

20-5779

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

SEP 18 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Cynthia B. Woods — PETITIONER
(Your Name)

vs.

SC Department of Health & Human — RESPONDENT(S)
services et al
ON PETITION FOR A WRIT OF CERTIORARI TO

*United States District Court for the (4th) Circuit / District of
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)
South Carolina

PETITION FOR WRIT OF CERTIORARI

Cynthia B. Woods
(Your Name)

19 Landmark Dr Apt 32C
(Address)

Columbia, SC 29210
(City, State, Zip Code)

(803) 603-7976
(Phone Number)

Question(s) Presented

The Question Presented is:

Whether An Employer of a Federal, State, or City Government Employee or the Employer's Representative Take Away A Medical Accommodation Approved under the Americans with Disabilities Act from A Qualified Individual with A Disability that May Result in that Individual Experiencing Adverse Effects to their Health, to their Welfare, and to their Employment -

Whether An Employer of a Federal, State, or City Government Employee or the Employer's Representative Can Terminate A Qualified Individual with A Disability while they are on A Medical Leave of Absence

for the following reason:

"Since You are Unable to Return to
Work"

without first, prior to
terminating them,
afford them the opportunity
to Return to Work or
speaking with the individual's
Physician or
Getting a second Opinion or
Performing a Fitness-for-Duty
Test



1818

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:

(see attached)

RELATED CASES

Adesina F. Fairyeola (Appellant)

- vs -

District of Columbia (Appellee)

No. 10-CV-578

Decided: March 29, 2012

(*note -

(p 5)

(C) Timeliness of the Complaint
(paragraph (3))

Cynthia B. Woods

List of Parties

South Carolina Department of
Health & Human Services

Kim Backman

Marsha Brown

Dr. Pete Leggett

Mona Sechrest

Christian Souza

(* note -

Hollie Hoadwone's Claims
were Dismissed Without Prejudice
on June 21, 2018:

Order Adopting the Report and
Recommendation and Partially
Dismissing the Complaint Without
Prejudice: (4) All Claims Against Hoadwone

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TABLE OF AUTHORITIES CITED

CASES

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STATUTES AND RULES

(1) The Americans with Disabilities Act of 1990
Title II - Public Services
Section 202 - Discrimination
Section 203 - Enforcement

(2) The Rehabilitation Act of 1973
Section 504, 505
29 U.S.C. § 794

(3) 42 U.S.C. § 1983
Civil Action for Deprivation of Rights

(6)

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 _____ 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.

(1)

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 22, 2020.

☒ 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: _____, 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. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ 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

*The Seventh Amendment of the Constitution

*The Ninth Amendment of the Constitution

(3)

Statement of the Case

Plaintiff was diagnosed with Chronic Reflux Laryngitis in April 2005-

Plaintiff with the assistance of her doctor John Krestine MD Otorhinolaryngology Head & Neck Requested a Medical Accommodation Due to Allergies-

Plaintiff was contacted by both SCDHHS & the South Carolina Vocational Rehabilitation (Voc Rehab) to assist her with her Request in May 2005-

From May 2005 until December 2006 SCDHHS, Voc Rehab, Plaintiff & Plaintiff's Doctor worked together to find the Best Accommodation for Plaintiff-

After several different options were tried Plaintiff was

Placed in An Enclosed Office
with Approved Medical Equipment
that Accommodated Her Disability

Plaintiff was Accommodated
until January 2016 when she
was Removed from her Enclosed
Office & Placed in An Open Cubicle
by her supervisor, Mona Peckrest
with the Concurrence of Marsha
Brown, Human Resource Manager-

Plaintiff told them that the
Enclosed Office was a Medical
Accommodation due to her
Disability however she was
still moved to the Open Cubicle-

Plaintiff asked for A Special
Accommodation - she was Denied

Plaintiff asked to Be Allowed to
Tele-Commute - she was Denied

Plaintiff's Doctor Requested
that she be allowed to work

from Home - she was Denied

SCDHHS ignored the fact that in 2005 & 2006, prior managers had tried putting up partitions & utilizing different medical equipment to Accommodate Plaintiff's Disability before Placing Plaintiff in an enclosed Office -

Mona Schrest & Marsha Brown took away Plaintiff's Medical Accommodation without regard of the Consequences -

Plaintiff's Health Worsened & her Attendance suffered with increased Absences Due to Allergic Reactions as a result of being exposed to Allergens -

Plaintiff's Doctors attempted to help get her Asthma under control but to ~~no~~ no avail -

Plaintiff's doctor asked for
a Fragrance-Free Policy.

SCDHHS implemented the Policy
only on the floor that the
Plaintiff worked on -
All other floors in the Building,
the Bathrooms, the Elevators,
the Stairs, and the Garages
Did Not Have a Fragrance-Free
Policy - Therefore Plaintiff was
still Exposed to Allergens with
No Way to Believe Their Effects
since she No Longer Had an
Enclosed Office -

Plaintiff's doctor, Lisa Hutto MD
requested on February 4, 2016
that Plaintiff Be Allowed to
Work From Home - (Appendix (B))
Mona Sechrest Denied the Request

Mona Sechrest along with most
of Plaintiff's Peers Tele-Commuted

Plaintiff's doctors began to
take her out-of-work to get
her Disability Under Control-

Lisa Hutto MD
Palmetto Allergy & Asthma

Jeremy Crisp MD
Lexington Family Practice

Dr Vince Vismara
Palmetto Health - Columbia

Kimberly L Fender LPC
Hope Springs Counseling Services

Jamaki Emari MD
SCENT- Allergy, Plastic Surgery
Sleep Medicine

Mohamed S Soliman
Carolina Pulmonary & Critical Care

SCDHHS had been receiving Medical Documents from the Plaintiff & her doctors since January 2016 (i.e., Doctor's Excuses, FMLA Certification Forms, Accommodation Requests, etc) -

Still, Mona nor Marsha nor any other SCDHHS manager Returned Plaintiff to an enclosed office - Instead they watched as her Health worsened & her attendance suffered

Plaintiff had a Heart Catheterization done on May 26, 2016 - Dr Vismara - (Appendix C)

Plaintiff spoke with Marsha Brown on June 16, 2016 concerning Long Term Disability - Marsha Recommended Plaintiff Apply for Long Term Disability & Social Security Disability

Plaintiff agreed - 6

Marsha sent the Long Term Disability Paperwork to the Standard Insurance Company & to Plaintiff's Dr Soliman -

Dr Soliman took Plaintiff Out-of-Work on June 17, 2016 for an Undetermined Length of Time to Get Her Asthma Under Control -

Plaintiff was in Communication with Marsha Brown, HR Manager, & Christy Zilner, Senior Disability Benefits Analyst for Standard Insurance Company during her Medical Leave beginning on June 17, 2016 under November 2016 -

Marsha Brown received an (Appx) Electronic Transmission from Dr Soliman on September 16, 2016 advising SCDHHS that Plaintiff would be Out-of-Work from September 16, 2016 until Jan 1, 2017.

Marsha faxed FMLA Paperwork to Dr. Soliman on September 21, 2016 asking him to complete & return to her by September 23, 2016 - (given only (2) days to complete) (Appendix (F))

Plaintiff received a call from Marsha Brown in October 2016 asking for her help in getting Dr. Soliman to Return the FMLA Paperwork -

Plaintiff contacted Dr. Soliman & was told that they had not received anything from Marsha - Plaintiff verified their fax # & called Marsha - Marsha had faxed the Paperwork to a wrong # -

Plaintiff gave Marsha the correct # & Marsha re-faxed the FMLA Paperwork to Dr. Soliman on October 20, 2016 asking him to Complete & Return it by September 23, 2016) - Error! (Appendix (G))

Plaintiff received a letter dated October 24, 2016 from Marsha Brown advising her that she was on an Unauthorised Leave - (Appendix (H))

Marsha included FMLA Paperwork with the letter & advised her to have Dr. Solomon complete it & return by October 31, 2016 -

Plaintiff asked Marsha ~~if~~ in a phone call done on Nov 3, 2016 if she needed to Return-to-Work & if so on what day did she need to Return -

Marsha said she would let her know -

Plaintiff asked that Marsha send her the Return-to-Work Date in writing - She agreed

Plaintiff also asked Marsha to put their November 3, 2016 call in writing - She agreed

Plaintiff received a letter from the Standard Insurance Company dated October 28, 2016 advising her that she had been denied Long Term Disability -

Plaintiff received a letter from Marsha dated November 7, 2016 regarding their November 3, 2016 phone conversation -

The letter did NOT include a Return-to-Work Date (App(I))

Marsha received FMLA Paperwork from Dr. Solomon on November 9, 2016 (Appendix(J))

Plaintiff received a Certified Letter dated December 1, 2016 from Kim Backman advising her that she had been terminated "since she was Unable to Return to Work" (Appendix(K))

Reasons for Granting the Petition

- 1) Plaintiff is Protected Under the Americans with Disabilities Act -
Title II - Public Services
Section 202 - Discrimination
Section 203 - Enforcement
Rehabilitation Act of 1973
29 U.S.C. 794a

I nor Any Qualified Individual with a Disability should have their Medical Accommodation taken away from them especially when the Accommodation was covered under the Americans with Disabilities Act -

No Employer should have the Right to Put an Employee's Health at Risk nor Cause the Employee to Lose their job as a Direct Result of their Action

As a result of the Employer's Representatives Actions

Plaintiff's Health was Put at Risk -
Plaintiff suffered lost wages -
Plaintiff lost Her job -

All because Her manager took
away the Medical Accommoda-
tion she had been in for
(10) years.

A Medical Accommodation covered
under the ADA.

2) Plaintiff is Protected under
the Rehabilitation Act of 1973
Section 504
29 U.S.C. § 794

This Statute was intended
to Prevent Intentional or
Unintentional Discrimination
Based on a Person's Disability -

All Government Agencies
receiving Federal Funds May Not
Discriminate Against Those with

Disabilities based on their Disability Status.

this Act is also the Enforcement Mechanism for the ADA - the Remedies, Procedures, & Rights set forth in Section 505 of the Rehabilitation Act of 1973 shall Be the Remedies, Procedures, & Rights this Title Provides to Any Person Alleging Discrimination on the Basis of Disability in Violation of Section 202 - Discrimination

3) Plaintiff's Complaint references the Fairyeola - vs - District of Columbia Case No. 10-CV-578

Decided: March 29, 2012
District of Columbia Court of Appeals

in response to the Defendants' statement that my Claims under Rehabilitation Act are Time-Barred.

Just as the "Fresh Acts of Discrimination" were identified in that case, I identified what I believe to also be "Fresh Acts of Discrimination" against SCDHHS -

Plaintiff filed a Wrongful Termination Grievance in December 2016 -

Plaintiff asked for her job back as I had been Released from my Doctor's Care & Could Return to work on Jan 1, 2017 -

SCDHHS knew this before & after my Termination & yet on January 25, 2017 Denied my Reinstatement -

Plaintiff believes she was Denied Reinstatement Because of Her Disability -

Plaintiff filed a Complaint with the Human Affairs Commission on July 14, 2017 - it was sent to the EEOC forthwith -

the EEOC investigated the Complaint & found that it had merit - they asked SCDHHS to give me my job back - they said no - the EEOC asked them to place me in another job - they said no -

Again, another "Fresh Act of Discrimination" -

Plaintiff believes she was Denied Reasonable Accommodation Because of Her Disability -

in December 2017 -

EEOC sent me a Right-to-Suit Letter & I filed a lawsuit on March 25, 2018 -

Every time SCDHHS said no
it was a Fresh Act of Discrimina-
tion & for that reason
My Rehabilitation Act Claims
Are Not Time-Barred
just as they were not Time-
Barred in the Garzaola Case.

if the Court of Appeals agreed
with Garzaola, I ask that
they agree with me.

4) Plaintiff has Responded in
Good Faith to the Court's Process
& if mistakes were made on
my part then I accept Full
Responsibility-

I ask for myself & On Behalf
of all Federal Employees with
Disabilities in the United
States that this Case be Allowed
to Go Forward so that Violations
of these Rights Protected under
these Laws Do NOT Happen Again

5) I ask the Court to Overturn
the Lower Court's Decision
to Close this Case with Prejudice

6) I ask the Court to Overturn
the Lower Court's Decision to
Deny me the Right to Amend
my Complaint

7) I ask that, after Reading
this Petition, my Petition
be Granted so that the
Rights of All Federal Employees
not just myself can be
Better Protected -

I Thank You for Your Time &
Patience & Appreciate All You
Do for the Country -

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Cynthia B. Woods

Date: Sept. 18, 2020

(7)