

AUG 17 2020

OFFICE OF THE CLERK

NO. 20-778

In The
Supreme Court of the United States

ANTHONY T. GROSE, SR.,

Petitioner,

vs.

STEVEN TERNER MNUCHIN,
Secretary,
Department of the Treasury,
Internal Revenue Service, (IRS) Agency,

Respondent,

On Petition for a Writ of Certiorari to the
United States Court of Appeals for
the Sixth Circuit Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

ANTHONY T. GROSE, SR.,
Pro se, litigant, Petitioner
Plaintiff - Appellant
4192 Sable Dr.
Memphis, TN 38128
tyroneagrose@bellsouth.net
(901) 371-0119

ORIGINAL

QUESTION(S) PRESENTED FOR REVIEW

1. The question present to this Court in this Civil Action matter, [suit or proceeding in a court of the United States to which, against the United States], -*{a federal department, office, agency, officer, or employee(s), whom is a party,}* pursuant 28 U. S. C. ~2403 – “Intervention by United States; constitutional question” - wherein the constitutionality of an Act of Congress affecting the public interest is drawn into question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence.

The question is - **Were any such documentation entries in the court’s proceedings whether the U. S. District Court or the Appellant Sixth Circuit Court had jurisdiction pursuant to 28 U.S.C. ~2403(a) that certified to the Attorney General the fact that the constitutionality of an act of congress was drawn into question?**

2. Does the doctrines of *res-judicata* and *collateral estoppel* fail when the Petitioner has repeatedly disputed, proven with sufficient evidence in the courts records of retaliations, that not any one of the necessary elements required for this type of lawsuit {summary judgment, - dismissal} had been established?
3. Does the doctrine of *collateral estoppel* [in a “employment law discrimination Claim Pursuant to Title VII and ADEA”] of “continuous retaliation” – hostile work environment, harassment, denials of Reasonable Accommodations], bar or limit a subsequent claim, that were pending, being held on appeal before the Equal Employment Opportunity Commission {which the petitioner had not exhausted “all” administrative remedies}, that “had not ripen.” for adjudication, stop a lawsuit [summary judgment and in the alternatively Dismissed the complaint], from being review by the courts “base on the merits” ?

PARTIES TO THE PROCEEDINGS

Pursuant to Rule 14.1(b) the parties to the proceedings below include the respondent, petitioner. 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:

Anthony T. Grose, Sr.,
4192 Sable Dr.
Memphis, TN 38128
(901) 371-0119

Petitioner,

Steven Terner Munchin, et al
Internal Revenue Service, Agency
Secretary, Department of the Treasury
Respondent,

U. S. Attorney's Office
Western District of Tennessee
C/O Monica Simmons-Jones
Clifford Federal Building 8th Floor
167 N. Main St.
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(901) 544-4231

Attorney-of-Record
On Behalf of Respondent
3 Copies Pursuant to Rule 29.3

Attorney General of the United States
William P. Barr
U. S. Department of the Treasury
950 Pennsylvania Ave. NW
Washington, DC 20530-0001
(202) 514-2000

The Solicitor of the United States
Noel Francisco
and, or Jeffrey B. Wall, Acting
950 Pennsylvania Ave. NW
Washington, DC 20530-0001
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iii.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Anthony Grose, Sr., and/or the Estate of Anthony T. Grose, Sr., is a individual United States Citizen. There is no parent public held company owning 10% or more of Applicant's stock.

Petitioner – Appellant Anthony T. Grose, Sr., pro se, litigant, states that plaintiff is not a {self} Subsidiary Sole Proprietary Affiliate of a Publicly Owned Registered Limited Liability Corporation.

AFFIDAVIT

U. S. Supreme Court No. _____

I Anthony T. Grose, Sr., attest to the above list Corporate Statement, is true
In the: United States of America
In the State of: Tennessee
In the County of: Shelby

Anthony T. Grose, Sr., Pro se, litigant  11-20-2020
(Signature) (Date)


(Notary Signature) (Date)

(Notary Seal)

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* <i>The United States Supreme Court Office of the Clerk, Letter dated</i>	
<i>September 28, 2020 instruction to correct, re-file petition within 60 days notice</i>	
<i>Pursuant to Rule 14.1 and 14.5, 29.3</i>	<i>App. 7</i>

NO.
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THE
=====

SUPREME COURT OF THE UNITED
=====

ANTHONY T. GROSE, SR.,

Petitioner,

v.

STEVEN TERNER MNUCHIN,
Secretary,
Department of the Treasury,
Internal Revenue Service, (IRS) Agency,

Respondent,

**On Petition For A Writ Of Certiorari
to the United States Court of Appeals
For the Sixth Circuit**

Case No. 18-5746 Mandate Judgment Issued on March 30, 2020.
Petition for Rehearing En Banc Denied on March 20, 2020
Disposition ORDER Issued on September 27, 2019

**On Appeal from the United States District Court
for the Western District of Tennessee
Western Division**

Hon. Thomas L. Parker, Judge
Civil Action Case No. 2:16-cv-02043-TLP-cgc
Document [82], Filed 05/21/18 at PageID 2898

PETITION FOR A WRIT OF CERTIORARI

Anthony T. Grose, Sr., Petitioner, pro se litigant respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit in this civil action.

Petitioner respectfully prays that a writ of certiorari issue of review the judgment opinions cited by the courts below.

ANTHONY T.GROSE, SR.,

Pro se, litigant, Petitioner

Plaintiff – Appellant

4192 Sable Dr.

Memphis, TN 38128

tyroneagrose@bellsouth.net

(901) 371-0119

OPINIONS BELOW

The opinion of the United States Court of Appeals Sixth Circuit Court, - Denial of Rehearing MANDATE ISSUED 03/30/2020 appears at appendix "A"; to the petition and is reported at (ECF No. 37);, is unpublished.

The opinion of the ORDER filed denying petition for En banc (ECF No. [34]), of the United State Court of Appeals Sixth Circuit Entered on 03/20/20 Appears at Appendix "B"; to the petition and is reported at (ECF No. 36), is unpublished.

The opinion of the United States Court of Appeals Sixth Circuit Court, - ORDER Filed on 09/27/2019 The District Court judgment is AFFIRMED, Grose's request for oral arguments and pending motions are DENIED [24], [25], FRAP 34(a)(C) appears at appendix "C"; to the petition and is reported at (ECF No. 33), ; is unpublished, not for publication.

The opinion of the United States District Court Western District of TN Court Order Filed on 05/21/2018 appears at appendix "D"; to the petition and is reported at (ECF No. 82), is not published.

The opinion of the United States District Court Western District of TN - Court's Report and Recommendation File on 02/27/2018 Appendix "D" to the petition is reported at (ECF No. 74), is not published.

JURISDICTION

The date on which the United States Court of Appeals Sixth Circuit decided my case was September 27, 2019.

A timely petition for rehearing was denied by the United States Court of Appeals Sixth Circuit on the following Date: March 20, 2020, and a copy of the order denying rehearing appears at appendix "B". And, therefore subsequently the United States Court of Appeals Sixth Circuit MANDATE ISSUED on March 30, 2020 at (ECF No. 37) appears at Appendix "A"

The United States Supreme Court has implemented extension of time to file the petition for a writ of certiorari by 150 days of the mandate and a copy of that order of the extension appears at appendix "E".

The jurisdiction of the U. S. Supreme court s invoked under 28 U. S. C. ~1254(1).

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

The relevant provision of *Title 5 United States Code – 7702 Action Involving Discrimination* shall be judicially reviewable, issue, action. Under Section 717(c) of the *Civil Rights Act of 1964 as amended (42 U. S. C. 2000e-1)*.

The relevant provision of *42 U. S. C. Title 42 Public Health and Welfare, Chapter 21 – Civil Rights Subchapter VI - Equal Employment Opportunities ~2000e -16a. to 2000e 16c* cited as: “The Government Employment Rights Act of 1991”.

The relevant provision of *Title 5 United States Code – 7702 Action Involving Discrimination* shall be judicially reviewable, issue, action. Under *Section 717(c) of the Civil Rights Act of 1964 (42 U. S. C. 2000e-1)*.

The relevant provision of *42 U. S. C. Title 42 Public Health and Welfare, Chapter 21 – Civil Rights Subchapter VI - Equal Employment Opportunities ~2000e -16a. to 2000e 16c* cited as: “The Government Employment Rights Act of 1991”.

“**The Federal Employee Fairness Act – S. 404**” : hearing before the Committee on Governmental Affairs, United States Senate, One Hundred Third Congress, first session, on *S. 404 to Amend Title VII of the Civil Rights Act of 1964, and the Age Discrimination in Employment Act of 1967* to improve the effectiveness of administrative review of employment discrimination claims made by federal employees, and for other purposes, May 26, 1993;

“**The Age Discrimination in Employment Act of 1967 (“ADEA”)**”

The Age Discrimination in Employment Act of 1967 (Pub. L. 90-202) (ADEA), as amended, as it appears in volume 29 of the United States Code, beginning at section 621. The ADEA prohibits employment discrimination against persons 40 years of age or older. *The Older Workers Benefit Protection Act* (Pub. L. 101-433) amended several sections of the ADEA. In addition, section *115 of the Civil Rights Act of 1991 (P.L. 102-166) amended section 7(e) of the ADEA (29 U. S.C. 626(e))*. Cross references to the ADEA as enacted appear in italics following each section heading. Editor's notes also appear in italics. An Act to prohibit age discrimination in employment

Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended,

Title VII - Volume 42 U.S. Code, Sec. 2000e prohibits discrimination base on race, sex, color, religion, and national origin.; Sec. 2000e-2 [Section 703] Unlawful Employment Practices; Sec. 2000e-3 [Section 704] Other Unlawful Employment Practices; Sec. 2000e-6 [Section 707] Civil Action By the Attorney General –

STATEMENT OF THE CASE

Anthony T. Grose, Sr. proceeding pro se, On Petition for a Writ of Certiorari of the United States Court of Appeals For the Sixth Circuit Case No. **18-5746** Mandate Judgment Issued on March 30, 2020. Petition for Hearing En Banc Denied on March 20, 2020. Disposition ORDER issued on September 27, 2019.

On Appeal from the United States District Court for the Western District of Tennessee Western District Civil (USDC WDTN) Action Case No. **2:16-cv-02043-TLP-cgc**. The USDCWDTN issued on May 21, 2018 the, ORDER ADOPTING THE REPORT AND RECOMMENDATION AND GRANTING DEFENDANT'S MOTION TO DISMISS OR, IN THE ALTERNATIVELY, MOTION FOR SUMMARY JUDGMENT GRANTED. Which the USDC WDTN subsequently issued JUDGMENT – DISMISSED WITH PREJUDICE on May 21, 2018.

Anthony T. Grose, Sr., respectfully files a “writ of certiorari,” for a decision by the U. S. Supreme Court to hear-review, an appeal from the lower Sixth Circuit Appellant Court of Appeals decisions, opinions that DENIED, Grose’s request for relief from judgments, oral arguments and motions that AFFIRMED the District Court’s JUDGMENT.

Anthony T. Grose, Sr, a former Internal Revenue Service Employee, Customer Service Representative GS-08 was employed at the IRS Memphis Service Center for the period 1999 thru 2007. Petitioner claims he faced continuous acts of unlawful discrimination base on “retaliation,”

– {Reasonable Accommodations Requested Denied, and Subsequently RA Denial; physical disabilities, (eyes), myphopia; “harassments” – for participations in prior

protected covered EEO activities, EEO investigations, and the filings of EEO claims being made against Grose's management officials};

Petitioner filed a Amended Complaint (ECF No. 24) alleges, claims, violations pursuant of Title VII of the Civil Rights Act of 1964, 42 U. S. C. 2000(e), et seq. ("Title VII), the Age Discrimination in Employment Act of 1967, 29 U. S. C. ~ 621 et seq. ("ADEA"), Section 501 and 504 of the Rehabilitation Act of 1973, 29 U. S. C. ~~~701, et. Seq. 791 et seq. ("Rehabilitation Act"), and the Americans with Disabilities Act of 1990, 42 U. S. C. ~ 12911 et. seq. ("ADA").

Grose filed approximately "four" other prior EEO discrimination that carried a basis of "continuous acts of - retaliation, retribution, harassments," that "all" hand different actions, against his management officials that is undisputed.

The preceded civil action lawsuit USDCWDTN case 2:11-cv-02562-JDT-cgc, was discrimination claims Grose made on the basis of "a failure to hire, promote, transfer {from a hostile work environment}, to an agency open vacancy announcement for which Grose applied for. After, the agency completed its internal EEO investigate, it was determined that Grose, was found to be qualified for the Best Qualified List. The agency provided its reasoning that Grose's application was considered as a duplicate application? As Anthony T. Grose, Jr., *similar name* whom also was employed at the IRS MSC W&I had applied for the same position, and made the BQ list? Grose, made his arguments to contest the agency non-litigate reasoning, putting the applications sis-by-side different names; SSN; DOB; work history; would not stand. Further, Grose, contested the agency Union Memorandum of Understanding – for relief to error & omission to award Grose relief to allow a lateral, transfer, promotion, under the terms of the union's MOU, to no avail. The 2:11-cv-02562-JDT-cgc closed on 03/03/15 Summary Judgment GRANTED

to Defendant. The Court on 02/26/2015 Adopts the R&R of the Magistrate Judge that Granted Summary Judgment to Defendants. Grose filed an appeal with the 6th Cir. Court of Appeals, that disputed the district courts decision that the judgment was not issued on the merits of the entire case or on discrete issues in that case to no avail.

As it pertains to this civil action lawsuit 2:16-cv-02043-TLP-cgc. The Agency conduct and concluded 08/05/08 its internal EEO investigation of Grose's claims of "retaliations - by management officials," of Grose's Reasonable Accommodations Request being Denied and subsequently Denial, of [two larger computer screens with a document viewing reading system]. The agency was unwilling to provide Grose, relief to his RAR and advise Grose of his rights to file a formal EEOC complaint within (30) days. Grose filed a timely formal EEOC complaint with the Memphis, TN District field office. A hearing was convened before an EEOC Administrative Judge on or about 07/29/10. The Administrative Judge issued an Order Entering Judgment on 08/17/10 finding Plaintiff had not proven his claims. This action concluded Plaintiff had exhausted his administrative remedies. Thereafter the Agency entered a Final Order finding no discrimination on 08/30/10.

Subsequently, August-September 2010 thereafter Grose moved to file a timely Appeal of the Agency's Final Order to the EEOC Administrative Judge decisions to. > the Equal Employment Opportunity Commission Office of Federal Operations [EEOC (OFO)]. On or about October 15, 2015 *{holding for 5 years}* the EEOC (OFO) issued its decisions of Grose's Appeal, finding no discrimination or relief being granted. Plaintiff did not receive his copies of the EEOC (OFO) decision until on or about December 29, 2015, and providing Grose with his rights to pursue a civil action Right-to-Sue letter in any U. S.

District Court. It is undisputed that Grose filed and brought the timely lawsuit in a U. S. District Court.

REASONS FOR GRANTING THE PETITION

Congress intended for an aggrieved Federal Employee to pursue a civil suit in any U. S. District Court to seek relief after “exhausting administrative remedies” within the (1) Federal-Agency; (2) Equal Employment Opportunity Commission; (3) Equal Employment Opportunity Commission – Office of the Federal Operations.

It is as much for the U. S. Attorney Office, Department of Justice (DOJ) duties to defend a Government Agency - Federal Government from claims of employer(s) unlawful discrimination, to resolve disputes in a U.S. District Court civil action.

As, it is also the U. S. Attorney’s Office DOJ-Department, through the Civil Rights Division, tasked with duties to enforce a number of federal laws that protect people from discrimination harm in a variety of settings based on their race, color, national origin, disability status, sex, sexual orientation, gender identity religion, familiar status, “retaliations” hostile work environment, harassment, etc., and other characteristics. To settle “genuine” disputes of employer federal-agency discrimination in a civil action, as this case represents.

The petitioner here had afforded the: (1) Department of the Treasury, - IRS Agency; (2) the Equal Employment Opportunity Commission, (OFO); (3) the U. S. Attorney’s Office (DOJ) and the Court’s – (4) “U. S District Court, Western District of Tennessee” and, (5) “The Sixth Circuit Court of Appeals”; (4) Herein, for seeks a Final Appeal from the United States Supreme Court to review, remand the petitioner “retaliation claims,” matters back to the court’s for adjudication to be resolved “on the merits” on the whole

basis of the law and the facts.

Evidence in the records had been presented that Grose provided substantial facts, evidence, proof that supports the Petitioner “Retaliations and ADEA,” claims were unlawful discriminatory, as of the agency had displayed alternative motives.

This case explicit displays the DOJ interferences is two fold with schemes that are designed to deter an aggrieve individual from pursing their employment discrimination claims.

It is appalling that a case such as this has to put the aggrieve, petitioner seeking relief of employer discrimination from cause(s), act(s) by agency employees that the petitioner has spent time, resources, patients, persistence, perseverance, pray, for the court’s to rightfully settle the disputes too right a wrong.

JUDICIAL REVIEWABLE ACTION

1. **Res Judicata and, or Collateral extoppel** – does not apply in this lawsuit as plaintiff “had not exhausted his administrative remedies,” which the genuine evidence of material facts displays that Grose’s, Appeal before the EEOC (OFO), of his retaliation claims – for Reasonable Accommodations Request, Denied and Subsequently RAR, Denial were being held in abeyance upon completion of a summary judgment by the defendants’ in a preceding civil action lawsuit in the U. S. district court.

2. **Federal Sovereign Immunity** – In the United States, the federal government has sovereign immunity and may not be sued unless it has waived its immunity or consent to suit. The United States as a sovereign is immune from suit unless it unequivocally consents to being sued. The United State Supreme Court in *Price v. United States* observed: “It is an axiom of our jurisprudence. The government is not liable to suit

unless it consents thereto, and its liability in suit cannot be extended beyond the plain language of the state authorizing it. The United States has waived sovereign immunity to a limited extent, mainly through the *Federal Tort Claims Act*, which waives the immunity if a tortious act of federal employee causes damage, and the *Tucker Act*, which waives the immunity over claims arising out of contracts to which the federal government is a party. The *Federal Tort Claims Act* and the *Tucker Act* are not broad waivers of sovereign immunity they might appear to be, as there are a number of statutory exceptions and judicially fashioned limiting doctrines applicable to both. *Title 28 U.S.C. ~1331* confers federal question jurisdiction on district courts, but this statue has been held not to be a blanket waiver of sovereign immunity on the part of the federal government.

Section 702 of the *Administrative Procedures Act* provides a broad waiver of sovereign immunity for actions taken by administrative agencies. It provides that persons suffering a legal wrong because of an agency action are entitled to judicial review.

Finally, it should not have taken this process this long from the period from 2007 the causation of action to the year 2021 13-14 years, to come to a resolution to Dismiss and Alternatively Summary Judgment, is a disgrace upon our Court's Judicial System.

Our Courts needs to be fair and equitable to its citizen, {stop tipping the scales of justice} and not for the protections, interferences of corporations, companies and governmental entities. This case exemplifies the Appeals Courts disregard to petitioner Appeals Brief at ECF No. [27], and his Reply Brief at ECF No. [32], that disputes the Respondent defense it had a litigate reasons for its discriminatory actions, that denied the petitioner his request for reasonable accommodations that would have assisted him in his performance to complete his job tasks.

As the Affidavits, Doctor(s) depositions shows Grose had/has a “eye” disability under the meaning of the ADEA that substantial limits ones major life activates, “seeing-disability,” {the eyes}.

The Court records displays Grose had produce sufficient evidence to establish a *prima facie* case or retaliation, for his Reasonable Accommodation(s) Requests being DENIED, and therefore the United States Supreme Court shall REVERSE the (6th Cir. Ct) and district court grant for summary judgment that dismiss Grose’s “Retaliation Claims.”

Further this case shall be REMAND for further proceedings consistent with this courts’ opinion.

It is for these reasons that the U. S. Supreme Court shall Grant the Petition for a Writ of Certiorari to the U. S. Court of Appeals for the Sixth Circuit and Remand this Case back to the Appeals Court for further proceedings.

Rule of Law to be followed by the court’s in Federal Equal Employment Opportunity Commissions lawsuits against the U. S. Government

(a) Complaint

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this subchapter, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

(b) Jurisdiction; three-judge district court for cases of general public importance: hearing, determination, expedition of action, review by Supreme Court; single judge district court: hearing, determination, expedition of action

The district courts of the United States shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, and in any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. **“An appeal from the final judgment of such court will lie to the Supreme Court.”**

In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(c) Transfer of functions, etc., to Commission; effective date; prerequisite to transfer; execution of functions by Commission

Effective two years after March 24, 1972 [*the date of enactment of the Equal Employment Opportunity Act of 1972*], the functions of the Attorney General under this section shall be transferred to the Commission, together with such personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with such functions unless the President submits, and neither House of Congress vetoes, a reorganization plan pursuant to chapter 9 of Title 5 [*United States Code*], inconsistent with the provisions of this subsection. The Commission shall carry out such functions in accordance with subsections (d) and (e) of this section.

(d) Transfer of functions, etc., not to affect suits commenced pursuant to this section prior to date of transfer

Upon the transfer of functions provided for in subsection (c) of this section, in all suits commenced pursuant to this section prior to the date of such transfer, proceedings shall continue without abatement, all court orders and decrees shall remain in effect, and the Commission shall be substituted as a party for the United States of America, the Attorney General, or the Acting Attorney General, as appropriate.

(e) Investigation and action by Commission pursuant to filing of charge of discrimination; procedure

Subsequent to March 24, 1972 [*the date of enactment of the Equal Employment Opportunity Act of 1972*], the Commission shall have authority to investigate and act on a charge of a pattern or practice of discrimination, whether filed by or on behalf of a person claiming to be aggrieved or by a member of the Commission. All such actions shall be conducted in accordance with the procedures set forth in section 2000e-5 of this title [*section 706*].

Statements findings of Fact

Plaintiff's objections to the Magistrate Court's Proposed Finding of Fact are relevant, as the record reflects he made his objection findings of facts to the Report and Recommendations [74], see ECF (No. [78]). The courts inserts that Plaintiff was attempting to introduce facts that were not before the magistrate simply is not true.

Must see these following docket items that preceded the courts R&R at [74], claims at (ECF No. [82] PageID 2903-2904). *See* (ECF No. [59],) Plaintiff Memorandum in Support of 1st Dispositive Cross-Motion in Opposition [57], of Defendant's Motion to Dismiss and Alternatively Motion for Summary Judgment [45]. With attached Plaintiff

Exhibits that Disputes Response

See. (ECF No. [60], Sealed Documents in Support of Plaintiff's Memorandum [59]. Exhibits {Excepts - deposition, medical documentations, EEOC Report of Investigation, etc., See (ECF No. [61], and [66] Plaintiff's objection(s) to defendant Affirmative Defense to have this civil action on the grounds of "Res Judicata"

Plaintiff's Procedural Objections are warranted.

As Plaintiff filed at (ECN No [78],) a timely OBJECTION and Responses to [74], Report and, Recommendation (R& R) for the court to take into consider pursuant to 28 U. S. C. ~ 636(b)(B); and thereafter subsequently Defendant Counsels filed at (ECF No.

[79],) OBJECTION R&R Defendants response to Plaintiff Objection.

Thereafter, the court moved with no considerations of plaintiff's objections which the records displays he provided disputed "genuine" evidence before the court "stating his claim that he is entitled to relief for damages sustained for the defendants {employees management official that makes the defendant liable for, it employees {management officials action(s)} the prohibits employment unlawful discriminatory practices under the rule of law. See. The Court's ORDER GRANTING [45], MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM; GRANTING [45], MOTION FOR SUMMARY JUDGMENT; TERMINAITING [71], MOTION FOR LEAVE TO FILE; AND ADOPTING [74], REPORT AND RECOMMENDATION at (ECF No. [82]).

The court simultaneously on 05/21/2018 issued its JUDGMENT at (ECF No. [83], Providing the plaintiff no alternative but to Appeal the courts discretionary decisions in this civil action to be rightfully review by the higher courts.

Pro Se Standard of Review

The courts provide *pro se* parties wide latitude when construing their pleading and papers. When interpreting pro se papers, the Court should use common sense to determine what relief the party desires. *S.E.C. v. Elliott*, 953 F.2d 1560, 1582 (11th Cir. 1992). See. also *United States v. Miller*, 197 F.3d 644, 648 (3rd Cir. 1999). (Courts has special obligation to construe pro se litigants' pleading liberally); *Poling v. Hovanania Enterprises*, 99 F. Supp.2d 502, 506-07 (D.N.J. 2000).

Moreover, "the court is under a duty to examine the complaint to determine of the allegations providing for relief on any possible theory." *Bonner v. Circuit Court of St. Louis*, 526 F.2d 1331, 1334 (8th Cir. 1975) (quoting *Bramlet v. Wilson*, 495 F.2d 714,

716 (8th Cir. 1974)). Thus if this court were to determine any motion to dismiss this court would have to apply the standard of *White v. Bloom*. Furthermore, if there is any possible theory that would entitle the Plaintiff-Petitioner to relief, even one that the Petitioner hasn't thought of, the court cannot dismiss this case.

Case Law Employment Retaliation Claims

See. Supreme Court of the United States Fort Bend County, Texas v. Davis No. 18-525 Argued April 22, 2019 Decided June 3, 2019 Justice Ginsburg, J., delivered the opinion for a unanimous Court.

See. CBOCS West, Inc. v. Humphries, a terminated African-American employee sued his former employer Cracker Barrel, alleging race discrimination and retaliation and asserting claims under Title VII of the Civil Rights Act of 1964 and ~1981.;

See. Gomez-Perez v. Potter, involving the federal –sector provision of the Age Discrimination in Employment Act (“ADEA), and applicable only to federal employers, and employees of the United States Postal Service (“USPS”). The trial court granted summary judgment in favor of defendants on the basis of sovereign immunity, which was affirmed on appeal. The Supreme Court reversed, ruling that a federal employee who is a victim of retaliation due to the filing of an age discrimination complaint may assert claim under the ADEA’s federal-sector provision, despite the ADEA’s lack of specific anti-retaliation language.

See. *Taylor v. Geithner* (6th Cir. No. 08-2735; and No. 11-6122) this case conflicts contradicts with the 6th Cir. own rules of “retaliation claims.”

It is these types of cases that reflect a tendency by the judiciary to assume an anti-retaliation cause of action, even if an employment statute does not include exact

language authorizing it. Once an employee complains of workplace discrimination, the prudent employer, federal-agency thoroughly investigate the same, {and or fails to do a complete through investigation of the facts}, and proceed only after thoughtful consideration.

CONCLUSION – JUDGMENT SOUGHT TO BE REVIEWED

It is for these reason(s) of these constitutional and statutory provision involved that are cited herein this case is of **general public importance** “discrimination of a government employee rights to aggrieve for relief of compensatory, injunctive and declaratory relief judgment to be granted the petitioner upon further review of this court, that shall established precedents that this court shall on such a rare occasion in the years of 2020-21 before *JCOL&S*.

It for these reason cited herein that this United States of America, Supreme Court of the land shall address, hear, and rightfully intervene the government’s abuse of powers.

For the reasons stated, the district court’s decisions dismissing Mr. Grose’s federal-sector claims of his Title VII and ADEA under Fed. R. Civ. P 12(b)(6) are not barred by the doctrine of *res judicata* because they were or could not have been raised in Plaintiff’s previous action, [Anthony T. Grose, Sr., v Jacob J. Lew, Civil Action No. 2:11-cv-02562-JDT-cgc], because it was on Appeal before the EEOC (OFO) should be **REVERSE** and therefore not be dismiss nor alternatively grant summary judgment to Steven T. Mnuchin favor on Grose’s Title VII and ADEA claims. And, therefore this court shall **REMAND** for further proceedings consistent with the Courts opinion.

For the reasons stated, the district court’s decisions dismissing Mr. Grose’s federal

claims of his Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 394 (Sept. 26, 1973) at 29 U.S.C ~701, (as amended, was made applicable to Federal employees pursuant to the American with Disabilities Act, and laid the groundwork for Federal Agencies responsibilities relative to Reasonable Accommodations. Claim Fail Under Rule 56 should be **REVERSE** and therefore not be dismiss nor alternatively grant summary judgment to Steven T. Mnuchin on Grose's Rehabilitation Act claim. As on Appeal in view of the entire record on appeals as cited herein plaintiff had/has presented the Courts with a *prima facie* case of discrimination. And, therefore **REMAND** for further proceedings consistent with this Courts opinion shall be granted.

For the reasons stated, the district court's decisions dismissing Mr. Grose's federal claims of his American with Disabilities Act (ADA) "the ADA's nondiscrimination standards also apply to federal sector employees under section 501 of the Rehabilitation Act, as amended, and its implementing rules. Thus, the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 394 (Sept. 26, 1973) at 29 U.S.C ~701, (as amended, was made applicable to Federal employees pursuant to the American with Disabilities Act, and laid the groundwork for Federal Agencies responsibilities relative to Reasonable Accommodations. Thus Appellants ADA – Reasonable Accommodation Claim Fail Under Rule 56 and Rule 12(b)(6) should be **REVERSE** and therefore not be dismiss nor alternatively grant summary judgment to Steven T. Mnuchin on Grose's Rehabilitation Act claim. As on Petition For A Writ of Certiorari in view of the entire record on appeals as cited herein plaintiff had/has presented the Courts with a *prima facie* case of discrimination. And, therefore **REMAND** for further proceedings consistent with this Courts opinion.

For the reasons stated, the district court's decisions dismissing Mr. Grose's federal claims of his **RETAILIATIONS** - Title VII; ADEA; ADA; and RA claims pursuant to the "protected activity retaliation" as viewed by the EEOC as the most serious misconduct by employers. Findings of facts that the defendant, agency, employer is in violations of EEOC policies and guidelines when the agency, EEOC splitting up and a failed to consolidated Grose' "Retaliations Claims" which the agency admits it took no actions against any of Grose's supervisor, management officials that split up Grose's retaliations claims. Grose's has presented a *prima facie* case that his Supervisor's management official, decision makers had pretext reasons not to engage in the agency interactive Reasonable Accommodations polices, guidelines retaliated against claims that denied and subsequently denied Grose's (R/A/R) and the court decision under Fed. R. Civ. P 12(b)(6) as barred by the doctrine of *res judicata* Grose's Retaliation Claims, because they were or could have been raised in Plaintiff's previous action, Anthony T. Grose, Sr., v Jacob J. Lew, Civil Action No. 2:11-cv-02562-JDT-cgc, should be **REVERSE** and therefore not be dismiss nor alternatively grant summary judgment to Steven T. Mnuchin on Grose's Retaliations claims. And, therefore **REMAND** for further proceedings consistent with the Courts opinion.

For the reasons stated, the district court's decisions dismissing Mr. Grose's federal claims of his Reasonable Accommodations under Fed. R. Civ. P 12(b)(6) as should be **REVERSE** and therefore not be dismiss nor alternatively grant summary judgment to Steven T. Mnuchin on Grose's Reasonable Accommodations claim. And, therefore **REMAND** for further proceedings consistent with this Courts opinion.

As Grose had/has presented a *prima facie* case with direct and circumstantial evidence

in the records to the Court which a Juror, jurist can blatantly view, under the “but for” “cat’s paw” “mixed motives” theories rule of law, that the defendant’s employees had pretext motives of “prohibited unlawful employment practices of misconduct by Grose’s supervisor’s, management officials. Misconduct that Denied Grose’s Reasonable



Respectfully submitted,

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Dated: **November 20th 2020**