No. 20-5449

IN THE

SUPREME COURT OF THE UNITED STATES

CAROLYN R. DAWSON, pro se

Petitioner,

v.

KEVIN, J. PAKENHAM, et al,

Respondent,

On Petition for Writ of Certiorari to the First Court of Appeals, Houston, Texas

PETITION FOR REHEARING

CAROLYN R. DAWSON, Pro se
9590 Minnesota Street, Apt. 3110
Houston, TX 77075
Tel: (346) 400-3278
Fax: (713) 391-8357
jusu7895@gmail.com

November 02, 2020

No. 20-5449

IN THE

SUPREME COURT OF THE UNITED STATES

CAROLYN R. DAWSON, pro se

Petitioner,

v.

KEVIN, J. PAKENHAM, et al,

Respondent,

On Petition for Writ of Certiorari to the First Court of Appeals, Houston, Texas

PETITION FOR REHEARING

CAROLYN R. DAWSON, Pro se
9590 Minnesota Street, Apt. 3110
Houston, TX 77075
Tel: (346) 400-3278
Fax: (713) 391-8357
jusu7895@gmail.com

November 02, 2020

TABLE OF CONTENTS

No. 20-5449

IN THE

SUPREME COURT OF THE UNITED STATES

CAROLYN R. DAWSON, pro se

Petitioner,

v.

KEVIN, J. PAKENHAM, et al,

Respondent,

On Petition for Writ of Certiorari to the First Court of Appeals, Houston, Texas

PETITION FOR REHEARING EN BANC

Pursuant to Rule 44.2, and based on intervening circumstances of a substantial or controlling effect, Petitioner Carolyn Dawson respectfully petitions for rehearing en banc full panel of the Court's order dated

October 19, 2020; denying certiorari in this case based on the grounds below:

GROUNDS FOR REHEARING

Pursuant to Rule 44 of this Court, the Petitioner, hereby respectfully petitions for rehearing of this case before a full eight-Member Court. (1); this case involves a wrongful eviction on August 13, 2019. Among other things, the lower Courts have varying and split opinions regarding the matter as discussed Petitioner's pleadings and have misinterpreted the laws of the land in favor of businesses; (2) whether the decisions are arbitrary and capricious. But when this Court has conducted plenary review and then affirmed by vote of an equally divided court because of a vacancy rather than a disqualification, the Court has not infrequently granted rehearing before a full Bench. "[R]ehearing petitions have been granted in the past on reargument a majority one way or the other

might be mustered." Stephen M. Shapiro et al., Supreme Court Practice § 15.6(a), at 838 (10th ed. 2013). "The small number of cases in which a full Bench can rehear a case decided by an equal division is probably not possible because of an uneven court. Nevertheless, Justice Amy Barrett indicated she would uphold the law in favor of all and family rights. For example, in Halliburton Oil Well Cementing Co. v. Walker, 327 U.S. 812, the Court granted rehearing in February 1946, ibid., and heard reargument 240 days later in October 1946, see 329 U.S. 1 (1946). See also, e.g., MacGregor v. Westinghouse Elec. & Mfg. Co., 329 U.S. 402 (1947) (reargument 248 days after rehearing granted); Bal- 1 Baltimore & Ohio R.R. v. Kepner, 313 U.S. 597 (1941); Toucey v. New York Life Ins. Co., 313 U.S. 596 (1941); New York, Chi. & St. Louis R.R. v. Frank, 313 U.S. 596 (1941); Commercial Molasses Corp. v. New York Tank Barge Corp., 313 U.S. 596 (1941). 2 See

MacGregor v. Westinghouse Elec. & Mfg. Co., 327 U.S. 812 (1946); Bruce's Juices, Inc. v. American Can Co., 327 U.S. 812 (1946). 3 Indian Towing Co. v. United States, 349 U.S. 926 (1955); Ryan Stevedoring Co. v. Pan-Atl. Corp., 349 U.S. 926 (1955). 4 timore & Ohio R.R. v. Kepner, 314 U.S. 44 (1941) (175 days later). In a few earlier cases, several years elapsed between the grant of rehearing and reargument. See Home Ins. Co. v. New York, 122 U.S. 636 (1887) (granting rehearing February 7, 1887), and 134 U.S. 594 (1890) (reargument March 18-19, 1890); Selma, Rome & Dalton R.R. v. United States, 122 U.S. 636 (1887) (granting rehearing March 28, 1887), and 139 U.S. 560 (1891) (reargument March 25-26, 1891). 3. The need for rehearing is also more pressing here than in Friedrichs v. California Teachers Ass'n, 136 S. Ct. 1083, reh'g denied, No. 14-915, 2016 WL 3496857 (June 28, 2016), and in Hawkins v. Community Bank of Raymore,

136 S. Ct. 1072, reh'g denied, No. 14-520, 2016 WL 3461626 (June 27, 2016). In those cases, after lengthy consideration, this Court denied petitions for rehearing before a full Bench following 4-4 decisions from this Court. To be sure, the same issues could arise again with the countless of new eviction cases forthcoming; in this case following entry of a final judgment and a subsequent appeal. There is a strong need for definitive resolution by this Court at this stage. See Pet. 33-34 (noting interests of the government and individuals in a prompt resolution); and should apply in this case as well.

Therefore, to recover for constructive discharge, however, an employee generally is required to quit his or her job. See 1 B. Lindemann & P. Grossman, Employment Discrimination Law 1449 (4th ed. 2007); 3 L. Larson, Labor and Employment Law § 59.05[8] (2009); 2 EEOC Compliance Manual § 612.9(a) (2008); cf. Suders, supra,

at 141–143, 148; Young v. Southwestern Savings & Loan Assn., 509 F. 2d 140, 144 (CA5 1975); Muller v. United States Steel Corp., 509 F. 2d 923, 929 (CA10 1975). Similarly, landlord-tenant law has long recognized the concept of constructive eviction. See Rapacz, Origin and Evolution of Constructive Eviction in the United States, 1 DePaul L. Rev. 69 (1951). The general rule under that doctrine is that a tenant must actually move out in order to claim constructive eviction. See id., at 75; Glendon, The Transformation of American LandlordTenant Law, 23 Boston College L. Rev. 503, 513–514 (1982); 1 H. Tiffany, Real Property §§ 141, 143 (3d ed. 1939).6

CONCLUSION

For the foregoing reasons, the petition for rehearing en banc should be granted and the case remanded.

Respectfully submitted,

Carolyn R. Dawson, Pro se
9590 Minnesota Street, #3110
Houston, TX 77075
Tel: (346) 400-3278
Fax: 713) 391-8357
jusu7895@gmail.com

November 02, 2020

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2

Carolyn R. Dawson, Pro se
9590 Minnesota Street, #3110
Houston, TX 77075
Tel: (346) 400-3278
Fax: 713) 391-8357
jusu7895@gmail.com

November 02, 2020