

20-6174

No. 19-2458

(2:19-CV-00002-MSD-RJK)

IN THE

ORIGINAL

SUPREME COURT OF THE UNITED STATES

Marjory Childs — PETITIONER

vs.

Western Tidewater CSB — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATE COURT OF APPEALS FOR THE FOURTH CIRCUIT

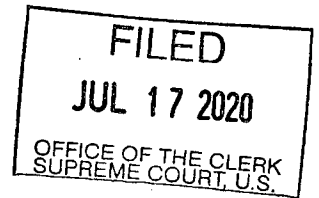
PETITION FOR WRIT OF CERTIORARI

Marjory Childs
(Your Name)

1468 S. Military Highway
(Address)

Chesapeake, VA 23320
(City, State, Zip Code)

(757)831-0426
(Phone Number)



QUESTION(S) PRESENTED

1. Whether the Court of Appeals judgement shall take effect upon issuance of mandate in accordance with FED. R. App. P. 41?
2. Whether the Appeals judgement constitutes the formal mandate of this court issue pursuant to Rule 41(a)?
3. Are there facts and evidence that Marjory v. Childs against *Western Tidewater Cmty* have enough facts and evidence under the Title VII of the Civil Rights Act of 1964, as amended with the Americans with Disabilities Act of 1990?

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:

Appellant 1, Theresa Pope Supervisor for Intellectual of Disabilities

tpope@wtcsb.org, Appellant 2, Peggy Holland, Human Resource Director

pholland@wtcsb.org Appellant 3 Cynthia Graves cgraves@wtcsb.org, Human

Resource worker, Appellant 4, Brandon Rogers, brogers@wtcsb.org, and Appellant 5

Michelle Moore Manger of case manager Individual disabilities mmoore@wtcsb.org.

Address for all Appellant above: 7025 Harborview Blvd., City and County Suffolk,

VA 23329. Phone# for all Appellants above is (757)966-2805

RELATED CASES

A pro se complaint should Survive only when a plaintiff has set forth "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. V. Timothy, 550 U.S. 544, 570 (2007).

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JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 12, 2020 - takes effect on April 3, 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 April 3, 2020 (date) on Oct 3, 2020 (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).

10/4/2020

12-2458 Summary

12/20/2019 1 Case docketed. Originated case number: 2:19-cv-0002-MSD-RJK. Case manager: MRadday. [192458] MR [Entered: 12/20/2019 [Entered: 12/20/2019 09:00 AM]

12/20/2019 2 ASSEMBLED ELECTRONIC RECORD docketed. Originating case number: 2:19-cv-00002-MSD-RJK. Record in Folder? Yes. Record reviewed? Yes. PSR included? N/A. [19-2458] MR [Entered: 12/20/2019 09:01 AM]

12/20/2019 3 INFORMAL BRIEFING ORDER filed. Informal Opening Brief due 01/13/2020 Informal response brief, if any: 14 days after informal opening brief served. [19-2458] MR [Entered: 12/20/2019 09:01 AM]

01/13/2020 4 INFORMAL OPENING BRIEF by Marjory Childs. [19-2458] TW [Entered: 01/14/2020 10:01 AM]

03/12/2020 5 UNPUBLISHED PER CURIAM OPINION filed. Originating case number: 2:19-cv-00002-MSD-RJK. Copies to all parties and the district/agency. [1000700556]. [19-2458] [Entered: 03/20/2020 07:55 AM]

03/12/2020 6 JUDGEMENT ORDER FILED. Decision: Affirmed. Originating case: 2:cv-00002-MSD-RJK. Enter on Docket Date: 03/12/2020. [1000700566] Copies to all parties and the district court/agency. [19-2458] MR [Entered: 03/12/2020 08:00 AM]

04/03/2020 7 Mandate issued. Referencing: [5] unpublished opinion per curiam opinion, [6] judgment order. Originating case number 2:19-cv00002-MSD-RJK. Mailed to Marjory Childs. [19-2458] TW [Entered: 04/03/2020 08:16 AM]

Transaction Receipt
10/04/2020 22:35:21

CONSTITUTIONAL and STATUTES PROVISIONS Involved

Title VII Civil Rights enacted July 2, 1964) is a landmark civil rights and labor law in the United States that out-laws discrimination based on race, color, religion, sex, national origin, and later sexual orientation.^{[a][4]} It prohibits unequal application of voter registration requirements, racial segregation in schools and public accommodations, and employment discrimination. SEC. 2000e-2: *[Section 703] (C)(1)(2)(3)*

Considerations Governing Review on Certiorari, OF SUPREME COURT OF THE UNITED STATES. Rule 10

Case arises under the Constitution or federal questions 28 U.S.C 1331

Civil, Habeas & 2255 District Court Granted & did not provoke IFP status (continues on appeal)

Nature of Suit of the District Court 442 Civil Rights - Employment 1

Cause 42:000 Job Discrimination (Disability Act) 2

Court granted & did not revoke IFP status (continues on appeal). District Court

Federal Procedures Rule 41 (a)

"Title VII of the Civil Rights Act 1964, the American[s] Disability Acts with Disabilities Act, the Genetic Information Nondiscrimination Act, or Age, or the Age in Employment Act." Compl. at 3

Mandate in accordance with Fed. R. P. 41

Statement of case

April 2, 2019

Chief Justice,

When I arrived back to work on June 1, 2018, from Family Medical Leave ACT (FMLA), my Supervisor, Theresa Pope took 4 cases from another provider and told me that my manager, Michelle Moore will be giving me four more cases.

A few months before I left out on FMLA my coworkers received the four crisis and unstable crisis cases from Michelle Moore, that she gave me when I returned to work at the end of June 2018. This is when my supervisor, Theresa Pope called me in the office and said, "do you think that your new coworkers should receive the above cases that Michelle gave them." I then said, "do you think the cases Michelle gave to them should go to a person with a chronic IC conditions," and she shook her head up and down and said, "Yes" and giggled.

Chief Justice, in the year 2017, Ms. Pope asked me do I want to lower my case load and accept cases that are crisis/crisis stabilization, and I will get a raise and I told her, "no, I have a chronic IC" and they just started throwing these cases to me anyway.

Chief Justice, when I told her I signed up for criminal justice at Regent University in 2017, Ms. Pope said we are going to use Marjory until she leaves. She said it as a joke, but this joke came to be a reality. I only was able to take one class at a time.

I did not attend Regent University in the fall and Summer of 2018 so they allow the funds to transfer to the spring of 2019, as you will see on their document I am giving to you.

Regent University worked with my disabilities when I gave them my urologist letters from Dr. Dennis Garvin and Dr. Holland Stressing, but not Western Tidewater CSB.

I was now able to sign up again to regent university in January 2019 and take one course at a time. I am now doing a course in criminal procedure. I do have a few more classes to complete. My health has improved a little and I am doing my class online with regent university.

“Crisis” means a deteriorating or unstable situation often developing suddenly or rapidly that produces acute, heightened, emotional, mental, physical, medical or behavior distress; or any situation or circumstances in which the individual perceives or experiences a sudden loss of his ability to use effective problem-solving and coping skills. 12VAC35-105-20

Michelle gave me the same four individuals that were in crisis and unstable crisis. I received the above cases about the end of June 2018, from my manager, Michelle Moore. These are the same cases before I went out on FMLA that Theresa asked me did I think the new coworkers should receive the crisis and unstable crisis cases before I left on FMLA. I had individuals on my caseload already that continue to need crisis stabilization. One of my coworkers that Michelle took to two cases Crisis and unstable crisis case from and gave to me in the end of June 2018, said to me before WTCSB I left, "I have experience."

"Crisis stabilization" means direct, intensive nonresidential or residential direct care and treatment to non-hospitalized individuals experiencing an acute crisis that may jeopardize their current community, which mines did on a regular basis. I had to find homes, set up meetings, type documents, receive documents to get them placement at once with no delays. "Crisis stabilization is intended to avert hospitalization or hospitalization re hospitalization; provide normative environments with a high assurance of safety and security for crisis intervention; stabilization individuals in crisis; and mobilize the resources of the community support system, family, and others for ongoing rehabilitation. 12VAC35-105-20

Chapter 105, Rules and Regulations for Licensing Providers by The Department of Behavioral Health and Developmental Services. Article 2: Definitions 12 VAC 35-105-20, P.2.

Now, while I was doing part time work on FMLA, billed for about 23 individuals in March, around 26 in April and May 28, 2018, I believe. Two coworkers helped me, one tried a face to face visit with an individual and one completed an annual review for me. When an employee is sick or goes on maternity their cases are spread around to all the other case managers. The cases I had was covered but my other cases were not covered when I was on FMLA.

I was ill and had severe cases meaning crisis and unstable cases. When I arrived back to work in June 1, 2018, I started getting sick after a few months of getting these cases. I requested for my cases to lower when I came back to work and before I left on FMLA to Theresa. I had an average of Thirty cases.

Most of my caseload consisted with individuals that had diagnosis of severe, psychosis, schizophrenia, bipolar, substance abuse/mental illness, along with ID Intellectual Disabilities know as Mental Retardation.

I could no longer worker from home when I came back from FMLA, after my Manager Michelle Moore left to another department. My supervisor, Theresa said “if you cannot clock in from home then I must come into the office.”

Kronos was deactivated and would no longer allow me to clock in from home. I was given the privilege to clock in and out when I was in pain at home on part time FMLA, but after a couple of months Kronos was set only for me to clock in at 9:00am and clock out at 5:00pm. This was very weird because case manager sometimes worked odd hours. For instance, the case managers would stay late evenings and then get to use their Comp hours in the same week.

WESTERN TIDEWATER EMPLOYEES;

- **Theresa Pope my Supervisor and my manager, Michelle Moore of the ID/DD Department.**
- **Cynthia Graves and Peggy Holland** work for the Human Resource Department over thirty
- **Brando C.E.O. of Western Tidewater CSB**

I spoke with **Peggy Holland** about my chronic condition Interstitial Cystitis by phone when I was on my FMLA. I emailed Peggy my FMLA, and doctor's letters from my urologists, **Dr. Holland Stressing/Dr. Dennis Garvin**, after I had my surgery. I included her letter she wrote to me with this document, that she started

my FMLA on March 14, 2018, even though she knew it said on my FMLA letter; the start date February 13, 2018. I emailed Theresa Pope my FMLA and all my doctor's letter too and I forward them to **Cynthia Graves** through email. It is well-settled that individuals who fall within the actual disability or record of disability prong are entitled to reasonable accommodations. See, e.g., *Miller v. United Parcel Service, Inc.* 149 F.Supp.3d 1262 (D. Or. 2016) (confirming that plaintiff with an actual disability was entitled to reasonable accommodations under the ADA);

Dr. Dennis Garvin, my urologist mailed Peggy Holland a letter in May 2018, asking can I get help with my disability to allow me to continue to work. Dr. Garvin also mailed me the same letter in May 2018 that he mailed Peggy.

Cynthia Graves and Peggy Holland work for the Human Resource Department over thirty years whom I emailed Doctor letters my urologist, Dr. Garvin, and Dr. Stressing and FMLA from Dr. Stressing. Dr. Dennis Garvin said he will answer and questions from the counsel and court for me. *Monroe v. County of Orange*, 2016 WL 5394745 (S.D.N.Y. 2016) (correctional officer with panic disorder, agoraphobia and ADHD was entitled to reasonable accommodations because he had an actual disability and a record of a disability).

Brandon is the C.E.O and Ms. Pope said he told her in February 2018, “to give me more cases.” Ms. Pope kept telling me your taking another case in February 2018, and I said, “I can’t I am sick, and you told me last week that was the last case you will be giving me.

The case was the most extreme case that was sent from another CSB that did not complete their work with the individual, but I completed it. Theresa said, “Brandon’s on the speaker phone tell him.” I then expressed to Brandon on the speaker phone in February 2018 that I was sick. I then expressed to him how I run around to do monthly home visits for the waiver individuals once a month and with State Plan Option which is Medicaid every three months to Hampton, Portsmouth, Chesapeake, Suffolk, Haleyville, Newport News and Virginia Beach. Then later that day, Theresa Pope came to my cubicle smiled at and gave me a high five.

The case law and regulatory guidance make clear that employees do not need to make requests in writing and do not need to use any “magic words.” See, *Waterbury v. United Parcel Service*, 2014 WL 325326 at *7 (E.D. Cal. Jan. 28, 2014) (noting that neither employee nor employee’s physician were needed to use “magic words” to request a reasonable accommodation);

I resigned October 15, 2018, because a couple of days before I resigned my supervisor, Theresa asked me to come to her office and she said I was on the

urge of being fired. She wanted a provider to do my job by placing an individual in a home when she was discharging him. She said the authorize representative who is ill wanted her to do the tours with me and set up places where to do theses tours. She said because the provider knows the family for a long time.

I expressed to her that I and the authorize representative set up three tours, but she never returned or picked up her phone when I called her. I also offered to drive the authorize representative on the tours. Ms. Pope then brought up about how I only saw 23 individuals in February 2018, and I explain to her that I was on part time FMLA.


I express to her when I arrived back to work in June 2018, it was a meeting held afterwards with Theresa Murch of WTCSB billing department, herself, and ID Case Managers. I was speaking up for myself and the case managers. I explain to her that she said to me after the meeting ended, "I was not talking about you Marjory, the other ID Case Managers was billing for 10 and 11 individuals for the previous months before June 2018."

Then she bought up another individual of mines wanted to transfer to Norfolk Community Board in Norfolk, VA. I said she individual lives in Norfolk VA, and she can make her own choices. I stated I gave her all the individuals documents and it is been a year and a half ago, and her case still have not been transfer. I told

her I sent you the emails from the providers asking what happened to the transfer and that she said she would get on it. I told her this sounds like up set up because what she spoke to me about in her office was not related to any policy or rules. I have been a case manager for sixteen years.

Then she did not write me up and she told me I can leave her office. I kept getting blame for things at this job until it was proven that it was not me. She kept giving me more work to do the next couple of days and she knew I was not doing too well so I resigned on October 15, 2018.

Thank you, Chief Justice for taking your time to read this document.

Yours Truly,

Marjory Childs,

Eastern District court of Virginia Norfolk division.

Statement of Case

Marjory Childs v. Western Tidewater CSB

In January 2019, Western Tidewater Community Service Board moved majority of African American people from 1000 Commercial Lane Suffolk, VA 23434. They moved the above individuals to 135 S. Saratoga Street Suffolk, VA 23434. The office building where we shared an office with two or three workers at 1000 Commercial Lane Suffolk, VA 23434, was spacious and a lot of windows. It also had a vending machine. They decided to paint the walls, changed the dirty rugs after nineteen years, and we were all happy. Once the office location at 1000 commercial lane Suffolk, VA 23434 was upgraded at the end of 2018, we were told to pack our items. Then they threw all our old furniture and desk out and brought all new beautiful furniture at 1000 Commercial lane Suffolk, VA 23434. It now looks like a place out of a magazine. Another building was bought or rented in Harborview for Western Tidewater CSB hierarchy personnel, and it looks like a place out of a magazine too.

Then they upgraded another office at the Godwin building in Suffolk, VA 23434, and it looks like a place out of a magazine too. Article 1, Section 1. Equality and rights of men. Then we move into cubicles where substance abuse meetings were held twice a week and there were no locked doors. There were no windows. We had no vending

machine and no stylish tea and coffee maker with free variety of choice tea or coffee to drink for free. The other three offices that were an upgraded, the workers had the privilege to drink variety of their choice tea or coffee for free; with a stylish tea and coffee maker. The building at 135 S. Saratoga Street Suffolk, VA 23434, building was clean at least two times a week. The garbage cans had the same garbage in it, until the cleaners came to take it out. It was dusty and had spiders crawling around in the building. Sometimes we had to work late nights, if there was a crisis with a consumer. In addition, its a drug invested neighborhood. Individuals whom smoked crack would walk around in the day time like zombies, when they used to come out at night. Although, they come out at night too; along with the drug dealers. This area is not a safe place to work. Farmer asserts claims of race discrimination, hostile work environment, constructive discharge, and retaliation in violation of Title VII, 42 U.S.C. § 2000e et seq., and 42 U.S.C. § 1983. Therefore, I said to myself this is racism situation here too.

Eastern District Court of Virginia,
Norfolk

Reason for Granting Petition

Marjory Childs appeals the district court's order dismissing her civil action without prejudice for failure to prosecute. We have reviewed the record and find no reversible error. According, we affirm for the reasons stated by the district court. *Childs v. W. Tidewater Cmty. Servs. Bd.*, No. 2:19-cv-00002-MSD-RJK (E.D. Va. Nov. 18, 2019).

“We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process]”
Fed. Cir.

Chief JUSTICE,

I am asking for a relief in \$360,000
from Western Tide CSB for pain and
suffering.

In addition, I signed up for Case manager I
and Western Tide water kept giving me
individuals with Intellectual disabilities
and other various mental diagnoses.

I was a Case manager I Intellectual
only when I started working with the
above agency in February 2012.

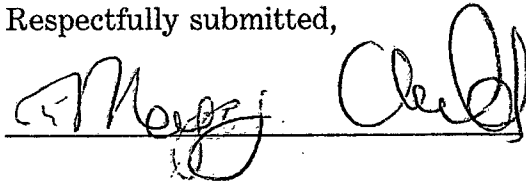
Although, they had me doing Clinician III
job description, but I was not getting
paid like a Clinician III.

Thank you, Sincerely yours, Marjory Childs

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

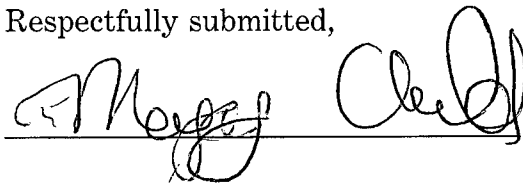


Date: 7.12.2020

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. J. O'Connell", is written over a horizontal line.

Date: 7.12.2020