

No. 20-7670

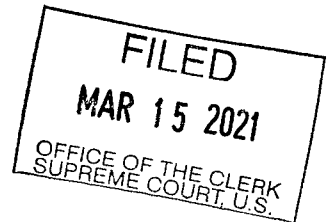
IN THE  
SUPREME COURT OF THE UNITED STATES

FAIZAH DEAN – PETITIONER

VS

WORKERS COMPENSATION APPEALS BOARD,  
SOUTHERN CALIFORNIA EDISON – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO  
ADJ 838627, ADJ838621, ADJ8009847  
THE SUPREME COURT OF THE STATE OF CALIFORNIA



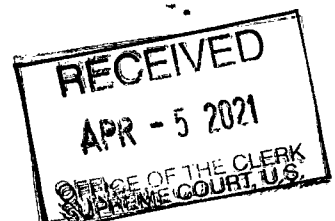
PETITION FOR WRIT OF CERITORARI

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## QUESTION(S) PRESENTED

Question One: In *Franco v. MV Transportation, Inc.*, 2019 Cal. Wrk. Comp. P.D. LEXIS 120 the panel held that injured workers may make a prima facie showing of unlawful discrimination even where they cannot demonstrate a singling out for disadvantageous treatment, so long as they show some adverse result as a consequence of some action or inaction by the employer that was triggered by the industrial injury, and that they a legal right to receive or retain the deprived benefit or status and the employer had a corresponding legal duty to provide or refrain from taking away that benefit or status. Does *Franco* extend to any cases decided after under Cal. Lab. §132a?

Question Two: In the case *Alnimri v. Southwest Airlines* and the Appeals Board panel's Opinion and decision after reconsideration issued on July 31, 2019 the defendant's failure to follow its own voluntary process to resolve conflicting medical reports prior to dismissing *Alnimri* from work was conduct that subjected *Alnimri* to disadvantages not visited upon other employees. It was an act of unlawful discrimination under section 132a. Does *Alnimri* extends to any case decided after under Cal. Lab. §132a?

Question Three: In *Villegas v. Six Flags Entm't Corp.*, 2018 Cal. Super. Lexis 7680 The court granted the ex parte application and determined that the statutory 5-year period to bring this case to trial under Code of Civil Procedure section 583.310 expired on August 23, 2018. The trial did not take place before that date, nor did plaintiff request that a trail be set before that date. Therefore, pursuant to California Code of Civil Procedure section

583.310, 583.340 and 583.360, this case is dismissed. The Court found that it was not impracticable, impossible, or futile to bring this case to trial within the 5-year period at any time. The Court also found that Plaintiffs Andrew Villegas, Jennifer Gilmore, Dustin Liggett, and Hans Gundelfinger did not satisfy their burden of establishing a causal connection between any alleged circumstances of impossibility, impracticability, or futility and Plaintiffs' failure to bring the case to trial within 5 years. Accordingly, dismissal of the complaint is mandatory. Does Villegas extend to the company, an employer, and defendant under Cal. Lab. Code § 132a?

Question Four: Whether a pro se petitioner should be allowed to produce the date of the filing of the EEOC or District Court original filing?

## **LIST OF PARTIES**

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

## **RELATED CASES**

[X] All cases appear in the caption of the case on the cover page.

## INDEX TO APPENDICES

APPENDIX A      California Workers Compensation Appeals Board July 22, 2020  
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APPENDIX B      Decision of California State Trial Court January 14, 2020  
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APPENDIX C      Decision of State Supreme Court Denying Review 12/16/20  
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APPENDIX D      132a Application February 1, 2013 [pg. 5 - (74-90)]

APPENDIX E      Decision of Court of Appeals Denying Review October 27, 2020  
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## TABLE OF AUTHORITIES CITED

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## STATUTES AND RULES

California Labor Code §132a, CCP §§583.310 and 583.360

## OTHER

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 **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,

☐ Is unpublished.

The opinion of the Workers Compensation Appeals Board court

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.

## JURISDICTION

[ X ] For cases from **state courts**:

The date on which the highest state court decided my case was July 22, 2020. A copy of that decision appears at Appendix \_\_\_\_A\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: December 16, 2021, and a copy of the order denying rehearing appears at Appendix \_\_\_\_C\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_(date) in Application No. \_\_\_\_\_.

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



## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

U.S. Constitution, Amendment XIV, § 2.

California Labor Code § 132a

Occupational Safety and Health Administration

Carve-Out Agreement

International Brotherhood of Electrical Workers Local 47

## **STATEMENT OF THE CASE**

The court (Appendix B pg. 5-45, 5-69) determined that in the event the statute of limitations is not considered a bar, it shall be found that the applicant has not sustained her burden of proof to establish discriminatory conduct under Labor Code § 132a.

## **FACTS**

Statute of limitation and Burden of proof was not found based on Lauher, supra, 200 Cal. 4<sup>th</sup> at pp. 1298-1299 a conflict of law and date of original filing of EEOC and U.S. District Court.

The Workers Compensation Appeals Board did not respond to the question of New Discovery. (Appendix A, pg. 5-2)

## **ISSUE**

The threshold to consider is whether the employee established a prima facie case and if the applicant filed an earlier complaint to the U.S. District Court or an earlier EEOC complaint was filed earlier.

## **RULE**

California Labor Code § 132a

## **APPLICATION/ANALYSIS/ REASONING**

The WCAB (Appendix (5- (42-43)) opinion and decision on the statute of limitation were based on a reading of the date on a First Amended complaint (Dean vs. Southern California Edison) EDCV12-01435 or submitted a claim with the EEOC before the February 21, 2012.

The WCAB opinion and decision were based on Lauher, supra, 200 Cal. 4<sup>th</sup> at pp. 1298-1299, the Court noted with approval the Court of Appeal's finding that the formulation enunciated in Smith v. Workers' Compensation Appeal Board (1984) 152 Cal. App. 3<sup>rd</sup> 1104, and adopted by Barns to establish a prima facie case was analytically incomplete.

## **CONCLUSION**

The court ruled in favor of the defendant.

## REASONS FOR GRANTING THE PETITION

The petition should be granted and return to the lower court for further development of the record based on Lauher, Franco, and Villegas case and the EEOC or United States District Court as it applies to discrimination, and the statue of limitation based on.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Faizah Khan", written over a horizontal line.

Date: March 13, 2021