more than five years, or both. (b) This section is applicable whether the conduct occurred within or without the United States.

§1981. Equal rights under the law

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and enforce contracts" defined

For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection against impairment

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

1. 42 U.S.C. 1981 a

A) Right of recovery

(1) Civil rights

In an action brought by a complaining party under section 706 or 717 of the Civil Rights Act of 1964 [42 U.S.C.A. §°2000e-5 or 2000e-16] against a respondent who engaged in unlawful intentional discrimination (not an employment practice that is unlawful because of its disparate impact) prohibited under section 703, 704, or 717 of the Act [42 U.S.C.A. §§°2000e-2 , 2000e-3 , or 2000e-16], and provided that the complaining party cannot recover under section 1981 of this title, the complaining party may recover compensatory and punitive damages as allowed in subsection (b) of this section, in addition to any relief authorized

by section 706(g) of the Civil Rights Act of 1964, from the respondent

42 U.S.C. § 1983 - U.S. Code - Unannotated Title 42. The Public Health and Welfare § 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this

section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

§2000e-2. Unlawful employment practices

(a) Employer practices

It shall be an unlawful employment practice for an employer-

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or

otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

§2000e-3. Other unlawful employment practices

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this sub chapter, or because he

has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this sub chapter.

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 judgement below.

OPINIONS BELOW

This case was not heard in federal courts or the United States

district court

[X] For cases from state courts;

The opinion of the highest state court to review the merits appears

at

Appendix A to the petition and is

[] reported at _____;

or,

[] has been designated for publication but is not yet reported; or
 [X] is unpublished.

The court denied to hear my case on JANUARY 22, 2021,

JURISDICTION

This case was not heard before federal court;

[X] **for cases from state courts**

[X] The date on which the highest state court decided my case
was January 22, 2021

A copy of that decision appears at Appendix A .

[] A timely petition for rehearing was denied by the Court of
Appeals 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.
_____.

[X] The jurisdiction of this Court is invoked under 28 U.S.C.
1257(a).

The court denied to hear my case on January 22, 2021.

CONSTITUTIONAL AND STATUTORY PROVISIONS
INVOLVED STATUTES AND RULES

I.05 Trial by jury (1851, amended 1912)

The right of trial by jury shall be inviolate, except that, in civil cases, laws may be passed to authorize the rendering of a verdict by the concurrence of not less than three-fourths of the jury. "Ohio Constitution Bill of Rights"

(As amended September 3, 1912.)

I.16 Redress in courts (1851, amended 1912)

All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay. [Suits against the state.] Suits may be brought against the state, in such courts and in such manner, as may be provided by law. "Ohio Constitution bill of Rights"

(As amended September 3, 1912.)

Title IV of the Civil Rights Act

Organizations and Jurisdiction of the Supreme Court section IV of the Ohio Constitution.

42 U.S.C 2000 (E), 42 U.S.C. 2000 (E) 2 & 3, 29 U.S.C 211, 29 U.S.C 626, 42 USC 1217 (A), AND 42 U.S.C. 2000 FF 6; and Summary Judgement Rule 56 G Bad Faith Affadavit s.

STATEMENT OF THE CASE

The City Discriminated against Plaintiff Curry under 42 USC 1981; 1981 (a); 1981 (a); 2000 (e) 2 Failure to hire; 42 USC 2000 (e) 3 Prohibition against discrimination because a employee made a charge; testified; assisted, or participated in any manner in an investigation, proceeding or hearing under this sub chapter. 42 USC Code 1988 (b) states attorney fees may be awarded

Plaintiff Curry Informed Defendants that she would be retiring: the reason for earlier than anticipated retirement was because the plant manager was writing me up on bogus issues, and management was not showing me support due to Retaliation from me filing litigation against them for discriminating against me, and failing to promote me over the years (because of insubordinate, disrespectfully employees who performed their jobs unsatisfactory): I was concerned: I might lose my retirement benefits as other minorities

had in the past: In order to protect my retirement benefits I retired on February 1, 2015.

I had informed the City I was retiring and informed the City I was interested in being rehired or considered for reemployment; as they had done for other employees; John Vanharlington (Wastewater Treatment Plant to train lab personnel; Bobs job / responsibility they could have hired Alloway, and they would of trained 8 people for the price of one.) Jill Vanharlington (Engineering), Debra Kellner (Finance); Mark Daughtery (Airport), Jerry Lambert (Water Treatment Plant), I think Angelo was also rehired back.

I was performing my job satisfactory however, the plant manager was trying to harass, intimidate, humiliate, and write me up unjustly to get me fired. So I was somewhat forced to retire to preserve my retirement and get some financial help to eliminate some of the stress and mental anguish they caused by causing me a

financial hardship, while paying other Supervisors overtime. I was in management and had no union protection. The protection or help I had was from the NAACP office .(The City had taken away my supervisory privileges: the right to discipline and evaluate and the plant manager took all the supplies and equipment I had stored in the bathroom).

Jobs that were available in Management were not being posted. The manager told me he did not have to post them. The plant manager went out and found someone from Ashland Ohio that he wanted hired for the Pretreatment Coordinator Job and the City reclassified and of the job to Environmental Compliance Supervisor.

The Pretreatment Coordinator job required a Class III License. The Candidate from Ashland Ohio did not have a Class III Wastewater License so they changed the job description and qualifications. I was told she had a degree and a Class I Water

License and Wastewater License I think. The City would not give me any information that I requested. I did not have time to obtain a degree due to issues with the City and me trying to file litigation against them and other Obligations, but I had 30 years of experience on the job and already knew how to do the job and the new candidate had to be trained. Employees had told me that they had already hired the candidate before the job was posted. The City did not give me the same opportunity as other similarly situated employees. Which is discrimination and retaliation.

The Operations Supervisor position was available and they decided to leave it unfilled so that I would not have an opportunity to apply. I was also qualified for this position. They later promoted the Environmental Compliance Supervisor to the Operations Supervisor Job without posting it.

After I retried Mr. Remy also sent me a letter (February 15, 2016) indicating he wasn't aware of the fact that Marc got all the

Pretreatment Files form Commerce Center and Engineering.

Which was not true. I sent him a email. He said, "he did not feel it was his obligation or responsibility to provide me information to show I was in charge so I could resubmit my Class IV Thesis". I waited on them from 2010 to present to say I was in charge to resubmit my application to include missing information that the Ohio Environmental Protection Agency wanted included. I could have gotten a job as a Class IV Licensed Operator making 60,000 to 75,000 dollars a year. Jim Lichtenwalter, ex City Engineer sent a email and told them I was in charge.

I also requested a list of employees who retired and they rehired back and they did not provide that either.

Not providing me an opportunity for reemployment, not filling the Operations Supervisor job, and a year later giving the job to the Environmental Compliance Supervisor without posting it, and not admitting I was in charge so that I could have an opportunity to

resubmit my Class IV application was retaliation and unlawful discrimination practices under Ohio and Federal Law
41 O.R.C. 4112.02 and 42 USC 2000 (e) 2 and 42 USC 2000 (e)

3.

REASON FOR GRANTING THE PETITION

The Petition should be granted because the City of Mansfield discriminated and retaliated against me under Title VII of Civil Rights Act of 1964; 42 U.S. C 2000 (e) 2 & 3, and O.R.C. Chapter 4112, they answered the complaint in defenses under perjury, fraud, and subordination of perjury. The complaint was answered in bad faith.

“Legal Dictionary | Law.com”

dictionary.law.com/Default.aspx?selected=21

“Bad faith. 1) n. intentional dishonest act by not fulfilling legal or contractual obligations, misleading another, entering into an agreement without the intention or means to fulfill

it, or violating basic standards of honesty in dealing with others.”

Paragraph G of Summary Judgement Rule 56 states” Affidavits made in bad faith, “the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party, or attorney may be adjudged guilty of contempt.

CONCLUSIONS

Plaintiff Curry was discriminated and retaliated against and treated differently than other similarly situated employees and is entitled to relief as requested in the initial complaint. Summary Judgement should have been awarded for a Bad Faith Affidavit under Rule 56 (g) and Preponderance of Evidence. The City didn't answer any questions or provide any information I requested. The City did not

admit I was in charge so I could resubmit my Class IV application; they did not answer which employees were rehired back and they did not give me an opportunity to return to work and they eliminated the Operations Supervisor Job. Why is it that for over 30 Years there is an Operations Supervisors Job and when I am qualified for the job, they eliminate the position and allocate some of the duties to the previous position I had? A practice that has been done in the past; when a black person is qualified for a job, they eliminate the position and fill it at a later date (Which is discrimination) and when there is a problem that a white candidate can't solve they get a consultant: when other races/ ethnicities can't solve a problem they are incompetent. The City submitted fraudulent answer, in ten defenses, under perjury, fraud and subornation of Perjury, and they denied all allegations. McDonnel Douglas vs. Green 411 us 792 (Discharge/ Hiring Practices, Haines v. Kerner 404 US 519,520 the right to due process and the City

should have had to provide all information requested and not be allowed to submit affidavits under Perjury and Fraud.

In order to prove a disparate treatment claim an employee must present enough evidence to allow the judge or jury to infer that discrimination took place. *Prima facie.*

The motion for Summary Judgement was made for the reason that only reasonable minds could come to a conclusion that the plaintiff was subject to adverse and disparate conditions, There are no genuine issues of material fact and Plaintiff is entitled to Judgement as a matter of law and should be granted the writ and reversal of the lower court decision in her favor.

Respectfully submitted

Carline Curry Date: 4-16-2021

Carline Curry Pro Se

606 Bowman Street

Mansfield, Ohio 44903

567-274-9130 and 419-709-9716

Appendix A - I

APPENDIX A

A1- A4 Lower Court decision. Court gave me two cases should be the same case.

APPENDIX B

B1- B5 Complaint to Equal Employment Opportunity Committee; Complaint on page B5 tells how in 1998 Bob was promoted over me for Operator Supervisor job no license. He better fit the City's need. They then waited for him to get his Class III License in 2007 and promoted him within 60 days to Operations Supervisor: I have had my Class III since 1986; While they wouldn't sign my application to resubmit my Application for my Class IV Thesis from 2010 to present.. I became eligible to apply for the Class IV Wastewater Thesis in 2007 due to a Rule change.